Clinic Courses 2013-2014

Bankruptcy
Business Law
Child Advocacy/Juvenile Justice
Civil Practice
Civil Rights Enforcement
Community Mediation
Community Practice and Policy Development
Consumer Protection
Criminal Defense Appeals
Criminal Justice
Criminal Prosecution Appeals
Detainee Rights
Environmental Sustainability
Federal Defense
Federal Immigration Litigation
Housing
Human Rights Litigation
Immigration and Human Rights
Indian Child Welfare Act (ICWA)
Innocence Project
Insurance
Misdemeanor Prosecution
Public Interest
Special Education
Tax
Workers’ Rights

Faculty and Staff

Ben Casper
Linus Chan
Prentiss Cox
Kate Evans
Jennie Green
Meghan Heesch
Mark Kappelhoff
Steve Meili
Perry Moriearty
Jean Sanderson
Kathryn Sedo
Steve Simon
Laura Thomas
Carl Warren
Margaret Benz
Carol Bruner
Stephanie Enerson
Kjerstin Sanden
Nicole Smiley
Jean Wells

Table of Contents

Notes from the Director ................................................................. 2
The Center for New Americans: An Unprecedented Collaboration to Promote Immigrant Rights .................................................. 3
The Deadline is When?!! Clinic Students Face Unexpected Rush Advocating for Solar Energy in Minnesota ................................................................. 4
Outside of “Arms-Length”: Settlement of the Civil Practice Clinic’s Property Tax Class Action Lawsuit ........................................................................... 5
Insurance Law Clinic Succeeds in Solving Life Insurance Dispute ............................................................................................ 7
Wennerstrom and CLEA Award Winners ................................................................. 8
Notes from the Director
By: Jean Sanderson, Director of Law Clinics

The main initiative in the law clinics this year was launching the Center for New Americans, a significant expansion to our clinical program. The Center is funded through the generous support of the Robina Foundation. The Center, in collaboration with leading area law firms and nonprofits, is designed to address the unmet legal needs of noncitizens. The Center’s launch included hiring two new clinic faculty members, Ben Casper and Linus Chan, and two new teaching fellows, Kate Evans and Meghan Heesch. We also added two new clinics: the Federal Litigation Clinic, and the Detainee Rights Clinic. Each clinic has room for eight student attorneys and two student directors. These clinics thus provide 20 additional students the opportunity to participate in clinical education per academic year. As you can see, our clinical program is continuing to grow. With these additions, the clinical program now includes 26 clinical courses.

The University of Minnesota was ranked seventh in the country in a list of top law schools for clinical opportunities created by National Jurist magazine. The ranking system consisted of dividing full-time clinical course positions with the total number full-time students enrolled in the school. Based on the 2013 data, 46.2% of University of Minnesota Law School students participate in clinics. This percentage will surely increase as our program continues to expand.

Our students continue to participate in pro bono work, representing clients who would not otherwise have access to legal help. This work includes appearances in both administrative and court proceedings, which helps to develop students’ oral advocacy and other practical skills. One impressive example was the federal appellate argument conducted by members of the Ronald M. Mankoff Tax Clinic. Under the supervision of Professor Kathryn Sedo, two students prepared briefing and appeared in front of the Eighth Circuit in Hanson v. Commissioner.

Our clinical program remains strong, and continues to provide much needed legal services to the community at large. Students thrive in our program which provides experiential learning opportunities that help to make them more ready to practice law upon graduation. Thank you for the continuing support you provide to the University of Minnesota Law Clinics. Your support helps to make these opportunities possible.
The Center for New Americans: An Unprecedented Collaboration to Promote Immigrant Rights
By: Linus Chan, Detainee Rights Clinic Professor

Perhaps you have heard the news, heard the rumors or even visited the website at http://www.law.umn.edu/newamericans/index.html announcing the launch of the “Center for New Americans” at the law school. But I wanted to take this opportunity to share with you what the Center for New Americans is about, and what we do (and plan to do).

The most obvious changes brought about by the CNA are the two new clinics being offered at the law school. The Federal Immigration Litigation Clinic allows students to litigate important immigration issues in a variety of arenas, from circuit court litigation, to district court class action lawsuits and FOIA litigation. Professor Ben Casper is both the Executive Director of the Center and the director of the Federal Immigration Litigation Clinic. Ben, along with Kate Evans, teaches students both the procedural peccadillos of federal litigation and the substantive immigration law issues that federal courts are wrestling with in an ever accelerating field. In just its first semester of existence, the Clinic has prepared two cert petitions to the U.S. Supreme Court.

The Detainee Rights clinic is also a new clinical addition. This clinic, led by myself, and Meghan Heesch, provides opportunities for students to represent people being detained by Immigration and Customs Enforcement. Students not only represent clients in administrative removal proceedings, but also work on a variety of detention conditions and access to justice issues.

These two new clinics join the longstanding Immigration and Human Rights Clinic run by Professor Stephen Meili, and Emily Good, an attorney with Advocates for Human Rights. The Immigration and Human Rights clinic represents those who are fleeing persecution and seek the protection of the United States through the asylum process. Students are given the opportunity to research country conditions, work with clients in a variety of contexts and file for asylum in the United States. The asylum process includes not just affirmative applications with the Asylum office, but also “defensive” applications used to prevent removal from the United States during removal proceedings.

The Center is not limited to clinical programs at the University of Minnesota Law School either. Professor Nancy Cook heads up the Center’s outreach and education efforts. The Center has worked with community organizations in the Twin Cities to help provide information and opportunities for coordination.

The Center for New Americans extends beyond the law school and is a collaboration of three major non-profits that serve the Twin City immigrant population: the Immigrant Law Center of Minnesota, Mid-Minnesota Legal Aid, and Advocates for Human Rights. The Center along with its non-profit partners will provide trainings for attorneys, presentations and materials for the public. Plans for increased capacity building and new programs are in the works. In addition to these three non-profit organizations, the Center for New Americans is a collaboration with three of the largest and most prestigious law firms in Minneapolis. Faegre Baker Daniels, Dorsey and Whitney, and Robins Kaplan, Miller, and Ciresi have all joined with the Center to not only provide exciting opportunities for University of Minnesota Law students, but also to work on potentially sweeping litigation and reform for immigrants in the Twin Cities and nationally. The law firms have already worked on important litigation with the Center with plans for creating pro bono opportunities for its summer associates.
Private law firms, non-profit organizations and law school legal clinics come together in unprecedented fashion to form the Center for New Americans. The Center is devoted to increasing representation for non-citizens, protecting their rights, providing information and building capacity for organizations that serve the immigrant population in the Twin City area.

The use of titles such as “Center” or “Institute” are more often than not a reference to a group of people dedicated to a common cause, and the Center for New Americans is no exception. With that in mind, let me introduce you to the people who make up the CNA. Benjamin Casper, our Executive Director, is an accomplished immigration attorney who has not only made an impact for immigrants in the Twin City area, but has also been a leader in immigration law nationally. Linus Chan teaches the newly formed Detainee Rights clinic which provides representation and support for those facing removal from the United States detained in the Twin Cities area. Prior to joining the Center, he taught at the DePaul College of Law in Chicago and at the DePaul Asylum and Immigration Law Clinic. Stephen Meili is the Vaughan Papke Clinical Professor of Law and has taught at the University of Minnesota Clinic since 2008. He has written extensively on international human rights and the treatment of asylees and refugees in the United Kingdom and beyond. Kate Evans is a teaching fellow, graduate of NYU and former clerk of the Honorable Judge Diana Murphy. Meghan Heesch is another teaching fellow, a Harvard Law graduate, and alum of the DOJ honors program and a former clerk with the Orlando Immigration Court. Kjerstin Sanden is the Center’s coordinator and this past semester has already developed a volunteer interpreting program for use by all of the legal clinics at the law school.
The Deadline is When! Clinic Students Face Unexpected Rush Advocating for Solar Energy in Minnesota

By Matt Norris, Student Director of the Environmental Sustainability Policy Clinic

Sometimes in a Law School Clinic, students end up getting a more realistic taste of the practice of law than they bargained for. Such was the experience for a team of four students in the Environmental Sustainability Policy Clinic.

A year-long commitment, this clinic typically serves three nonprofit or municipal government clients per year assisting with legal needs related to clients’ environmental public policy projects. One of this year’s clients was the Minnesota Renewable Energy Society (MRES), a member-run 501(c)(3) organization founded in Minneapolis in 1978 to promote the use of renewable energy in Minnesota through education and the demonstration of practical applications.

MRES also engages in advocacy, and the Clinic agreed to prepare public comments to the Public Utilities Commission (PUC) on MRES’s behalf. The docket on which the clinic students filed comments, called Value of Solar, established a methodology for determining the rate at which small solar energy producers, like individual homeowners, can sell electricity to utilities, like Xcel.

The students’ representation proceeded smoothly throughout the first semester, meeting with the client on a few occasions and gathering background research to get up to speed on the topic. Upon returning from winter break, the students anticipated working on the comments during the expected 60-day comment period following the proposed value of solar methodology’s release on January 31.

The students were shocked, like many in the field, when the PUC announced on the day of the methodology’s release that there would be an expedited comment process. The team now had less than two weeks to prepare MRES’s comments and a week after that to submit a reply to other parties’ comments.

After the initial panic wore off, the students calmly met with Clinic Director Jean Coleman to discuss their options. “I was very concerned about the time pressure, but left it to the students to decide if they wanted to go all in,” said Director Coleman. The students were confident they could complete the comments in the shortened timeframe and communicated that to the client. The team spent much of the next two weeks huddled together in meeting rooms, exchanging phone calls with each other and the client, vetting potential lines of argument, and rapidly trading and revising drafts.

When all was said and done, the students had successfully submitted robust initial comments and reply comments with which MRES was very pleased. More than two months of work had been completed in just over two weeks. Several of the policies the team advocated were adopted by the PUC, including a longer 25-year term for the agreement between the solar producer and the utility and a social cost of carbon based on federal standards that are more advantageous for solar generators.

Elizabeth Henley, one of the team members stated, “We had to quickly assemble a cogent argument on a challenging topic none of us were experts on. I think the process of translating client ideas into a formal PUC filing really helped all of our analytical skills.”

Added teammate Andrew Keller, with a smile, “Thanks to us, now every day is SUN-day.”
Outside of “Arms-Length”: Settlement of the Civil Practice Clinic’s Property Tax Class Action Lawsuit
By: Desmond Ready & Kelsey Thorkelson, Student Directors of the Civil Practice Clinic

It is well known that the foreclosure crisis has struck certain Minneapolis neighborhoods especially hard. Beyond the direct devastation a foreclosure brings, substantial corollary effects are felt across the surrounding properties and neighborhoods. The most notable of these are widely- and substantially-depressed property values.

In Minneapolis, foreclosure rates have historically been, and remain, remarkably higher in low-income communities of color. The corresponding decrease in surrounding property values has devastated those living in such neighborhoods. If the depressed economic conditions of these areas weren’t enough to bear, the subsequent inequitable property tax burdens made the situation even worse. Generally, when a property’s value declines, the tax burden on that property will proportionally decline as well. In neighborhoods with substantial foreclosures, however, many homeowners were forced to pay property taxes at highly inflated rates.

Property taxes are calculated as a percentage of a property’s “market value.” This value is determined by estimating the amount the property would sell for on the open market, in an “arms-length” transaction. To approximate this amount, the assessor analyzes sales of similar properties, with corrections for location and time of sale. Because the definition of market value is the amount a property would sell for in an arms-length, open-market transaction, any sales that do not meet this same definition are not included in this comparable sales analysis.

In most cases, the rejection of such sales is logical. If a property is purchased directly out of a foreclosure sale at a rock-bottom price, the value of the home – should it be re-sold on the open market – may be substantially higher. Therefore, including foreclosed properties in a comparable sales analysis could lead to a windfall for the property owner/seller.

Often, however, property is purchased long after the foreclosure process, after becoming bank-owned and placed upon the open market for a non-foreclosure sale. Our clients’ properties fit into this category. They purchased low-value homes in economically-depressed neighborhoods, yet were taxed at a home value substantially higher than what was paid. In conducting the comparable sales analysis to determine the value of these homes, the assessor did not include properties purchased under similar circumstances, arguing that such sales were not “open-market” nor “arms-length.” In some cases, the assessor didn’t even consider the property’s own recent sale. This was despite the fact that the properties had been advertised by the seller, bids had been received, and the banks were not desperate to sell the home. Both parties had equal bargaining power, and the property was not in the foreclosure process.

This practice led to a disparate impact where an already-depressed neighborhood would be taxed at a disproportionately high rate. After more than three years of litigation against the City of Minneapolis and Hennepin County, and following a complex evolution of case structure and strategy, the issue came down to a matter of statutory interpretation: should post-foreclosure sales by financial institutions be excluded from the definition of an open-market, arms-length transaction, and thus excluded from the comparable-sales analyses?

Before the ultimate question could be answered, the County and City proposed, and our clients accepted, a settlement that
substantially lowered our clients’ assessed property values. This led to a recalculation of our clients’ property tax obligations, and resulted in considerable tax refunds to the clients, with interest.

These corrected assessments will also be used to help form the basis for future tax assessments, allowing the settlement benefits to extend far beyond the year in question.

While this case ensured an equitable resolution for our clients, the City and County’s longstanding assessment practices remain. While the issue has partially self-corrected as foreclosure rates decline, the miscalculations of value remain an ongoing practice and will continue to contribute to over-taxation in low-income neighborhoods of color. Thanks to the efforts of the Civil Practice Clinic, though, six property owners obtained justice against this unfair and widespread practice.

Insurance Law Clinic Succeeds in Solving Life Insurance Dispute
By: Melissa Card, Student Director of the Insurance Law Clinic

The Insurance Law Clinic offers excellent opportunities to learn litigation skills while effectively and confidently representing individuals and small businesses during all stages of insurance claims and/or disputes. The Clinic’s cases may deal with any of the following types of insurance policies: auto liability, homeowner’s, property, business income, commercial general liability (CGL), professional liability, employment practices liability, health, life, or disability.

Within the 2013 to 2014 academic year, the Clinic represented a client who was involved in a life insurance dispute with an insurance company. The client’s wife had a life insurance policy with the company, however; she died of multiple drug toxicity. The insurance company would not process the client’s claim, asserting that the wife’s cause of death was a drug that was not prescribed to her. The student attorney on this case looked into all of the wife’s past prescriptions; however, he could not find a prescription for the particular drug that the insurance company claimed caused the wife’s death. When failing to find the prescription, the student attorney turned to the wife’s doctor asking what the cause of death was. The doctor could not state that the sole cause of death was from the drug that was not prescribed. The student attorney wrote a demand letter to the insurance company which included the conversation with the wife’s doctor, and was able to obtain a favorable outcome for the client. The insurance company granted the client the money owed under the insurance policy.

Like most clients that come to the insurance clinic, the client mentioned in the above case would not have been able to afford legal services. Therefore, not only does the Insurance Clinic offer an excellent opportunity for the students, but also provides much needed legal services to those who would not otherwise have access to them.
Wennerstrom Award Winner

Desmond Ready was awarded the 2013-14 Wennerstrom award. Desmond was a student director in the Civil Practice Clinic. He worked on several cases as both a student and student director, including several marital dissolutions, a child support modification, expungements, and the settlement portion of the property tax case against Hennepin County and the City of Minneapolis. After graduation, Desmond will be utilizing his practical legal skills gained through his three semesters in the Clinic as a trial attorney in the Department of Justice's Environmental and Natural Resources Division.

CLEA Award Winner

Julia Decker won the award for academic year 2013-14. As a student director in the Federal Immigration Litigation Clinic, Julia worked with advising attorneys and outside co-counsel to draft merits and amicus briefings for submission in immigration court and the Second and Eleventh Circuits. She also contributed research to a cert petition to the Supreme Court filed by the clinic and outside co-counsel.