

## EJI INK

ECONOMIC JUSTICE INSTITUTE

FALL 2013

## Immigrant Justice Clinic Collaborates with Remington Center Clinic

The Immigrant Justice Clinic (IJC) is rounding off its successful first year by forging a powerful new partnership with the Remington Center's Legal Assistance to Institutionalized Persons Clinic (LAIP). The IJC is Wisconsin's only non-profit legal services provider dedicated to representing low-income noncitizens in removal proceedings in immigration court. LAIP assists Wisconsin prisoners with an array of legal issues including post-conviction relief and sentence credit problems. Together, the IJC and LAIP embody the UW's "Law in Action" approach by providing holistic immigration and criminal representation to Wisconsin's immigrant community.

Many of IJC's clients have past criminal convictions that carry immigration consequences. By law, criminal defense attorneys are required to advise non-citizens of the potential immigration consequences of guilty pleas. However, many defense attorneys lack the necessary familiarity with complex immigration laws to properly advise their clients. Relying on the advice of a criminal defense attorney, a noncitizen may agree to a plea for a minor offense unaware that it could result in painful separation from their family and expulsion from the country.

This summer, IJC encountered one client who suffered this misfortune. In 2011, "Juan," a Milwaukee resident and Lawful Permanent Resident, relied on the advice of his defense attorney and pleaded guilty to a misdemeanor. His attorney did not know such a conviction was grounds for deportation.

A year later, Immigration and Customs Enforcement (ICE) arrested Juan while



he was making breakfast in his home. IJC met Juan during one of their Know Your Rights Visits to detainees held by ICE at the Dodge County Jail. He had been unable to contact his wife and two daughters, who had no idea where he was. His ability to remain with his family in United States hung solely on the validity of his single misdemeanor conviction.

IJC enlisted the help of LAIP to look into possible avenues of post-conviction relief. It soon became clear that the legal requirements and statutory warnings aimed at protecting immigrant criminal defendants had entirely failed Juan. According to IJC clinical student Rick Manthe, "It was the perfect storm of what was not supposed to happen." Juan's former criminal defense attorney had never discussed the clear immigration consequences of his guilty plea. Moreover, Juan's Milwaukee County judge did not give him the statutorily-mandated warning that his plea may result in deportation.

Armed with this information, IJC and LAIP set out to right past wrongs. LAIP is currently negotiating with the Milwaukee District Attorney's Office to withdraw the ill-advised plea and vacate Juan's misdemeanor conviction. If successful, IJC will then be able to terminate Juan's deportation proceedings and ensure that he is able to remain in

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## EJI Director's Welcome

Welcome to the fall edition of EJI Ink. The students are busy balancing their work load of school and clinic as well as engaging in community outreach, while they develop and test their legal theories in the context of real cases. As the articles in our newsletter reflect, it is a rewarding experience for them as well as for those of us who teach and guide them along the journey.

I also am proud to announce the promotion of Sarah Orr to Clinical Associate Professor. Sarah has demonstrated an enthusiasm for teaching and a mastery of the issues that the students tackle in the cases handled by the Consumer Clinic. She has taken the program in new directions that engage her students while providing assistance to consumers who otherwise may not have the ability to challenge the illegal actions taken by some lenders or sellers of products and services.

This past summer we welcomed the Immigrant Justice Clinic into the EJI summer program and the students quickly became engaged in the challenging work of representing low-income

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## HEY ALUMNI, Keep in Touch!

The Economic Justice Institute has been around for more than 10 years. We have alumni that are located across the country from New York to Portland as well as many who practice here in Wisconsin. We would like to hear from all of you. We want to know a few things. Where are you working? How long have you worked at that position? Do you feel that your clinic experience was a factor in finding or obtaining employment? Also, please let us know if you are interested in receiving this newsletter electronically rather than a paper copy. Please email your responses to Marsha Mansfield at [mmmansfield@wisc.edu](mailto:mmmansfield@wisc.edu). We want to be able to demonstrate that the clinical experience is valuable in our graduates' ability to find and maintain rewarding jobs in the legal field. So please, drop us a line.

## Clinics Come Together for Community Outreach

Each year, the Neighborhood Law Clinic participates in a variety of activities in the community. From "know your rights" talks to partnering with the Worker's Right Center training future advocates, the NLC reaches out to the community even as it is being reached to for legal help. This year, the Economic Justice Institute as a whole is full of like-minded and spirited people. A handful of EJI students got together at the end of summer to see how we could increase our community outreach and our community partnerships as a larger group within the law school. The students came from a wide variety of clinics within the law school including the Consumer Law Clinic, Neighborhood Law Clinic, Immigration Justice Clinic, Re-entry Project, Restorative Justice Project and the Law and Entrepreneurship Clinic. Students represented their respective clinics in attempting to give our daunting maze of resources more meaning and access within the communities we serve.

Each student, or pair of volunteers, was given a specific job ranging from contacting community partners to learn what they do and how we can collaborate, to reaching out to churches and other nontraditional community partners, setting up an information stand at the farmer's market, organizing a mailing of informative packets for our partners, and setting up events at the Villager Mall on the south side of Madison. My team was given the task of arranging the Villager event.

The NLC has office hours at the Villager multiple times each week. It is where we do almost all of our intake interviews and hold meetings with clients. That being said, we are in the basement of a large complex and a not very visible part of the community. The Villager sits behind the Urban League of Greater Madison, and the Public Library. It houses among its agencies, Madison Urban Ministry and the Worker's Rights Center. The Villager Mall is a staple in the community so setting up a visible event there made plenty of sense.

The community outreach clinic volunteers met the last week of the summer to finalize our plans for the upcoming semester. Then we took a two week break, came back to school, realized how busy we would be and slightly forgot about the community outreach project. Three weeks into the semester I got a "what's the update" email which refocused my energy to find an event we could attach to and during which we could hand out information or literature about the clinical programs at the law school. Who would guess that 14 days from my search there was the "One Madison Community" festival held at the Villager by the Urban League? Perfection!

I called the representative, got approved for a table in the tabling room but realized that I would not be able to staff the table myself until the afternoon due to prior commitments.

Without much hope, I sent an email to my fellow volunteers requesting help staffing the table. "With enough volunteers we could even do shifts. Maybe even have friends at our side so we don't have to do the shift alone," pled my email. I should not have been worried. A dedicated group of students leapt to my aid and we ended up having seven volunteers to table the event!

The first group set up the table, and we were off. Though there was not as much interest in our booth as we hoped, the people who did speak with our representatives came in confused and left with an understanding of who we were, why they should care, and how to get in touch with us if they required our services. We sent off the first set of volunteers with a box full of literature and received about a half box back. One volunteer said "It was really great to see a different side of the Madison community and to offer information about our legal services. Going out in the community makes you realize how much help is needed out there and how important what we are doing is." Another said "We have a small turn out but I think the people who came left knowing how to spread the word about us". A final one said "People were confused about us when they walked up. With the UW table cover, a lot of people thought we were just there to represent how important an education is." Well, it is a learning process. And while it was not perfect, it was pretty darn good.

Moving forward, we hope to take what we learned from this event (plan more in advance, maybe think about a different table cover) and put it towards the next fest we hope to table at in late October. If that one works out we hopefully will be invited to an "invitation only" event in December!

-Bridget Laurent, 2L

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Economic Justice Institute Clinical Programs  
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## The Rental Housing Deregulation Trilogy

In October of 2013, the Wisconsin legislature passed Senate Bill 179 which takes away many of the existing landlord tenant regulations. If the last sentence sounds vaguely familiar, it is because the state legislature passed similar legislation, first in 2011, and then again in 2012. Throughout well-known trilogies such as Star Wars or Lord of the Rings, two “sides” strike back and forth at one another in a series of battles. In contrast, the rental housing deregulation trilogy that played out in Wisconsin over the past three years has been a more one-sided story. Before covering the newest rental housing law changes, take a quick look back at the first two installments.

The first episode in the series was Senate Bill 107 which was passed into law in December 2011, and became known as the “Local Housing Preemption” bill. This bill prevented local governments from creating any new laws (and preempted any existing local laws) that place requirements or limitations on various landlord activities including showing and renting apartments, screening tenants, and withholding security deposits. Opponents of the bill argued that housing is all about location, location, location, and thus local elected governments are in the best position to craft rental regulations specifically tailored to their housing markets. But the arguments ultimately failed and as the bill passed into law, dozens of local housing regulations that were the product of much work and compromise between landlord and tenant advocates, simply vanished. On the same day in late December 2011, Senate Bill 12 created a presumptive cap on the recovery of attorney fees. As readers know, in rental housing disputes the amount of loss is often small compared with the costs of litigation, so the ability to recover attorney fees was created in order to incentivize bringing cases. Thus, as 2011 came to a close, many housing rights were extinguished, and the financial incentive for attorneys to help tenants enforce the rights that remained was greatly diminished. But the deregulation of rental housing was just getting started.

In April of 2012, the confusingly drafted Senate Bill 466 was rushed into law. While SB107 took away local housing regulations, SB466 repealed statewide housing regulations. Prior to SB466, when a tenant moved out of an apartment and left property behind, the landlord was generally required to store that property and notify the tenant (the landlord could charge for storage). After SB466, when a tenant moves out and leaves property behind, the landlord can dispose of it as they please, by throwing it away or selling it and keeping any profit. The property left behind could be anything from an inexpensive but beloved child’s toy, to an expensive piece of furniture, a computer, or a priceless piece of art. If a tenant moves out using a rental truck, and leaves their car in the driveway for the night, then a landlord can even take the car, disposing of it as they see fit, without notice to the tenant. Before dismissing a scenario like that as unlikely hyperbole, consider this real life example related by a landlord: a tenant is moving out and runs out of moving boxes so he packs his last few things—including clothes, game console, his laptop, and more—into black contractor bags which are left behind in the unit overnight because the rental truck was fully loaded. Tenant returns the next day to drop off the keys and get the last few items, but not before the landlord’s cleaning crew went through and threw away what appeared to be trash but was actually thousands of dollars of the tenant’s property. This landlord was a “good” one that was apologetic and made an effort to compensate the tenant for some of the loss even though it had no legal obligation to do so. The deregulation affected by SB466 was designed to allow landlords to throw away trash that was left behind, but as this true story illustrates once the “store and notify” regulation was removed, it is not just trash that can and does get thrown away. And so it came to pass in the year 2012

that deregulation advocates who had just a few months before succeeded in repealing local regulations, effectively repealed housing regulations statewide. Rather than rest on their accomplishments, the deregulation advocates returned to champion another bill in 2013.

The third (and final?) episode in the deregulation trilogy is Senate Bill 179 passed in October 2013. It clarifies some of the confusing language from the 2012 bill, but also further removes regulations, particularly ones governing eviction procedures. This most recent legislation enables landlords to serve evictions by mail instead of in-person. It requires that courts hold eviction hearings quickly (within 30 days of filing). It authorizes landlords to employ part-time, non-lawyers to argue on their behalf in court. In addition, it removes the current regulation that landlords must disclose to tenants before they sign a lease if the apartment is in violation of building codes—caveat emptor!

This concludes the third episode in the Rental Housing Deregulation Trilogy. In 2011 and 2012 rental housing regulations were preempted and rolled back statewide. In 2013, those rollbacks have continued and the eviction process has been sped up. Is this the end of rental housing deregulation, or like Star Wars, will there be a whole new set of episodes to come? No one can say for sure. But one thing is certain: landlords and tenants in Wisconsin now operate in a legal galaxy far, far away from the one that existed in 2010.

-Mitch, Director  
Neighborhood Law Clinic

## Mediation Clinic Expands to Include Child Protection Cases

We are excited to announce that the Mediation Clinic has added child protection mediation services to its offerings, thanks to a grant from the Morgridge Center for Public Service. Since the Clinic opened in 2011, staff and students have been mediating Dane County small claims cases—disputes involving contracts, landlords and tenants, property damage and the like. The new Morgridge Center funds support partnerships with both Dane and Waukesha Counties to serve children who need the court's protection. In addition, Milwaukee-based dispute resolution professional, Perri Mayes, has been an integral part of the new mediation services. Child protection mediation brings in a neutral third party—the mediator—to work with families of abused and neglected children, as well as with social workers and lawyers, to create plans that put children's needs first. Issues surrounding foster care placement are common to child protection mediation. Mediators help families and child advocates consider the child's wishes, help all the parties work together to improve communication, and coordinate placement as well as visitation schedules. The mediation process can offer advantages over lengthier, more expensive courtroom litigation, both for affected families and for backlogged juvenile courts. The Clinic's plans for mediating 40 cases in its first year will help alleviate juvenile court overflows. Since the parents in child protection

mediation have had a hand in creating their own case plans, they're more likely to comply with the result. The Clinic has already seen success with pilot cases. Based on feedback received from families and child advocates, we know that participants feel their concerns were heard, that power was equally distributed among all parties, and that outcomes were clearly explained. To learn more about the new CP Mediation Program, please feel free to contact Donna Erez-Navot at [erez@wisc.edu](mailto:erez@wisc.edu) or 608-262-4870.

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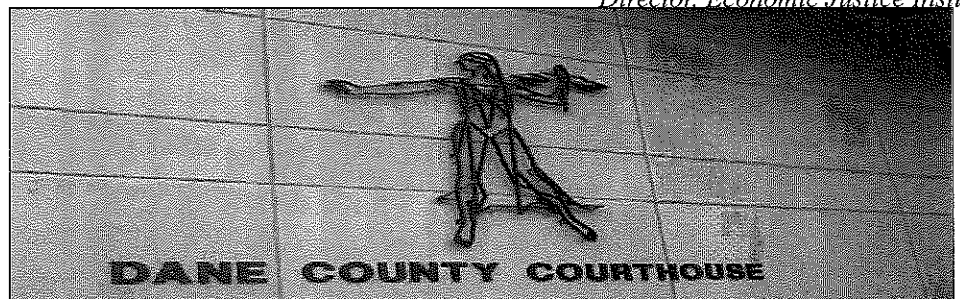
noncitizens in removal proceedings in immigration court. Include in our newsletter is an interesting description of the collaboration between the IJC and our criminal clinics housed in the Remington Center. The Mediation Clinic also has undertaken new endeavors that we described in our previous newsletter. The Clinic has expanded its offerings to include child permanency mediation in both Waukesha and Dane counties. Read more about these programs here as well.

The ABA Task Force on the Future of Legal Education published a working paper in September. The Task Force recognized what was termed a "mismatch" between the law school curriculum and the important goal of finding jobs and success in students' future careers. The Task Force issued specific recommendations to improve legal education as a private and public good. While the report engages in an in-depth analysis of the challenges facing our law schools and the need for engagement by all stakeholders in the system, the Task Force specifically noted that recent graduates express a conviction that they received insufficient development of core competencies, particularly those relating to representation and service to clients, that make one an effective lawyer.

We believe that the students who enroll in the EJI clinics acquire those core competencies. Our clinics continue the great Wisconsin tradition of providing in-depth, high quality educational experiences that provide our students with the tools and knowledge necessary to successfully pursue their interests upon graduation from law school. We relish the opportunity to keep you informed of our activities and connected to the experiential learning taking place at the University of Wisconsin Law School.

*-Marsha Mansfield*

*Director, Economic Justice Institute*



*View of the Dane County Courthouse facade.*



*Guest Speaker Louis Butler, Jr. speaking at Annual Pro Bono Reception about New York's 50 hour rule.*

## Pro Bono Work for All: A Wealth of Student Opportunities

Having already trained over 70 volunteers since the beginning of this school year, the Pro Bono Program is looking forward to another busy year. The emphasis this year will be on showcasing the diversity of our opportunities to demonstrate that all students can find an opportunity to match their schedule and interest areas. Excellent examples of the variety of programs offered include the Veterans Law Center, the Indian Wills Caravan and individual student proposals.

The Veterans Law Center will be celebrating its one year anniversary in November. In less than a year the VLC has trained over 115 students and 65 paralegal and attorneys, providing services to over 80 veterans. Volunteering with the VLC is popular and some semesters there are more volunteers than open slots. Part of this program's success stems from the limited time commitment and the diversity of the problems that students and attorneys get to work on together.

Another very popular event is the Indian Wills Caravan. The Indian Wills Caravan is an annual trip around Wisconsin, where students and attorneys prepare wills and other estate planning documents at no charge for eligible tribal members. This opportunity is incredibly popular since it allows students to complete the majority of their Pro

Bono Society hours over one week during break, which means there are fewer scheduling conflicts for volunteers. This year's trip will be from January 13 to January 17.

Finally, students have the option to create their own opportunity. If students do not find anything of interest among the 16 opportunities with our community partners, students have the option to submit an individual project proposal. By allowing students to create their own opportunity the options for pro bono hours are truly endless and the program is excited to work with volunteers in finding an opportunity that works for them.

## "Change and Progress" Focus of Annual Pro Bono Reception

The Pro Bono Program held its 4th Annual Fall Reception on Thursday, September 12. Lubar Commons played host to the event, drawing a diverse crowd of Supreme Court Justices, Circuit Court Judges, local attorneys, law school faculty, community members and law students. The event was the Program's largest yet, with approximately 120 guests in attendance.

This year's program focused on "change and progress in pro bono." Special guest speaker, former Wisconsin Supreme Court Justice Louis Butler, Jr., took the opportunity to discuss the 50-hour rule implemented in New York. The rule essentially requires all applicants to the New York Bar to have completed 50 hours of pro bono work before their admittance. And as Justice Butler pointed out "this has impacts for the University of Wisconsin," since Wisconsin students wishing to practice in New York will be subject to the rule as well.

More local signs of change and progress were also recognized at the event. Dean Raymond had the pleasure of inducting Jennifer Binkley, the first ever community member, into the Pro Bono Society. Attorney Binkley was recognized for her dedication to providing low-income clients with representation in civil matters. Further recognizing the growth and changes within our program, Pro Bono Program Director, Ann Zimmerman, spoke about the upcoming one year anniversary of the Veterans Law Center.

The Reception was a true celebration of all the hard work contributed over the past year. However, it was also an indicator of what is to come, as the value of pro bono work receives more recognition not just here at the Law School but across the entire country.

## Humanizing Child Welfare Through Child Protection Mediation

Mediating TPR and Child Welfare cases definitely results in saving significant time and money. However, the benefits of the mediation process are really much more human. Waukesha County, in partnership with the UW Law School's Mediation Clinic, has been using mediation as a tool to help resolve very complicated and emotional termination of parental rights cases since January of 2013. The mediators, Professor Donna Erez-Navot and Perri Mayes, in these highly charged cases have extensive knowledge of the law and of the individuals participating in the mediation. The mediators are familiar with the background of the case, the issues of concern for each participant and the dynamics of the group. Mediators having this specialized knowledge are essential for mediation to be meaningful and successful.

Throughout the mediation process, the mediator is able to help guide the discussion on the issues and is able to identify when a participant disengages from the conversation and why. Because the mediator has extensive background information and has knowledge of the dynamics of the group, the mediator is able to assist the participants in working through the problem, which then reengages the non-participating party into the discussion.

In addition, this type of mediation puts parties on equal footing. By the nature of these types of cases, social workers and prosecutors have a tremendous amount of power. It appears that some prosecutors and social workers do not realize how other individuals in the case withhold their thoughts and feelings while going through the court process for fear of looking bad or being seen in a negative light. This intensive type

of mediation takes the prosecutor and social worker out of the driver's seat, allowing participants to feel more empowered to share their thoughts and feelings. Because everyone holds equal power in mediation and because the mediators can help the participants discuss the underlying problems that typically prevent fruitful discussions, meaningful conversations take place. Typically, the problems that prevent fruitful discussion about the future of the children revolve around relationship issues between participants or around individuals feeling that they do not have a voice. Because this process allows everyone to be fully heard in a respectful manner, the focus often shifts during the mediation process from wanting to fight the fight, to wanting to come to a family-driven, child-centered solution. Parties begin to connect as people verses players in the system. This allows honest conversations that are less threatening between family members and placement providers. Mediation helps everyone understand the perspectives of others and helps participants develop empathy for other participants, which usually helps parties move in their positions. The mediation process helps and encourages families (parents, family members and placement providers) to make their own decisions about the future of the children involved, without the interference from the government players.

In the mediation process, participants feel heard and feel they have control in the decisions about the future. This is important as these families will move forward living their lives, without the oversight of social workers and the court system. In addition, if an agreement can be reached in termination of parental rights cases, participants walk away feeling good and empowered. This result is much

different than if the case was resolved through the adversarial process, most specifically, a trial. In a trial, nobody "wins". Mud is slung, feelings are hurt and all of the very painful history that these parents, relatives and children have experienced gets brought out into the daylight. Although the judge, social workers and attorneys walk away from the trial, the families have to live with the damage that has been done. Clearly, having individuals who care most about the children at issue come to the table with a trained and knowledgeable mediator creates much better results for these children and these families.

*-Molly Jasmer, Assistant Corporate Counsel -Waukesha County*

*Immigrant Justice Clinic  
(continued from page 1)*

the United States with his family.

The IJC and LAIP's partnership aims to provide comprehensive criminal and immigration legal services to meet the needs of Wisconsin's growing immigrant community. UW clinics recognize that "Law in Action" means giving law students the tools to identify issues that cross-sect different fields of legal expertise and the skills to forge creative solutions. IJC and LAIP clinical law students look forward to continued collaboration.

*-Liz Bradley, 2L*



Family Court Clinic Students: Martha Mohs and Kari Hoffman

## Family Court in Action

The Family Court Clinic does not “win” big cases in court or take on “giants” on behalf of the little guy (or gal). Rather, the students spend their time making sure that self-represented litigants have a better opportunity to be heard through their outreach work at the Dane County Courthouse while also representing individuals in their family law cases when those individuals lack the resources to hire a lawyer. These opportunities provide the students with in-depth experiences that help them understand the work of the lawyer and the weight that the lawyer’s work carries in an individual’s life.

With the many family law issues that the Family Court Clinic encounters, including divorce, paternity, child custody/placement/support, guardianship, and restraining orders, the students must learn to quickly identify issues, locate the correct forms and guide litigants through the steps that they need to take to accomplish their goals. Not only do they recognize those issues, the students actually help people solve them. Although each one of those issues involves a complex series of steps, and the students have a constant stream of people from all walks of life coming to them for help, they patiently and calmly guide people through the complicated family law process. In looking back over his summer experience,

one student noted: “You become comfortable dealing with ambiguity and unpredictable situations in a way no other program could. I feel as though these experiences have helped me learn to ‘think like a lawyer’. I can break a problem down into components and deal with each component one at a time. This means that I can offer much better assistance, by being confident in my answer, and that gives confidence to the person I am assisting. There is no better way to see the stark contrast between the law in the classroom and law in the real world.”

Through their work in the courthouse the students they learn patience, good interviewing skills, and problem identification. Through their case work they acquire the knowledge and tools to help people who are facing a stressful and difficult part of their lives. Each case that the students handle provides a level of assistance and advocacy that our clients may not find elsewhere. Thus, every completed divorce, child support motion that is argued, or custody dispute resolved makes a tangible difference in the clients’ lives. That is why these cases are so rewarding for the students and why the Family Court Clinic makes a real difference in our community.



Consumer Law Students: Steven Curry and Danielle Baudhuin



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