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Federal Habeas Clinic Wraps Up with a Big Bang

Ishan Banerjee and Evan Esswein, both BLS '15, presented oral arguments to Eastern District Judge Brian Cogan in support of a habeas petition submitted on behalf of a New York State prisoner. For more than an hour, the students set forth the most persuasive points for their client, explaining not only the constitutional basis for entitlement to federal relief but why such relief was warranted even in light of the strict limitations imposed under the Anti-Terrorism and Effective Death Penalty Act (AEDPA). Jessica Soricelli, Class of '16, who was on the team but could not participate in the oral argument, had provided strong case law to support the claim that trial counsel's performance was deficient, and the judge seemed sympathetic to that argument. More difficult was persuading the judge that the outcome of the trial was affected by his sins of omission and commission given the rather powerful evidence against the petitioner, but the advocates did a yeoman's job making the effort.

Last spring, the clinic served as a resource for Andrea Hirsch, a private attorney whose case securing habeas relief was featured on the front page of the New York Law Journal on April 9, 2015. Magistrate Judge Debra Freeman granted an evidentiary hearing on the claim, and clinic students Rebecca Gannon, '14, Sarah Evans-DeVita, '14, Patrick Santos, '15, and Megan Sparks, '14, provided assistance for the post-hearing briefing by digesting the transcript and researching issues regarding the relatively new area of ineffective assistance in the plea context.

[Prof. Ursula Bentele](#), retiring this spring, has every reason to be proud of the decades of great work completed by her clinic students in state and federal courts and in the US Supreme Court.



Contents:

- **Federal Habeas Clinic**
- **Appellate Division Victory**
- **Securities Arbitration Clinic**
- **Good News from Safe Harbor**
- **BLS Makes Big Impression**
- **Clinic Students Advise Vendors**
- **Blasts from BLIP**

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Appellate Division Victory

On April 30, 2015, the Appellate Division, First Department, reversed Brooklyn Law School Criminal Defense Appeals Clinic client Latiff Thompson's second-degree weapons possession conviction. The police, who were investigating a robbery in the neighborhood, stopped Mr. Thompson and three other men as they exited a housing project in upper Manhattan.

One of the men fled upon their approach. A pat down of the three remaining men, including Mr. Thompson, did not reveal any weapons of contraband. The officers, however, continued to detain the men in order for the robbery victim to be brought to the location for an identification. While waiting for the victim to arrive, the officers saw Mr. Thompson making hand motions near his waist and, upon investigation, discovered a gun in his waistband.

The hearing court denied suppression of the gun finding that the officers had sufficient suspicion to approach the men and ask them if they had seen anything suspicious. According to the hearing court, the flight of one of the men provided the officers with reasonable suspicion to detain the remaining three men. The gun was discovered during that lawful detention.

Clinic student Tristan Ellis, '15, working under the supervision of Adjunct Professor Jan Hoth, successfully argued that the police officers lacked reasonable suspicion to detain Mr. Thompson. With only a single prior decision from the Appellate Division, Third Department on his side, Mr. Ellis convinced the First Department that the flight of one man, who may or may not have been known to Mr. Thompson, could not serve to elevate the officer's suspicion as to the men who had remained and cooperated fully. The finding of the gun was thus the product of an unlawful detention. The decision can be found at [People v. Latiff Thompson, 127 A.D.3d 658 \(1st Dep't 2015\)](#).

Securities Arbitration Clinic Wins Big

Labaton Sucharow lawyers, Joel Bernstein and Mark Arisohn, and their clinic students secured a six figure settlement for a widow who lost her husband's life insurance proceeds to an unscrupulous broker. This was upward of 70% of her stock market losses and considering that she would have paid a legal fee of 1/3 of the amount obtained to any non-pro bono lawyer she would have retained, she is really well ahead of the game.

The clinic was also featured prominently in a May 18 [National Law Journal](#) article about innovative clinical programs.



Good News from Safe Harbor

On April 28, the same day that the Supreme Court heard arguments in *Obergefell v. Hodges*, the Safe Harbor Project received word that two of its clients were approved for asylum. As always this is welcome news that represents a happy outcome for hardworking students, and their deserving clients. This year's students, Lindsay Kaplan, '15, Genna Gozenpud, Sarah Esmi (pictured to the right with their clients and interpreter, Ayshe Mazinova, an LLM student), Corrie Colwell, Meghan Lenahan, and Darryn Fitzgerald, all class of '16, worked for months to compile. What made this a particularly interesting coincidence is that both clients (one man and one woman) are gay and married and both were able to secure derivative asylum for their spouses. Ever since DOMA was overturned, the USCIS has been recognizing the rights of same-sex spouses to receive benefits under immigration law. Only a few years ago, this happy outcome would have been impossible.



Following the teachings of Yogi Berra, in the longest-running clinic case, a transgender asylum seeker first represented by the clinic in Fall 2009, only to be denied relief by the Immigration Court, the Board of Immigration Appeals (twice) and the Second Circuit, finally got some great news. The BIA reopened her case finding that her new female identity (including a

change of appearance, a medical transformation, and a name change) in combination with the established mistreatment of sexual minorities in her home country warranted reopening her case. This relief, granted under an “exceptional circumstances” standard, remanded for a new hearing, so the case likely will move into its seventh year! And possibly beyond given the current delays in immigration adjudications.

BLS Makes Big Impression at AALS Clinical Teachers Conference

Seven hundred clinical law professors from around the country gathered in early May for their annual conference sponsored by the American Association of Law Schools’ Section on Clinical Education. The theme was “Leading the New Normal: Clinic Education at the Forefront of Change.” Seven clinical professors from BLS attended; six presented in workshops. Jonathan Askin (along with 3 co-presenters) addressed 70 professors in a session entitled “Exploring New Possibilities Through Technology: Preparing Students to Practice in the New Normal.” Jodi Balsam conducted a workshop entitled “Responding to the New Normal in Field Placement Clinics: Teaching Students to Work in and Manage the Small Firm.” Natalie Chin conducted a session on “Implicit Bias.” Lisa Smith presented a workshop on “New York’s New Pro Bono Scholars Program: A Report on the First Year of Implementation and Reflections for the Future” Debbie Bechtel and Ted De Barbieri conducted a session called “Small Business Entrepreneur Brief Advice Clinic Design: The New Normal in Teaching Microenterprise Representation Involving Students, Pro Bono Attorneys and Faculty.” Ted also presented his paper, *Community Benefits Agreement and the Right to Skate*, at a works-in-progress session both at this conference and at the earlier Transactional Clinicians Conference in Chicago (also attended by attended by Paul Gangsei and Marjorie White).

Clinic Students Advise Vendors Association at Moore Street Market in Williamsburg

Students in the Corporate Clinic: Small Business and Community Economic Development Section (to be called Urban Economic Development starting Fall 2015) provided legal assistance to 13 vendors in an association at the Moore Street Market, a city-owned market in Williamsburg. Under the supervision of Prof. Ted DeBarbieri, Zarah Naqvi ’16, Chris Mikesh ’16, and Jared Smith ’16, reviewed a permit agreement presented by the NYC Economic Development Corporation (EDC), counseled the vendors about their rights and obligations under the new permit, and advocated for the vendors interest before EDC attorneys.



The vendors are largely Spanish-speaking, immigrant entrepreneurs – some who have been vending at Moore Street for three decades. They sell specialty foods, run a barbershop, sell fresh fruit and vegetable juices, run a bakery for formerly incarcerated youth, and sell jewelry.

With the support of Congresswomen Nydia Velazquez, and the NYC Council, the market has funds for capital improvement. Staff from Congresswoman Velazquez’s office attended a meeting where BLS students presented on issues the vendors should consider in deciding strategy and organization of the association.

Other students in the Clinic, Jeanine Joseph ’15, Susan Miller ’16, and Anthony Maddaluno ’16, assisted EcoMundo Cleaning, LLC, a worker-owned home and office cleaning cooperative, amend their limited liability operating agreement. Their efforts were reported in an article entitled “Winning for Workers,” in the [Manhattan Times](#) on April 22, 2015.

Blasts from BLIP

In addition to representing more than 100 startup clients this year, under the supervision of Professors Jonathan Askin and Marjorie White, BLIP students spearheaded several projects designed to use technology and other tools to advance the law

and legal process, as well as exploring ways to use law reform to advance the prospects of innovative ventures. Along with BLIP tech partners at the MIT Media Lab, BLIP organized the first virtual “appATHON” for the ABA Tech Show in Chicago on April 16-18. Consistent with objectives of building better ways to engage remotely, BLIP faculty and students never had to leave Brooklyn, Instead the students created provocative 90-second videos teasers of their tech law projects. The presentations triggered ongoing discussions over the three days of the Tech Show on the evolving relationship between law and technology. Among the projects presented by BLIP students were the following:

- Aamir Rahman [led a project](#) in collaboration with BLIP colleagues at the University of Amsterdam on building a global Code of Conduct for Digital Manufacturing (aka, 3D printing) and a crowd-sourced global wiki of the various nation-specific laws governing the emerging industry.
- Ben Brash presented a project designed to empower citizens to take a photo of a ticket (e.g., a parking ticket) and, in real-time, determine what legal or procedural flaws exist to enable the citizen to fight the ticket.
- Nicole Joyce pursued the creation of an automated privacy policy generator to help startups and their counsel ensure that website privacy policy abide by laws and accurately reflect precisely what the venture will do and will not do with user information.
- Liz McKenzie presented a project designed to enable law firms to create their own on-site venture incubators for their clients and prospective clients, without breaching any confidentiality or other ethical obligations to clients.
- Andrew Braunstein [presented](#) an idea for a platform to help citizens find free legal resources.
- Patrick Bannon [presented](#) a streamlined takedown notice generator designed to create and send takedown notices pursuant to the Digital Millennium Copyright Act to protect victims of revenge porn from having their photos exposed online.
- David Honig presented a platform designed to allow inventors to freely share their ideas with the world and to ensure that no one else could otherwise claim ownership of the invention by beating the prior inventor to the patent office.

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