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June 1, 2011

Dan Ruben, Esq.
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Dear Dan:

I am pleased to report to you the work that has been accomplished thanks to the generous on-going support of Equal Justice America. It is no exaggeration to say that this work would not have been possible without Equal Justice America's commitment to our program.

The Equal Justice America Disability Rights Clinic has become an integral part of the Pace Law School's outstanding clinical program. In all of our client representation clinics, the students are the lawyers, fully responsible for all aspects of the cases they handle. The clinics thus serve a dual role – the training of future lawyers and the provision of legal services to the underserved in Westchester County and its surroundings.

Since the Clinic was established at Pace Law School in ninety-four students have enrolled in the Clinic. They have assisted 165 clients in a wide range of litigation and transactional matters. Sixty clients were represented in proceedings to become the guardians of their developmentally disabled adult relatives, usually children, but also grandchildren, siblings and nieces and nephews. With our help, eight clients have also created special needs trusts for their children, and engaged in other specialized estate planning to ensure that the disabled person is able to benefit from any inheritance without losing government benefits. Twenty-eight clients signed wills that were drafted by our students. Many of these wills contained special needs trusts to benefit a disabled family member. In addition, these clients signed health care proxies, living wills and powers of attorney, ensuring that their own wishes would be honored, should they become incapacitated. Our students have handled the administration of seven estates, some for the beneficiaries of wills that the Clinic had drafted.

Forty-one cases involved access to government benefits: Seventeen clients received Social Security Disability or SSI benefits after being represented in an administrative hearing by our students. Another eight clients had their overpayments waived by the Social Security Administration. Three clients were able to stay in their homes with increased home care hours after students represented them in Fair Hearings before the Department of Health. Two clients obtained Medicaid coverage for needed assistive technology, again after being represented at Fair Hearings. Three clients were able to maintain full Medicaid coverage, after receiving assistance from our Clinic.

We have also assisted nine clients who had filed discrimination cases *pro se*. Settlements were obtained in three cases, including an age discrimination case in Federal Court. A three-day hearing before the Westchester County Human Rights Commission resulted in a very favorable decision for an elderly client.

Finally our students have assisted twelve families obtain appropriate special education services for their school-age children.

For most of these clients, there was no other source of free legal services. None could afford pay for the required legal assistance. For our students, the experience gained from representing real clients with real problems has prepared them in ways that classroom learning cannot for their work as practicing attorneys.

All of us at Pace Law School are most grateful for the continuing support of Equal Justice America and your personal commitment to our mission.

Sincerely yours,

Gretchen

Margaret M. Flint

FINAL REPORT

Equal Justice America Disability Rights Clinic

John Jay Legal Services

Pace University School of Law

June 30, 2011

Introduction

Completing its eleventh year of operation, the Equal Justice America Disability Rights Clinic at Pace University School of Law continues its dual mission of training future lawyers and providing free legal services to low income disabled persons and their families.

Pace Law School's clinical offerings, under the umbrella of John Jay Legal Services, enable students to gain proficiency in lawyering skills while representing clients pursuant to a Student Practice Order issued by the Appellate Division, Second Department of the New York State Supreme Court. Under supervision of full-time clinical faculty, students enrolled in clinical courses perform all lawyering functions normally reserved to lawyers admitted to practice. In addition to the Equal Justice America Disability Rights Clinic, John Jay Legal Services also provides representation to individuals by student attorneys enrolled in the Investor Rights Clinic (formerly the Securities Arbitration Clinic), the Barbara Salken Criminal Justice Clinic, the Post-Conviction Clinic, and the Immigration Justice Clinic. In addition to these client representation clinics, field work in the non-profit legal arena is available to students through the Legal Services/Public Interest/Health Law Externship, the Family Court Externship, the Prosecution Externship, the Environmental Law Externship, and the Honors Prosecution Externship, a joint undertaking with the Westchester County District Attorney's Office.

The Equal Justice America Disability Rights Clinic

The Equal Justice America Disability Rights Clinic provides students with the opportunity to learn and apply lawyering skills as well as the substantive law relating to the rights of disabled persons in a highly controlled and intensively supervised legal practice environment. For most students, it is their first experience with law as lawyers.

For the 2010-2011 academic year, the Clinic was again offered as a two-semester course. Six students participated in the Clinic. Three students were part-time evening students and took the clinic for 4 credits each semester; the rest were full-time day students who took the clinic for 6 credits each semester. All students participated in the seminar which provided two academic credits each semester and each student's case load for the remaining clinical credits was tailored to his or her interests and time constraints. Students are expected to spend on average five hours per week per clinical credit on case-related work.

For the first time, Special Education law was integrated into the Clinic and student work on these cases was supervised by Prof. Flint. Previously a small number of students had worked exclusively on Special Education cases under the supervision of Prof. Don Doernberg.

The Seminar Component

In a weekly seminar, students learn and practice lawyering skills such as interviewing, counseling, negotiation, fact investigation, and conducting administrative hearings. The learning of these skills is integrated with relevant substantive law, including eligibility for the government benefit programs available to disabled persons (Social Security Disability, Supplemental Security Income, Medical Assistance) and the planning tools available to disabled persons and their families (guardianships, wills, special needs trusts). The seminar also provides the opportunity for students to present issues and choices from the cases they are working on and benefit from the critical reflection of their colleagues. Ethical issues are discussed as they arise in individual cases with particular emphasis on the complexities of working with clients of diminished mental capacity. Students learn how to read and interpret medical records and work with medical personnel to describe a client's medical condition using legally relevant terminology. Students also learn how to work with other helping professionals, such as social

workers, doctors, nurses and advocates, to identify and meet clients' non-legal needs. Readings focused on learning lawyering skills are supplemented with readings directly relevant to disability law.

The Case Work Component

Clinic students, either individually or in teams, have primary responsibility for the conduct of their assigned cases. The student lawyer is responsible for planning each lawyering activity, reviewing the plan with the Clinic faculty supervisor, conducting the activity and finally, reflecting on the experience and the usefulness of the preparation. Throughout the year, each student engages in client interviewing and counseling, fact investigation and witness interviewing, legal research and analysis, and drafting a variety of legal documents and instruments. Most students have the opportunity to appear before a court or administrative tribunal.

The cases handled involved a variety of legal issues faced by disabled persons and their families. Clients were referred by several social service agencies with which we have formed alliances, including Mt. Vernon Board of Education, NAMI of Westchester, and UCP of Westchester, Taconic Innovations and Jowonio, case management agencies serving the developmentally disabled. Several clients were referred by other Clinic clients or self-referred. All of the clients are low income. They are unable to pay for the legal help they need and were unable to secure representation from other sources of free legal services. Several cases completed during the year were begun during previous years.

A total of 39 matters were handled by students during the grant year.* Of these, 17 were new matters. Fourteen matters were concluded by the end of the grant year and 25 are pending.

The cases involved the following substantive areas:

<u>Area</u>	<u>Number of Clients</u>
Art. 17-A Guardianship	15
Special Education	4
Lifetime and Estate Planning	4
Estate Administration	5
Benefits Issues	3
Special Needs Trusts	4
Human Rights	3
Art. 17 Guardianship	1

Case Examples

Last year we described L.S.'s age discrimination case before the Westchester Human Rights Commission. The Administrative Law Judge found that respondents had discriminated against LS when she was forced to retire at age 72, two years before she was eligible for a full pension. L.S. was awarded two years' back pay and the difference between her reduced pension and full pension. The respondents' appeal has been dismissed and we are in the process of securing payment of the award for our client.

We are handling two employment discrimination cases before the Westchester County Human Rights Commission. One case, which involved the layoff of a 64-year old man, was tried before an Administrative Law Judge in April. The students conducted a two and a half-day

* During the summer of 2010, with Federal work study funds and grants from two Clinic alumni, three students were hired to assist with on-going and new matters. During the summer of 2011, three students are working in the Clinic, two for pay and one for credit through our Legal Services Externship.

hearing on behalf of the client. We are awaiting a decision from the Administrative Law Judge. Another employment discrimination case is scheduled for a hearing in July.

We continued to work with families who wish to become guardians of their adult disabled children. Students worked with 15 such clients during the year. All clients have been counseled about the guardianship process and assisted in identifying standby guardians and obtaining necessary certifications from doctors and psychologists. Letters of guardianship have been issued by the Surrogate in one case. Decisions are pending in three cases. Four clients decided not to proceed. Petitions are being prepared in the remaining cases.

Four clients were assisted with the preparation and signing of wills, health care proxies and powers of attorneys. Three of these clients were elderly and wished to plan for future disability as well as for the distribution of their estates after death. One client is the parent of a severely disabled child who wanted to make sure that her daughter's inheritance would not interfere with her eligibility for government benefits.

Four clients were assisted with special needs trusts. We represented the trustee of a special needs trust after the beneficiary died. An accounting was prepared, submitted and approved by the Department of Social Services. We also assisted another client, the trustee of her child's special needs trust, with the preparation of an annual report and advocated for her at the Social Security Administration so that funds from the Special Needs Trust were handled correctly. Permission from the Surrogate's Court to establish a trust for the disabled adult child of a client is pending.

We are involved in five cases requiring the administration of modest estates in Surrogate's Court. Each of these cases involved extensive investigation or challenging family relations. During the year, one estate was settled, and the proceeds placed in a pooled trust for

our client, the sole beneficiary of her father's estate. We are awaiting a final refund from the IRS before closing a second case. A petition for letters of administration has been filed for one client, and we are finalizing the petition for another. The final case is open in Putnam Surrogate's Court. These cases provide excellent experience for the students and a service to the clients who would otherwise see their modest inheritances spent on investigators and lawyers.

In each of the four Special Education cases, the students attended Committee on Special Education (CSE) meetings with the parents and secured needed services for the children.

Community Outreach

Clinic students and other law student volunteers participated in Westchester County's Senior Law Day on October 14, 2010. After audience members heard a presentation about health care proxies, the law student volunteers assisted them with completing health care proxies and answered their individual questions.

Prof. Flint spoke with members of Hope House, a self-help organization for the disabled in Port Chester, New York. The audience was interested in learning how returning to work would affect their Social Security Disability and Supplemental Security Income benefits and how to avoid incurring overpayment of benefits.

To meet the needs of parents of adult children with developmental disabilities, a training program for volunteer attorneys to represent parents in Art. 17-A guardianship proceedings in Surrogate's Court was held on November 16, 2010. Pace Law School's Continuing Education Department arranged for continuing legal education credit for attendees.

Plans for 2011-2012

The Clinic is being offered again next year as a year-long course. Seven students are enrolled, six full-time students and one part-time student. We anticipate handling a similar mix of litigation and transaction matters, assisting low income persons without other means of securing needed legal services and giving future lawyers the skills necessary to help this vulnerable population.