

DU LAW CLINICAL PROGRAMS CLINICAL REVIEW

UPDATES & ANNOUNCEMENTS FROM THE
UNIVERSITY OF DENVER STURM COLLEGE OF LAW
STUDENT LAW OFFICE

Highlights Include:

Strategic Plan Update

*New Community Economic
Development Clinical Fellow*

Legal Externship Program—Leadership Seminar

*2010-2011 Erik B. Bluemel International
Environmental Law Scholar Named*

Clinical Student Reflections



Message from the Director



It is with much enthusiasm that I write to share recent news about the clinical programs at the University of Denver Sturm College of Law. In this, the second issue of the *Clinical Review*, you will learn about recent developments in our overall program and will have the opportunity to read interesting reflections from students on the transformative work they are doing throughout the clinic.

The University of Denver Sturm College of Law Clinical Program's unprecedented recent growth culminated last year in the hiring of three new clinical faculty on tenure-track lines. After an engaged and deliberative process that included faculty, students, administration, alumni and community members, the Sturm College of Law adopted a strategic plan designed to guide the law school into the future. Both experiential learning and the clinical program itself were identified as critical to the future success of the law school and were among the central foci of the overall strategic plan.

We recently hired our first Whiting Fellow, Eric Franklin, and our second Erik B. Bluemel International Environmental Law Scholar, Andrew Seidel. We are in the process of developing the Community Economic Development Clinic (CED) in anticipation of accepting its first students in the Fall of 2011. In addition to the generous gift of Kenneth Whiting, JD'53, the CED, run by Assistant Professor Patience Crowder and Fellow Eric Franklin, recently received a grant of \$7,500 from Colorado State Bank & Trust to support their work.

In addition to our in-house clinical program, the Legal Externship Program continues to develop exciting new classroom opportunities for students. This volume includes a description of a new leadership course designed to help students understand, develop and practice complex leadership roles. We hope you enjoy learning more about our program and welcome any input or ideas as we move forward.

Associate Professor of Law Christine Cimini,
Ronald V. Yegge Clinical Director

Strategic Plan Update

The University of Denver Sturm College of Law recently embarked on a strategic planning process designed to bridge the gap between today's legal education and the ever changing needs of the legal profession.

Based upon research from the Carnegie Report of 2007 and the Clinical Legal Education Association (CLEA's) Best Practices, the SCOL adopted two initiatives designed to achieve excellence in teaching and scholarship, and to produce graduates who are prepared to practice law and are equipped to lead.

One of the initiatives within the plan, known as *Modern Learning*, focuses on producing practice-ready and well-balanced lawyers by offering more experiential learning opportunities, and increasing the integration of doctrine, skills and professional identity into the curriculum. Our goal is to graduate practice-ready students who have attained entry-level proficiency in several key professional skill areas so they are prepared to enter the legal field. In order to achieve these initiatives, DU has chosen to focus its attention on a few select areas, one of which is the clinical programs.

Identified as a **Flagship Center of Excellence**, the Student Law Office will receive additional resources enabling it to provide students extraordinary experiences designed to help them develop the skills necessary for practicing law in today's environment.

The Student Law Office has spearheaded skills-based learning for 106 years, providing students the opportunity to develop lawyering skills in the real world by representing clients who face a variety of issues for which they might not otherwise have legal representation. This unique opportunity allows students to learn and practice law under the supervision of clinic faculty who work to ensure that all students obtain valuable, real-world experience.

Given the law school's Modern Learning Initiative and the clinic's designation as a Flagship Center, the Student Law Office is poised to expand its resources, thus allowing for more students to participate in experiential learning.

Today the Student Law Office has six clinics: criminal defense, civil litigation, civil rights, mediation and arbitration, environmental law and our most recent addition, the community economic development clinic. With these successes well under way, the next strategic goal is to recruit and hire a tenured or tenure-track immigration clinician in 2010-2011 and implement an immigration clinic that will be offered to students in the fall of 2012.

STUDENT REFLECTIONS

Civil Litigation Clinic

Working as a student attorney in the Civil Litigation Clinic has been my best experience in law school so far, hands down. Switching gears from working on imaginary sets of facts for made-up clients to having actual client contact, and expectations from those clients, was an eye-opening experience. Conventional classes fail to teach students that the practice of law is not all about the lawyer, but is all about the client. Law school and legal classes focus so much on the student's ability to analyze and apply facts to law that students lose sight of the lawyer's role as a representative of the client, and not as the ultimate decision-maker. I will never forget the day my supervising attorney reminded me, "Hannah, this is not *your* case; it is the clients' case." Those simple words were so powerful, and really made me think about lawyering in a different way.

-Hannah Misner, 2L



Clinic Program Updates

Community Economic Development Clinic

The Community Economic Development Clinic welcomes its inaugural Clinical Teaching Fellow and receives \$7,500 from Colorado State Bank and Trust

The new Community Economic Development (CED) Clinic is experiencing a very exciting fall. We are very pleased to welcome Eric Franklin as the inaugural Whiting Clinical Teaching Fellow. Eric received his J.D. from Cornell Law School and his B.A. in English from the University of Texas. After law school, he joined Sullivan & Cromwell's corporate group in Palo Alto, where his practice primarily focused on securities offerings and mergers and acquisitions. After several years at Sullivan, Eric moved to Seattle to join the business transaction group of Davis Wright Tremaine (DWT). At DWT, he worked on a wide range of projects, from documenting multi-billion dollar transactions among multi-national corporations to counseling local entrepreneurs on legal issues facing early-stage companies. Eric's first article, "How to Avoid the Constraints of Rule 10b-5(b): A First Circuit Guide for Underwriters," will be published in a forthcoming issue of the *John Marshall Law Review*. Passionate about representing small business owners, Eric is not content to limit his scholarship to securities law and looks forward to expanding his research agenda during his fellowship. The Whiting Clinical Teaching Fellowship was made possible thanks to a generous \$500,000 gift from DU Law alumnus, Kenneth R. Whiting, JD'53. The Clinical Teaching Fellowship Program provides experienced attorneys with the opportunity to learn how to teach law in a clinical setting.

The CED Clinic will begin representing clients in Fall 2011. Until then, Eric joins Assistant Professor Patience Crowder in developing the clinic's design and meeting with members of the Denver community to form partnerships and cultivate



Assistant Professor Patience Crowder and Whiting Clinical Fellow Eric Franklin

relationships with potential clients. This leads to our second piece of wonderful news. The CED clinic is the very proud recipient of a \$7,500 grant from Colorado State Bank and Trust. This grant will be instrumental in facilitating the clinic's goal of assisting Denver's underserved communities, particularly clients seeking assistance with small business operations, neighborhood stabilization and community development. We'd like to take this opportunity to thank Colorado State Bank and Trust for its support of our efforts.

Environmental Law Clinic

Environmental Law Clinic announces the 2010-2011 Erik Bluemel International Environmental Law Scholar

The Environmental Law Clinic (ELC) is extremely happy to announce the selection of Andrew L. Seidel as the 2010-2011 Erik Bluemel International Environmental Law Scholar. Andrew graduated cum laude from Tulane University with a B.S. in neuroscience and environmental science and magna cum laude from Tulane University Law School, where he was awarded the Haber J. McCarthy Award for excellence in environmental law. In addition, Andrew studied human rights and international law at the University of Amsterdam and environmental science on Semester at Sea. His essay on the role of religion in government and the founding of our nation placed second in the Freedom From Religion Foundation's essay contest. Andrew's work in the clinic focuses on the environmental and human rights impacts of mining on the indigenous people of British Columbia.

ELC students work to advance protection of wild birds

In the case of *Friends of Animals et al. v. Ken Salazar* (U.S. District Court for the District of Columbia, Civil Action 10-357), the Environmental Law Clinic students, on behalf of their client Friends of Animals, obtained a court order that requires Interior Secretary Ken Salazar to determine whether 12 parrots warrant federal protection under the endangered species act.

A variety of man-made factors make it increasingly difficult for all of the species to continue in existence. Destruction of forests associated with changing land use practices in these species' native ranges results in decreased habitat for many of these species. To make matters worse, each of the petitioned species is also highly sought after for sale in the caged-bird pet trade. Trappers and poachers are often either unable or unwilling to reach the birds in their nests situated high in the forest canopy, so



they cut down sections of forest in order to bring the trees, nests and birds to the forest floor. Once on the ground, the chicks or fledglings are collected and sold by trappers and poachers to both legal and illegal pet markets in the United States and elsewhere. This practice increasingly harms already dwindling populations of birds and their habitats.

ELC work spotlighted in Westword

The efforts of the ELC in relation to a controversial coal-fired power plant in the southeast Colorado town of Lamar are featured in the September 30, 2010 issue of the Denver weekly newspaper *Westword* (<http://www.westword.com/2010-09-30/news/black-out-lamar-gets-steamed-over-a-troubled-coal-plant-right-in-the-middle-of-town/>).

Clinic Case Updates

Civil Litigation Clinic

Students in the Civil Litigation Clinic (CLC) have had a successful and busy semester working on impact litigation, individual



litigants' cases and projects in the community. On the larger litigation front, CLC students are preparing a motion to intervene for six individual clients in a Title 7/Section 1981 case filed by the EEOC on behalf of

Somali workers who were (or are still) employed at the Swift meat packing plant in Greeley, Colo. The case is based on claims of religious and race based discrimination.

In the housing arena, students won two Section 8 termination-of-subsidy cases and successfully defended a third client by arguing for a reasonable accommodation. In domestic violence court, students won eight civil protection orders for their clients. The victories involved two day-long hearings in which students navigated several surprises, including a motion to intervene for child custody by the perpetrator's family, and a motion to compel the victim to testify about her immigration status.

In our wage theft docket, students went to trial on two cases. In the first, students recovered \$6,500 for four Spanish speaking workers who were not paid, and in the second, students obtained over \$4,000 for two construction workers who worked many days without payment.



Finally, CLC students worked on three different projects in the Denver community, in collaboration with El Centro Humanitario, a grassroots agency that advocates for the rights of day laborers. The projects include a monthly legal intake night to advise individual workers; the production and presentation of "know-your-rights" materials to workers; and the facilitation of a Wage Theft Task Force involving a number of concerned community actors, including the U.S. Department of Labor.

STUDENT REFLECTIONS

Civil Rights Clinic

Entering the United States Administrative Maximum Penitentiary in Florence, Colorado is intimidating. It is especially intimidating when you are entering to meet the first client of your legal career. Fortunately, our client is grateful for any and all human interaction—even if it is with student attorneys—because he has been held in solitary confinement for the last 27 years.

When we were placed on *Silverstein v. BOP*, we were excited about the opportunity to be involved in a case with such important legal and social implications. Our initial enthusiasm has not worn off, and meeting Tommy Silverstein has only increased our dedication to challenging the legal justifications for his confinement.

Mr. Silverstein remained handcuffed and shackled throughout the visit. It was difficult for us to remember that the bespectacled, white haired, affable man across from us was on the Bureau of Prison's list of most dangerous inmates. Speaking with him contradicted any notion that Mr. Silverstein was "the worst of the worst."

It is difficult for us to reconcile what we have read about Mr. Silverstein's violent past with the man we met. However, it is not difficult for us to understand that what has been done to Mr. Silverstein (and continues to be done) violates all notions of humaneness. For this reason, we are privileged and inspired by the opportunity to use our legal training to oppose the practice of solitary confinement and work to lessen the extreme conditions of Mr. Silverstein's confinement.

-Erica Day, 2L

The Civil Rights Clinic represents Tommy Silverstein, a prisoner confined in the federal supermax, in his lawsuit claiming that the federal Bureau of Prisons' confinement of him under "no human contact" status for over 25 years constitutes cruel and unusual punishment in violation of the Eighth Amendment and violates his Fifth Amendment right to due process. Earlier this year, the U.S. District Court for the District of Colorado denied the government's motion to dismiss and held that Mr. Silverstein's procedural due process claim is allowed to proceed, as is his Eighth Amendment claim for injunctive relief. The decision on the Eighth Amendment claim is one of only a few in the entire country where a court has held that solitary confinement alone is enough to state a claim for cruel and unusual punishment, even absent mental illness or other physical harm.

Civil Rights Clinic

Students in the Civil Rights Clinic (CRC) have been working diligently to protect the Constitutional rights of people confined in both state and federal 'supermax' facilities. The clinic represents several individual prisoners in impact litigation cases challenging a variety of aspects of long-term solitary confinement.

Three teams of students represent individuals who are held in solitary confinement at the federal supermax, the most restrictive federal prison in the country. All of the clients were transferred to the supermax without committing a serious disciplinary offense, and without any notice or hearing of why they were being moved there. The students argued that these transfers, and the years of detention that followed, violated the individuals' rights to due process of law. The student teams, having filed an extensive summary judgment briefing, are awaiting decisions from the court and expect to go to trial in the spring. In one of these cases, the client has been held in isolation for nearly three decades, and the students have alleged that such severe deprivation of human contact is cruel and unusual punishment, in violation of the Eighth Amendment.

Another student team represents a mentally ill prisoner who has been held in the state supermax for nearly a decade.



The lawsuit, which was filed earlier this year, alleges that our client is being subjected to cruel and unusual punishment because of the state's failure to provide adequate mental health care, denying him the med-

ications ordered by his own prison doctors. Further, the state supermax does not allow prisoners any time outside, thus, our client has not felt the sun on his skin for over nine years. The students are doing excellent work managing the extensive discovery in this case, which requires numerous depositions and document requests.

The most recent addition to the CRC docket was filed in October 2010. Students represent an individual who, while in solitary confinement and despite vomiting blood for four days, was not seen by a doctor. Eventually, he collapsed, requiring emergency surgery and had an extensive and painful recovery. The students' complaint, which is filed in federal district court, received press attention, helping to raise public awareness of the systemic problems that exist in Colorado prisons.

Criminal Defense Clinic

In the Criminal Defense Clinic (CDC), Professors Wadine Gehrke and Howard Rosenberg welcomed new clinical professors Robin Walker Sterling and Christopher Lasch. All four participated in introducing twelve new students to the SLO's criminal defense practice through an intensive two-day orientation in August. Midway through the fall 2010 semester, CDC students have already represented clients in three trials and numerous hearings with very positive results. In the most recent trial, students were able to win an acquittal from the jury on some of the most serious charges against their client, assault and battery with a domestic violence specification.

STUDENT REFLECTIONS

Criminal Defense Clinic

As a part-time student who works during the day, finding opportunities to get practical experience was sometimes a challenge. Although I enjoyed learning about particular subjects in the classroom, before I graduated from law school I wanted to ensure that I had as much experience as possible practicing law. So I applied to the Student Law Office Criminal Defense Clinic.

Although the main thrust of pursuing the clinical education was somewhat self-serving, I soon became immersed in a world that brought me back to my roots of why I became interested in law in the first place: I wanted to make a difference. Now, whether or not you're a person who subscribes to the belief that we live in a society that relishes punishing individuals, it's hard to ignore the fact that the United States has the highest documented incarceration rate in the world. In addition, we also have the highest total documented prison and jail population in the world.

With that said, the clients I meet at the clinic are people with serious problems who are absolutely underserved by the current state of the legal representation in today's society. Getting to represent them has not only been an educational experience that provides practical experience that's almost priceless given the state of the economy, but it has also allowed me to make a difference one client at a time by ensuring that they get the legal representation that they both need and deserve. In short, it's a privilege that I get a chance to make a difference in the lives of the people I represent through the Criminal Defense Clinic.

-Paul Galvin, 3L

LEGAL EXTERNSHIP PROGRAM – LEADERSHIP SEMINAR

This fall the Legal Externship Program at the Sturm College of Law added a Leadership Seminar to its course offering, thus continuing its strategic focus on providing students the bridge between the skills learned in legal analysis and the more fluid expertise they will need in much of their professional work. In the Leadership Seminar, students are exposed to key leadership theories and principals to help them understand, develop and practice complex leadership roles. In addition to understanding what leadership is, we focus on why leadership is important to lawyers and help them develop the key skills and abilities to become better leaders. The course is grounded in the theory that lawyers best serve their clients when they are not just advocates, but also when they are creatively involved in solving their clients' problems and helping their clients understand opportunities for organizational change and growth.

In the seminar, we examine leadership through three lenses: personal leadership, which helps students understand their leadership style and values and how they can be most effective in leading others; strategic leadership, i.e. the need to see the big picture and strategically focus on both their clients, and, as appropriate, the organizations they lead; and operational leadership, in which we examine leader-

ship from the private law firm, in-house counsel and social entrepreneurship perspectives.

A particularly interesting and important aspect of the course is the examination of leadership values. Because students are all externing, the platform for considering the intersection between ethical and moral responsibilities in the practice of law is contextually rich. DU Law's Professor Steve Pepper joined us for a compelling discussion about the difference between complying with the law and doing the right thing morally. In another class, we were joined by Professor James O'Toole, a renowned leadership expert and professor at the Daniels College of Business at the University of Denver. Professor O'Toole is widely known for his work on values-based leadership, and he lead the class in a fascinating discussion of Gandhi's leadership style and values.

Utilizing the pedagogy of *action learning*, students engage in reflection and collaboration to identify a leadership challenge at their externship site, the law school or in the legal profession. They must then implement strategies to address that challenge. This semester, all students have selected action learning projects that will benefit the law school. We look forward to seeing how the leadership lessons learned in the classroom will be applied both for the students' benefit and the benefit of the Sturm College of Law.



DU LAW

CLINICAL REVIEW

Faculty & Fellow Highlights

Associate Professor Christine Cimini

Presentations

- “The Secure Communities Program and Its Impact on Immigrants,” Constitutional Day speaker, University of Denver Sturm College of Law (Sept. 28, 2010).
- “The Role of Fault in a Post-Hoffman World: Evolving or Misguided Jurisprudence?,” Clinical Law Review Writers’ Workshop, New York University Law School (Oct. 2, 2010).
- “Immigrant Youth Activism,” Moderator, LatCrit Conference, University of Denver Sturm College of Law (Oct. 9, 2010).

Assistant Professor Patience Crowder

Publications

- “More than Merely Incidental: Third-Party Beneficiary Rights in Urban Redevelopment Contracts,” 17 Geo. J. Poverty L. & Pol’y 287 (2010).

Presentations

- Symposium Panel Moderator, The Scholarship of Catharine MacKinnon, University of Tulsa College of Law (March 2010).
- Co-Facilitator, Community Economic Development Small Working Group, AALS Annual Clinical Conference on Legal Education, Baltimore, Maryland (May 8, 2010).
- “Using Simulation to Teach Substantive Law, Skills, Ethics and Professionalism,” with Assistant Professor Chris Lasch, University of Denver Sturm College of Law (Oct. 13, 2010).

Whiting Clinical Fellow Eric Franklin

Publications

- “How to Avoid the Constraints of Rule 10b-5(b): A First Circuit Guide for Underwriters,” J. Marshall L. Rev. (forthcoming).

Civil Rights Clinical Fellow Brittany Glidden

Presentations

- “Necessary Suffering?: An Analysis of the Use of Government Interest in Eighth Amendment Caselaw,” Clinical Law Review Writers’ Workshop, New York University Law School (Oct. 2, 2010).

Assistant Professor Mike Harris

Publications

- “Open Space Justice,” High Country News Blog (Mar. 29, 2010, 2:37 PM), <http://hcn.org/greenjustice/blog>.
- “EJ for Earth Day,” High Country News Blog (Apr. 20, 2010, 10:05 AM), <http://hcn.org/greenjustice/blog>.
- “A Culture of Failure,” High Country News Blog (June 7, 2010, 11:39 AM), <http://hcn.org/greenjustice/blog>.
- “Environmental Deliberative Democracy and the Search for Administrative Legitimacy: A Legal Positivism Approach,” U. Mich. J.L. Reform (forthcoming Nov./Dec. 2010).

Associate Professor Tamara Kuennen

Presentations

- “Domestic Violence Civil Protection Order Law,” guest lecturer, University of Colorado Law School (Mar. 9, 2010).
- “Mindfulness, Meditation, and Reflection in Clinical Teaching,” with Victor Goode & Charles Halpern, AALS Annual Clinical Conference on Legal Education, Baltimore, Maryland (May 8, 2010).
- Judicial Training, National Judicial Institute on Domestic Violence, Baltimore, Maryland (August 7-11, 2010).

Assistant Professor Chris Lasch

Presentations

- “Using Simulation to Teach Substantive Law, Skills, Ethics and Professionalism,” with Assistant Professor Patience Crowder, University of Denver Sturm College of Law (Oct. 13, 2010).

Environmental Law Clinical Fellow Kevin Lynch

Presentations

- “Stay of Discovery Due to Pending Motions to Dismiss,” Clinical Law Review Writers’ Workshop, New York University Law School (Oct. 2, 2010).

Associate Professor Laura Rovner

Presentations

- “The Moment as Microcosm: Making the Most of Spontaneous Classroom Controversies as Integrated Learning Opportunities,” Central States Law Schools Association Conference, Grand Forks, North Dakota, (Sept. 25, 2010).
- “Solitary Confinement,” ACLU of Colorado (June 8, 2010).

Assistant Professor Robin Walker Sterling

Presentations

- “Does One Juvenile Court Judge Equal Twelve Angry Men? The Intersection of Fundamental Fairness and Fundamental Rights in Juvenile Delinquency Court,” Clinical Law Review Writers’ Workshop, New York University Law School (Oct. 3, 2010).
- “DNA 101: Understanding the Basics,” Washington Juvenile Defender Summit, Leavenworth, Wash. (Oct. 15, 2010).
- “Innovative Use of the Brady Exculpatory Evidence Rule,” Washington Juvenile Defender Summit, Leavenworth, Wash. (Oct. 16, 2010).
- “Reducing Disproportionate Minority Contact (DMC): Blind Justice in the Area of DMC,” Washington Juvenile Defender Summit (October 29, 2010).
- “Media and Messaging in Juvenile Defense,” Washington Juvenile Defender Summit, Leavenworth, Wash. (October 30, 2010).



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Sturm College of Law

DU LAW CLINICAL REVIEW

*Updates & Announcements from the
University of Denver Sturm College of Law Student Law Office*

CIVIL LITIGATION CLINIC

CIVIL RIGHTS CLINIC

COMMUNITY ECONOMIC DEVELOPMENT CLINIC

CRIMINAL DEFENSE CLINIC

ENVIRONMENTAL LAW CLINIC

MEDIATION AND ARBITRATION CLINIC

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