



Association of American Law Schools

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38th ANNUAL CONFERENCE ON CLINICAL LEGAL EDUCATION

Leading the New Normal:
Clinical Education at the
Forefront of Change

May 4 – 7, 2015

Rancho Mirage, California



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**PROGRAM
BOOKLET**

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38th Annual Conference on Clinical Legal Education

Leading the New Normal:
Clinical Education at the Forefront of Change

May 4-7, 2015

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IMPORTANT

The Evaluation Form is not included in this booklet.
It will be emailed to you soon after the conclusion of the Conference.
Your comments will assist us in planning future conferences.

Welcome to the Conference

Welcome to the 2015 AALS Clinical Conference! This year's conference focuses on a current, urgent concern: how to navigate the cross-currents of increased demand for experiential learning, decreased resources and enrollments, and rapidly changing technology. These challenges flow through every aspect of our work: in choices about teaching and program design, in relationships with students, in conversations with non-clinical colleagues and deans, and in service to the clients and causes that move us to our best work.

The many speakers, presenters, and moderators will deepen your understanding in three main areas. First, how do we assess the different dimensions of the “new normal”? Second, how do these realities influence our long-standing mission to pursue justice through teaching and practice? And third, how can we work with new technologies that both improve our ability to teach and are changing the face of law practice and legal education?

To deliver all of this, the Planning Committee has diversified the conference itself. We have six mini-plenaries on the core conference themes, alongside three speakers who will challenge and provoke us. The creativity of our colleagues has generated the usual extraordinary range of concurrent sessions. But you will also find shorter, TED-like sessions as well as multi-session workshops permitting slower exploration. We will host a conversation about racial justice, and will recognize the justice advocacy of our colleagues, our students, and California Rural Legal Assistance. You will find room to network, to continue the work of the Clinical Section, and to engage in contemplative reflection. And we will carry the message forward, through short videos filmed at the conference that will become a permanent library on the AALS website.

In short, we mean to give you good value for your conference participation. Take time to engage, to reflect, to learn, and to enjoy our time together in the desert. Thank you.

Planning Committee for 2015 AALS Conference on Clinical Legal Education

Kimberly Ambrose, University of Washington School of Law

Claudia Angelos, New York University School of Law

Eduardo R. Capulong, University of Montana School of Law

Michele R. Pistone, Villanova University School of Law

Laura L. Rovner, University of Denver Sturm College of Law

Alexander Scherr, University of Georgia School of Law, **Chair**

Conference Schedule

Monday, May 4, 2015

3 – 7:30 pm

AALS Registration
Ambassador Foyer

6 – 6:15 pm
Ambassador 1-4

Welcome

Judith Areen, Executive Director, Association of
American Law Schools

Introduction

Alexander Scherr, Chair, Planning Committee for 2015
AALS Conference on Clinical Legal Education and
University of Georgia School of Law

6:15 – 6:45 pm
Ambassador 1-4

**Can We Really Burn the Building Down and
Start Again?**

Frank H. Wu, University of California, Hastings College
of the Law

6:45 – 8 pm
Celebrity D

AALS Reception with Posters

(See pages 51 for description of posters)

Tuesday, May 5, 2015

7 – 8:30 am

**AALS Section on Clinical Legal Education
Committees**

(See page 69 of this booklet or notice posted on the
conference bulletin board near AALS Registration for
committee meetings and room locations.)

8 – 8:25 am

Contemplative Session

Polo

Start the day with a short, 25-minute guided
mindfulness meditation where all are welcome and no
prior meditation experience is needed.

8:30 – 9:30 am

Plenary Sessions

Track One: The Faces of the New Normal
Rancho Mirage

Lisa R. Bliss, Georgia State University College of Law
Stephen J. Ellmann, New York Law School
Phoebe A. Haddon, Chancellor, Rutgers University –
Camden
Eumi K. Lee, University of California, Hastings College
of the Law

The “new normal” has many faces: changes in the
market for law graduates, calls for curricular reform
through experiential courses, declining enrollment
and constricting resources, new collaborations within
and outside of law schools, and even changes in how
lawyers practice law. How do we frame this situation,
and how does that framing affect the design and
teaching of our courses? How do we identify the forces
that drive change and how is our work being affected?
What assumptions are we making in this process—or
shouldn’t be making? This mini-plenary will explore
the many dimensions of the new normal and identify
trends affecting the clinical and field placement
community.

Track Two: The New Normal and Our Pedagogical Mission

Ambassador 1 - 4

Wendy A. Bach, University of Tennessee College of Law
Phyllis Goldfarb, The George Washington University
Law School

Donna H. Lee, City University of New York School of
Law

Moderator: Ann C. Shalleck, American University,
Washington College of Law

With all the talk of experiential education being the solution to the problems plaguing legal education and the ABA's new requirement that law schools deliver six credits of experiential education to every student, clinicians are having some difficult conversations. Our schools are asking us to participate in the development of new forms of experiential education that respond to particular institutional, curricular, and budgetary needs. We have been asked to help others—some on the non-clinical faculty, others from legal practice—to create experiential components for traditional courses or to integrate practice settings in new ways into course design. We have been challenged to justify why we and our longstanding experiential models should not yield to a whole new variety of offerings with the label “experiential.”

This mini-plenary will help us engage thoughtfully and constructively in these discussions. We will start from the place where we have confidence and clarity: the well-developed foundational assumptions, learning goals, and structural models that have evolved over decades for in-house clinics. We will bring in the diversity, flexibility, and complementary goals and pedagogy offered by well-designed externship programs. After identifying the programmatic features that lead to the deep learning that occurs in these high-quality experiential programs, we will then work on a framework for assessing new and emerging proposals for experiential education, such as “practica,” “mini-clinics,” “hybrids,” “add-ons,” etc.

In doing so, we ask: What student learning are these newly-minted programs trying to, and able to, achieve? What have we learned from the evolution of in-house clinics and externships about pedagogical and structural choices that can effectively facilitate these outcomes? What pedagogical and structural trade-offs are we willing or unwilling to make as we face the pressures and evaluate the proposals that accompany “the new normal”?

The session will engage attendees in structured discussions and exercises on how to respond to these questions. By defining the relationships among intentionally designed student experiences, learning outcomes, pedagogical methods, and programmatic structures, we hope to provide a rich set of analytical tools that will help each of us navigate the complexities of the new environment and participate productively in our own institutional contexts, controversies, and conversations.

Track Three: Technology and Legal Education

Celebrity A&B

Larry C. Farmer, Brigham Young University, J. Reuben
Clark Law School

Karen Swan, Stukel Distinguished Professor of
Educational Leadership and Faculty Associate,
Center for Online Learning, Research and Service,
University of Illinois Springfield, Springfield,
Illinois

Angela K. Upchurch, Southern Illinois University
School of Law

Online educational technologies have the potential to revolutionize how law is taught and learned. But what is the best use of educational technology in our teaching? Particularly in the clinical setting where face-to-face interactions between professor and students are central to our teaching methodology, can educational technologies play a role in our pedagogy?

During this mini-plenary we will explore the future of the “new normal” as it relates to clinical legal education. The panel will begin with a short video providing an overview of recent developments in learning technologies and blended learning, including online videos, flipping the classroom, online formative assessments, adaptive learning, customized learning, immersive simulations, and games.

9:30 - 9:45 am

Transition to Concurrent Sessions

9:45 – 11 am

Concurrent Sessions #1

(See pages 15 of this booklet for speakers and program descriptions)

Track 1: ABA Standards, Clinical Legal Education, and the New Normal: Has Anything Changed?
Rancho Mirage

Track 1: Funding the Law School Clinic through “Soft Money” – Restraints and Possibilities for Pedagogy and Social Justice
Ambassador 1-4

Track 2: 1L Curricular Reform and Faculty Integration
Celebrity A&B

Track 2: Birds of a Feather Teach Together: Collaborations Between Law Clinic and Externship Faculty to Educate a New Generation of Reflective Practitioners
Celebrity C

Track 2: Social Justice Lawyering in the “New Normal” of Reduced Judicial Resources
Ambassador 7

Track 3: Should We Change Too? Re-envisioning Clinical Pedagogy to Include Law Practice Management and Technology: Teaching Students Marketable Practice Skills While Widening Access to Justice.
Celebrity F

Track 3: Future of the New Normal: Incorporating the Roots of Critical Pedagogy into Multi-Disciplinary Approaches to Clinics – From Roots to New Blooms
Celebrity G

Track 3: The Start Up of Who? – Disrupting the Marketplace by Teaching Entrepreneurial Thinking in Law Schools
Celebrity H

Track 3: Collaborative Concurrent
Hospitality 517

Small Business Entrepreneur Brief Advice
Clinic Design: The New Normal in Teaching
Microenterprise Representation Involving
Students, Pro Bono Attorneys, and Faculty

Exploring Strategies for Accountability, Democracy, and Transparency in Community-Clinic Collaborations

Creatively Embracing Change Using an Eco-System Model
Ambassador 5

Implicit Bias
Ambassador 6

Contemplative Space
Polo

11 – 11:15 am
Ambassador Foyer

Refreshment Break

11:15 am – 12:30 pm

Working Sessions (A)

(See the handout in your conference materials folder for your Working Group assignment and its location)

11:15 am – 12:30 pm

Workshops

(See pages 21 of this booklet for speakers and program descriptions)

Teaching Justice
Rancho Mirage

Navigating the Complexities of the Clinical Teaching Market
Celebrity C

Scholarship Support
Celebrity A&B

Teaching and Evaluating Reflection
Celebrity F

(Re-)Designing a Clinic Using Backwards Design
Celebrity G

Creating Online Educational Videos
Celebrity H

Teaching About Race to Improve Racial Justice
Ambassador 1-4

12:30 – 2 pm
Celebrity D&E

AALS Luncheon

AALS Section on Clinical Legal Education Shanara
Gilbert Award Presentation

2 – 2:30 pm
Ambassador 1-4

Keynote

Peter B. Edelman, Georgetown University Law Center

2:30 - 2:45 pm

Transition to Concurrent Sessions

2:45 – 4 pm

Concurrent Sessions #2

(See pages 25 of this booklet for speakers and program descriptions)

Track 1: Responding to the New ABA Standard 314 – Assessment in the Law School and in the Field: What We’re Doing and How We Can Do It Better
Rancho Mirage

Track 1: Establishing and Improving Clinical Teaching Fellowship Programs
Ambassador 1-4

Track 2: Facing Our Fears in Changing Times: Critically Examine the Benefits and Opportunities of Clinical Legal Education Models in Order to Lead Within Our Institutions
Celebrity A&B

Track 2: The New Normal in Public Interest Lawyering: Small Business and Transactional Clinics at the Forefront of Change
Hospitality 517

Track 2: Clinical Education at the Intersection of Immigration Law and Criminal Law
Celebrity C

Track 3: Teaching with Technology: Clinicians + Law Librarians = Innovation
Celebrity F

Track 3: Where the Jobs Are Now and What They Require: Preparing Law Students for an Interprofessional World
Celebrity G

Track 3: Plugged In or Tuned Out? Teaching a New Generation of Tech-Savvy Clinical Students
Celebrity H

Responding to the New Normal in Field Placement Clinics: Teaching Students to Work in and Manage the Small Firm
Ambassador 5

“Newish Clinicians” Navigating the (New) Normal – Experiences, Strategies, and Opportunities
Ambassador 6

Collaborative Concurrent
Ambassador 7

Subversive Outcome Assessment: Learning Taxonomies and Pop-Up Workshops

Engaging Students in Organizational Representation

Representing Enterprises

Contemplative Space
Polo

4 – 4:15 pm
Ambassador Foyer

Refreshment Break

4:15 – 5:30 pm

Working Sessions (B)

(See the handout in your conference materials folder for your Working Group assignment and its location)

4:15 – 5:30 pm

Workshops

Teaching Justice
Rancho Mirage
Continued

Navigating the Complexities of the Clinical Teaching Market
Celebrity C
Continued

Scholarship Support
Celebrity A&B
Continued

Teaching and Evaluating Reflection

Celebrity F
Continued

(Re-)Designing a Clinic Using Backwards Design

Celebrity G
Continued

Creating Online Educational Videos

Celebrity H
Continued

Teaching About Race to Improve Racial Justice

Ambassador 1-4
Continued

5:45 - 7:15 pm
Ambassador 1-4

#BlackLivesMatter: Law Clinic, Field Placements, and Clinician Responses in Sanford, Ferguson, Staten Island, Cleveland, and Our Communities

**Reception Sponsored by
University of California,
Los Angeles School of Law, and
Pepperdine University School of Law**

Coordinators:

Bryan L. Adamson, Seattle University School of Law
Russell C. Gabriel, University of Georgia School of Law
Sunita Patel, American University, Washington College of Law
Robin Walker Sterling, University of Denver Sturm College of Law

Inside and outside of the classroom, many of us in the clinical and field placement communities have long been on the frontlines of the struggle for racial, social, political, and economic justice. However, the deaths of Trayvon Martin, Michael Brown, Eric Garner, Tamir Rice, and countless others (of all genders) reinforced the idea that as educators, lawyers, and activists, our work matters now more than ever. The goal of this session will be to highlight some of the work being done to address issues tragically brought to light by these incidents, and to identify concrete ways in which members of our communities may collaborate to address issues such as carceral debt,

police militarization, racial profiling, grand jury reform, citizen activism, and our teaching methods, to name just a few.

Join us as we convene a panel of clinical and field placement professors to discuss their work in Sanford, Ferguson, Staten Island, and Cleveland. From there, we will invite audience members to discuss their work in advance of small group sessions. Although the conference promises robust discussions surrounding race and racial justice pedagogy and methods, we invite participants to share their teaching approaches here as well. In those small group sessions, participants will identify projects, action items, or initiatives ripe for collaboration between clinics and/or between clinics and home communities. The ultimate goal is to invite participants who successfully realize their collaborative goals to present their works at next year's Clinical Conference.

The coordinators will be sending out calls for (a) a one-sentence description of work you have done that relates or responds to the deaths of Mr. Martin, Mr. Brown, Mr. Garner, or Mr. Rice, (b) lesson plans surrounding the same, and/or (c) copies of op-ed pieces. We will visually display your descriptions and work, and hope to feature your lesson plans and op-ed pieces [with the appropriate legal clearances] in an electronic compilation, available to members of the Clinical and Placement communities. More to follow.

Wednesday, May 6, 2015

7 – 8:30 am

Oasis 1

**AALS Section on Clinical Legal Education
Clinicians of Color Committee**

9 – 10:15 am

Concurrent Sessions #3

(See pages 32 of this booklet for speakers and program descriptions)

Track 1: Maximizing What Law Students Learn From Experience: Building Effective Reflective/Classroom Components for Law Students in Field Placements under the New ABA Standard 305(e)7
Rancho Mirage

Track 1: Competencies and Rubrics, What are They Good For? Law, Social Work, and Psychology Standards in an Interdisciplinary Context
Ambassador 1-4

Track 2: Collaborative Concurrent
Celebrity A&B

Readiness for the Profession: Enriching Law School Pedagogy

Integrating a Clinical Experience into the First-Year Curriculum: Beyond the Legal Writing Course into the Doctrinal Curriculum

Track 2: Is there Room for Racial Justice, Truth, and Equality in the New Normal?
Celebrity C

Track 2: Erasing Boundaries Across the Curriculum
Celebrity F

Track 3: Collaborative Concurrent
Celebrity G

Clinics in the Cloud: Ensuring the “New Normal” is Heavenly

The New Normal: How the University of Richmond School of Law is Using iPads and Other Technology to Facilitate the Practice of Law

The Future in the New Normal: Integrating Emerging Technology in the Classroom and the Importance of Technology Fluency

Track 3: Just What the Doctor Ordered: Multi-Disciplinary Clinics at the Forefront of Change
Celebrity H

Track 3: Globalization of Legal Practice: A Comparative Exploration of the Benefits, Challenges, and Pitfalls of Preparing Lawyers for Practice in the Global Community through Clinics and International Externship Placements
Ambassador 5

Fact-Finding in the Human Rights Context and Beyond: Strategies for Teaching Fact-Finding in Clinics
Ambassador 6

Collaboration: Unpacking the “Old Normal” in Light of the New Normal
Ambassador 7

Contemplative Session
Polo

10:15 – 10:30 am
Ambassador Foyer

Refreshment Break

10:30 – 11:45 am

Working Sessions (B)

(See the handout in your conference materials folder for your Working Group assignment and its location)

10:30 – 11:45 am

Workshops

Teaching Justice
Rancho Mirage
Continued

Navigating the Complexities of the Clinical Teaching Market
Celebrity C
Continued

Scholarship Support
Celebrity A&B
Continued

Teaching and Evaluating Reflection

Celebrity F
Continued

(Re-)Designing a Clinic Using Backwards Design

Celebrity G
Continued

Creating Online Educational Videos

Celebrity H
Continued

Supervision: Theory, Planning, Problem Solving, and Practices

Ambassador 1-4
(See pages 38 of this booklet for speakers and program descriptions)

12 - 1:30 pm
Celebrity D&E

AALS Luncheon

Social Justice Speaker:

José Padilla, Executive Director, California Rural Legal Assistance, Inc., Oakland, California

CLEA Awards:

Per Diem Project Award presentation
Excellence in a Public Interest Case/Project
Outstanding Advocate for Clinical Teachers

1:30 - 2:45 pm

AALS Section on Clinical Legal Education Works in Progress

(See page 53 of this booklet for descriptions and room locations)

Bellow Scholars Project Presentations

Ambassador 7
(See pages 67 of this booklet for speakers and program descriptions)

2:45 - 3 pm
Ambassador Foyer

Refreshment Break

3 - 4 pm

Plenary Sessions 2

Track One: Counseling Students in the New Normal

Rancho Mirage

Mary Lynch, Albany Law School
Carolyn McKanders, Co-Director and Director of Organizational Culture, Thinking Collaborative, Missouri City, Texas
Abraham Pollack, The George Washington University Law School

Moderator: Timothy W. Floyd, Mercer University School of Law

Our students may know more about the new normal than we do, from direct experience. How has our role changed in response to student realities, as educators and as mentors? This panel consists of a problem-solving session, bringing to bear the tools of teaching for transfer, career counseling and mentoring to help assess the changes that our students and we will encounter.

Track Two: The New Normal and Our Social Justice Mission

Ambassador 1-4

Stephen Reed, Northwestern University School of Law
Dana Thompson, The University of Michigan Law School
Paul R. Tremblay, Boston College Law School

Moderator: Susan R. Jones, The George Washington University Law School

For much of its history, clinical education has been deeply committed to engaging in social justice work and teaching social justice values. More recently, as clinics have grown in popularity and reach, they have begun to attract large numbers of students who arrive in the clinic without a pre-existing focus on public interest law or social justice issues. Indeed, some of these students feel that social justice skills will have quite limited utility in their practice. At the same time, the objective of graduating “practice-ready” lawyers in the “new normal” does not inherently embrace social justice education. We see these developments clearly in the growing field of transactional and entrepreneurial clinical practice. Particularly in these newer clinical practice areas, some clinicians are asking whether social

justice values must of necessity remain a central feature in clinic design and pedagogy. To the extent clinics shift away from un/under-represented clients and social justice issues, what do we stand to lose? What do we stand to gain?

The team of transactional clinicians organizing this mini-plenary brings a range of perspectives to this controversial issue, from the firmly held view that social justice is a fundamental aspect of law school clinic design and practice, to the equally firmly-held view that a social justice focus is unnecessary. They will use a series of scenarios to identify decision points at which relative perspectives on social justice can significantly affect aspects of clinic choice and design, pedagogy, and student experience—from the decisions about which clinician to appoint and which clients to accept, to the decisions about which issues to discuss in seminar and during supervision. Along the way, the team will candidly outline their own evolving and perhaps conflicted thinking on the place of social justice concerns in law clinics. Clinicians who attend the session will likely find their own views challenged, and will gain a better understanding about how our different perspectives on this issue can determine how legal clinics function—and on what students must learn—in the new normal.

Track Three: Exploring New Possibilities Through Technology: Preparing Students to Practice in the New Normal
Celebrity A&B

Jonathan Askin, Brooklyn Law School
Luz E. Herrera, University of California, Los Angeles
School of Law
Conrad Johnson, Columbia University School of Law

Technology is changing every aspect of society, including the practice of law. How does this change our role as clinicians? As lawyers, we must understand how technology is changing our practice in order to be the most effective advocates for our clients. As teachers, we need to prepare our students for the opportunities and challenges that technology brings for them as future practitioners. As leaders in promoting access to justice we must evaluate and foster the use technology in a way that best serves our communities and society as a whole. During this mini-plenary our speakers will explore how technology is disrupting legal practice and how clinical and experiential education can not only prepare our students for the new normal but lead in harnessing new innovations in practice to solve issues of access to justice.

4 – 4:15 pm

Transition to Workshops and Working Sessions (A)

4:15 - 5:30 pm

Working Sessions (A)

(See the handout in your conference materials folder for your Working Group assignment and its location)

4:15 - 5:30 pm

Workshops

Teaching Justice

Rancho Mirage
Continued

Navigating the Complexities of the Clinical Teaching Market

Celebrity C
Continued

Scholarship Support

Celebrity A&B
Continued

Teaching and Evaluating Reflection

Celebrity F
Continued

(Re-)Designing a Clinic Using Backwards Design

Celebrity G
Continued

Creating Online Educational Videos

Celebrity H
Continued

Supervision: Theory, Planning, Problem Solving, and Practices

Ambassador 1-4
Continued

Thursday, May 7, 2015

7 – 8:30 am

AALS Section on Clinical Legal Education Committees

(See page 69 of this booklet or notice posted on the bulletin board near AALS Registration for committee meetings and room locations.)

8 – 8:25 am

Polo Room

Contemplative Session

Start the day with a short, 25-minute guided mindfulness meditation where all are welcome and no prior meditation experience is needed.

8:30 – 9:45 am

Concurrent Sessions #4

(See pages 39 of this booklet for speakers and program descriptions)

Track 1: New York's New Pro Bono Scholars Program: A Report on the First Year of Implementation and Reflections for the Future
Rancho

Track 1: Persuasive Presentations in Informal Settings: Helping Students Recognize What Matters to Them and Their Audience
Mirage

Track 2: A Commitment to Inner Development: Connecting the New Normal with Clinics' Social Justice Mission
Celebrity A&B

Track 2: Maintaining the Gold Standard: Preserving Live-Client Clinics in the New Normal
Celebrity C

Track 3: Collaborative Concurrent
Celebrity F

Harnessing the Power of a New Database Application to Improve Clinical Student Assessment

Mind Mapping: A Tool for Training the 21st Century Attorney in a Clinical Setting

Track 3: Clinical Community 2.0: Online Tools to Build, Expand, and Strengthen Clinician Support Networks
Celebrity G

Track 3: The "New Normal" of Dispute Resolution: Pedagogical Lessons and Secrets from Mediation Clinics
Celebrity H

Exploring the 5 Intelligences of Effective Lawyers

Ambassador 5

Collaborative Concurrent

Ambassador 6

Helping Strangers in a Strange Land: Teaching Students Professional Behavior

Documenting Unprofessional Conduct in Clinics and Externships

Discussion of Disruptive Innovation and the Future of Legal Education

Ambassador 7

Contemplative Space

Polo

9:45 – 10 am

Ambassador Foyer

Refreshment Break

10 – 11:15 am

Concurrent Sessions #5

(See pages 45 of this booklet for speakers and program descriptions)

Track 1: Making the Best of the New Normal: Integrating Adjunct Professors in Clinical Design
Rancho

Track 1: New to the New Normal: Externship Professor Edition
Mirage

Track 2: From the Ivory Tower to the Courtroom: Academic Writing for Social Justice in the New Normal
Celebrity A&B

Track 2: Collaborative Concurrent
Celebrity C

Challenges of International Human Rights Clinics
in the “New Normal”

Pedagogical Responses to Humanitarian Crisis on
the Border: Clinical Work in Family Detention
Facilities

Track 2: Integrating Non-Clinical Faculty into Clinic
and Experiential Courses: What’s the Recipe(s) for
Success?
Celebrity F

Track 3: Start-Up Success in Clinic Projects:
Generating Project Ideas, Choosing Clients, and
Planning for the Unexpected
Celebrity G

Collaborative Concurrent
Celebrity H

What Can We Learn from Leadership Coaching?
Insights from Transactional Clinics

Redesigning Clinics to Creatively Integrate J.D. and
LL.M. Students

Representing Clients and Educating Students
Amid Risk Management, Background Checks, and
Compliance Regimes

**Popular Media, Fear Appeals, and a
Sense of Humor: Three Approaches
to Engaging Students in Justice
Learning, Teaching Substantive Law and
Lawyering Skills, and Preparing Students
for the “Real World” of Practice**
Ambassador 5

Contemplative Space
Polo

11:15 – 11:30 am
Transition to Plenary Session

11:30 am – 12 pm
Ambassador 1-4

**Disruptive Innovation and the Future of
Legal Education**

Michelle R. Weise, Senior Research Fellow, Clay
Christensen Institute for Disruptive Innovation,
San Mateo, California

12 – 1:30 pm
Celebrity D&E

AALS Luncheon – AALS Section on Clinical Legal
Education Committees, AALS Conference Affinity Groups

Concurrent Sessions and Workshops

Tuesday, May 5, 2015

9:45 – 11 am

Concurrent Session #1

Track 1: ABA Standards, Clinical Legal Education, and the New Normal: Has Anything Changed?

Rancho Mirage

Margaret Martin Barry, Vermont Law School

Robert D. Dinerstein, American University Washington College of Law

Peter Joy, Washington University in St. Louis School of Law

This session will examine the ABA Accreditation Standards, including recent revisions, as they affect clinical legal education and other experiential education, the law school curriculum more broadly, and the professional environment for faculty. The ABA Standards Review Committee of the Council of the Section on Legal Education and Admissions to the Bar completed a five-year review of the ABA Standards in 2014, and several new Standards have the potential of affecting law schools' approaches to clinical legal education, experiential education more broadly, and the way that law faculty design courses and evaluate student learning. Former members of the ABA Council of the Section on Legal Education and Admissions to the Bar (the governing body for accreditation), the ABA Accreditation Committee (the body that makes recommendations to the Council concerning each law school's accreditation), and the Standards Review Committee (the body that makes recommendation about changes to accreditation standards) will provide their perspectives on whether and how the revised ABA Standards address the new normal. Participants will learn both about the content of the revised ABA Standards, the process that led to the changes, and the process by which Standards are typically interpreted and applied to law schools.

The principal Standards that will be focus of this session include: 302- Learning Outcomes; 303- Curriculum, especially 303(a)(3), increasing the experiential course requirement to 6 credits; 304- Simulation Courses and Law Clinics, the new definitions; 305- Field Placements, changes such as reducing to 3 or more credits (down from 4 or more credits) for regular contact between field placements and the faculty member and for contemporaneous self-reflection; 314- Assessment of Student Learning, requiring both formative and summative assessment; 315- Evaluation of Programs of Legal Education, another new requirement; and Standard 405- security of position and participation in faculty governance for clinical faculty. The session will also look at what regional accrediting bodies, such as the New England Association of Schools and Colleges (NEASC), require of its member institutions when it comes to planning and evaluation, and how the ABA may look to the experience of such regional accreditors for guidance in implementing standards dealing with assessment of student learning and evaluation of the programs of legal education. The session will draw upon the theme of the "new normal" for legal education by focusing on how the revised ABA Standards may serve as catalysts for changes in law school curricula to prepare students better for the practice of law.

Track 1: Funding the Law School Clinic Through “Soft Money” – Restraints and Possibilities for Pedagogy and Social Justice

Ambassador 1-4

Matthew N. Andres, University of Illinois College of Law
Brian Clauss, The John Marshall Law School
John F. Erbes, Southern Illinois University School of Law
Nicole Iannarone, Georgia State University College of Law
Julie Marzouk, Chapman University Dale E. Fowler School of Law
Heather Scavone, Elon University School of Law
Stacey Tutt, University of Illinois College of Law

As law school enrollment is in decline and programs are asked to provide ever more experiential education opportunities for students with less tuition revenue, traditional “hard-funded” clinics are being replaced with “soft-funded” clinics – those supported by private gifts, foundation donations, and competitive grants. Clinics and clinicians who can obtain outside funding for their work have a greater chance of surviving and thriving in this new financial normal. This panel will explore questions, benefits, and challenges that arise as clinicians navigate more diverse funding structures.

The addition of outside money often requires that alterations be made to traditional case selection criteria and pedagogical emphasis. However, external funding can also offer benefits, providing the impetus to incorporate more “real-world” and social justice lawyering in the classroom and leading to meaningful collaborations with local non-profit and government agencies that can propel the esteem of a clinic within a law school and the larger community.

In addition to exploring the pedagogical strengths and strains of soft funding, the session will aim to provide practical insights for clinicians wishing to find or increase outside funding. The session will utilize facilitated small and large group discussions to give participants an opportunity to consider how soft funding may benefit or detract from their clinics and what outside funding sources may be available to them.

Track 2: 1L Curricular Reform and Faculty Integration

Celebrity A&B

Constance A. Browne, Boston University School of Law
Prentiss Cox, University of Minnesota Law School
Peggy Maisel, Boston University School of Law
Laura Thomas, University of Minnesota Law School

This session is designed to offer clinicians a forum to discuss and evaluate their roles in the “What” and “How” of the “new-normal” curricula reform. The “What” looks at existing models for reforms that bring experiential, skills-based learning into the first year curriculum. The “How” offers clinicians a forum to collaborate on how they might effectuate curricula changes that could function as a springboard for further reform, and the possibilities for faculty cooperation and integration in reform efforts.

This session will focus on three questions:

1. What are the possibilities for reform efforts that introduce practice concerns into the early law school core curriculum?
2. How can clinical faculty assume leadership roles in introducing experiential learning into the law school curriculum?
3. How can such curricular reform efforts promote collaboration between clinical and doctrinal faculty?

The presenters will begin by briefly describing existing models, with two reform efforts as examples: (1) a one-week intensive Lawyering Lab for first-year students team taught by clinicians and doctrinal faculty; and (2) a one-semester “law firm” course taught by clinicians, doctrinal faculty and practicing attorney adjunct faculty. Session participants will use the “pair/share/square” methodology to discuss the various options and new ideas for reform, how to effectuate reform at their schools, and how to overcome obstacles to clinician and doctrinal faculty cooperation in curricula reform.

Track 2: Birds of a Feather Teach Together: Collaborations Between Law Clinic and Externship Faculty to Educate a New Generation of Reflective Practitioners

Celebrity C

Cynthia Batt, Stetson University College of Law
Meta Copeland, Mississippi College School of Law
Robert Edward Lancaster, Louisiana State University, Paul M. Hebert Law Center
Jojo C. Liu, Loyola Law School
Suzanne Valdez, University of Kansas School of Law
Jennifer Zawid, University of Miami School of Law

The “new normal” has been characterized by lower enrollment, diminished law school resources, and reduced employment opportunities both before and after graduation. Also, law school constituencies clamor for more “practice-ready” graduates. This combination of factors has affected externship and clinic faculties in different ways. The traditional in-house clinic model is vulnerable as a result of declining enrollments and rapidly shrinking budgets. Field placement courses are often under-resourced and undervalued as a part of the curriculum. Rather than allow this environment of decreased resources and increased demands to foster competition and isolation of the externship and clinic faculty, this session will focus on current and potential opportunities for collaboration and creativity.

This session explores ideas for collaboration between in-house clinics and field placement programs to address these challenges while simultaneously developing in our students’ different skills sets and perspectives of legal practice. We will share data and provide an infographic/ visual map of some of the various programs that employ collaboration. We will also engage participants in a critical analysis of the different institutional and substantive issues that have arisen that encourage or discourage collaboration between law clinic and externship programs and faculty.

Track 2: Social Justice Lawyering in the New Normal of Reduced Judicial Resources

Ambassador 7

Marcy L. Karin, Arizona State University Sandra Day O’Connor College of Law
Karena L. Rahall, Seattle University School of Law
Jane K. Stoeber, University of California, Irvine School of Law

While law schools and clinical programs contend with reduced resources in the “new normal,” our clinical pedagogy and representation must also be responsive to budget cuts and ever-burgeoning justice issues in the legal and community systems in which we work. This session will first surface how budget cuts to legal systems impact our clients’ access to justice and our cause lawyering. As we consider the access-to-justice implications of system budget cuts, we will encourage participants to view situations in criminal, civil, and administrative law in multi-dimensional ways. We will then consider how faculty, in our role as social justice educators and advocates, can best respond to the “new normal” in our legal systems. The session will conclude by exploring opportunities for our law clinics to employ a variety of strategies to creatively address these issues.

Track 3: Should We Change Too? Re-envisioning Clinical Pedagogy to Include Law Practice Management and Technology: Teaching Students Marketable Practice Skills While Widening Access to Justice

Celebrity F

William L. Berman, Suffolk University Law School
Andrew Garcia, Suffolk University Law School
James Matthews, Suffolk University Law School
Ilene B. Seidman, Suffolk University Law School

Current market conditions and innovations in technology are revolutionizing the way the legal industry delivers services and have law schools rethinking the way they provide legal education. Clinicians are well placed to lead this reform by helping to introduce experiential learning throughout the curriculum. However, should we reform our own pedagogy as well? The MacCrate report was published 23 years ago. While remaining highly relevant it too must be examined and updated. Clinicians should broaden our current pedagogy to include teaching students the use of technology to create practice

efficiencies that will allow greater access to legal services for low and moderate-income individuals. We should also teach students law practice management skills such as marketing, customer relationship management, and billing structures so that they graduate with the skills necessary to be successful 21st century lawyers. The goal of this session is to explore how clinicians can integrate instruction and experiential training in these competencies into their current curricula, and promote access to justice in the process.

Track 3: Future of the New Normal: Incorporating the Roots of Critical Pedagogy into Multi-Disciplinary Approaches to Clinics – From Roots to New Blooms

Celebrity G

Beryl S. Blaustone, City University of New York School of Law

Paula Galowitz, New York University School of Law

Catherine F. Klein, The Catholic University of America, Columbus School of Law

This session will explore some of the historical theoretical perspectives and foundational roots of critical pedagogy. We will initially focus on three that have deeply influenced us: Paulo Freire, a Brazilian educator and philosopher who was a leading advocate of critical pedagogy and author of one of the foundational texts of the critical pedagogy movement, *Pedagogy of the Oppressed*; Saul Alinsky, one of the founders of modern community organizing and author of *Rules for Radicals*; and Stephen Brookfield, a scholar on adult education and critical pedagogy, who writes about teachers being open to giving up power and being open to critique/feedback from students. We will discuss the influence of each of these perspectives on the presenters of this session and ask participants to share others that have influenced them in the inspiration, design and implementation of their clinical programs.

We will then discuss how this core critical theory can contribute to fresh applications in our programs, including how this literature is relevant to the “new normal” in multi-disciplinary approaches to clinics. This theory has influenced the design, goals, methods and partnerships used in our programs. Finally, colleagues attending this session will reflect on the lessons we have learned from other disciplines. We will all suggest approaches to incorporate these lessons to increase legal empowerment for our students and clients/groups.

Track 3: The Start Up of Who? – Disrupting the Marketplace by Teaching Entrepreneurial Thinking in Law Schools

Celebrity H

Esther Barron, Northwestern University School of Law

Praveen Kosuri, University of Pennsylvania Law School

Eric Menkhus, Arizona State University Sandra Day O'Connor College of Law

As law schools react to reform curricular approaches to the “new normal,” many of them are employing innovative strategies that include a focus on entrepreneurship. This panel will discuss how law schools are drawing from the pedagogy of teaching students how to represent entrepreneurs and applying it to teach them how to be entrepreneurs (or at least entrepreneurial) themselves. Learning to think innovatively and in an entrepreneurial manner is an important and transferable skill, reflecting an important piece of this “new normal.”

The goal and learning objective for this concurrent session is to increase awareness of how entrepreneurship education is being used in law schools to achieve these goals while sharing valuable tools with attendees to incorporate these ideas into their courses.

The panelists will describe different facets of entrepreneurship education in law schools today including: the legal representation of entrepreneurs; the mentoring and advising of law students' own entrepreneurial ventures; applying entrepreneurial skills in managing ones career; and the establishment of nonprofit teaching law firms to educate students on the practice of law. As panelists describe their programs, audience members will be encouraged to give their initial reactions to the programs, their goals, and whether they are helpful to students graduating in today's legal economy. The session will then move to a group discussion focused on honest reactions to the described programs, ideas for new approaches to teaching entrepreneurship, and practical advice for faculty looking to incorporate entrepreneurial thinking into their courses or their law school curriculums more broadly.

Track 3: Collaborative Concurrent

Hospitality 517

Small Business Entrepreneur Brief Advice Clinic Design: The New Normal in Teaching Microenterprise Representation involving Students, Pro Bono Attorneys, and Faculty

Debra Bechtel, Brooklyn Law School

Edward DeBarbieri, Brooklyn Law School

Teaching law students how to counsel entrepreneurs, and teaching law students themselves to be entrepreneurial in their own law practices, is an important aspect of the “new normal” in clinical legal education. The new normal should also involve more collaboration among clinical and doctrinal faculty, alums, student pro bono groups, law school centers, and even law school development offices. Staff, faculty, and alums in each of these areas have unique strengths to bring to a community service model.

This session provides step-by-step information about how the Center for Business Entrepreneurship (CUBE) at Brooklyn Law School developed its small business brief advice clinic. Specifically, attendees will learn how clinic faculty built and worked with a broad coalition of student leaders, alums, and faculty to recruit and train student volunteers, partner with community-based small business technical assistance providers, recruit and train pro bono volunteer attorneys, in order to establish a recurring small business brief advice clinic.

Exploring Strategies for Accountability, Democracy, and Transparency in Community-Clinic Collaborations

Rachel E. Lopez, Drexel University Thomas R. Kline School of Law

The market downturn has meant that the eligible population for free legal services has increased dramatically at the same time that funding for legal aid offices has dwindled. This “new normal” poses unique challenges for community-facing clinics. Due to the combination of increased need for legal services and lack of available resources, clinics face increased pressure to fill the widening justice gap. How clinics decide to allocate their precious resources could have unintended effects in the communities where they work. The decision to prioritize one case or project over another may empower one group or population while leaving another without adequate access to justice. In this sense, case and project selection may aggravate inequality between groups and create tensions within a community.

This talk will explore how clinics might more democratically and transparently engage with the communities in which they work. The presenter will explore how clinics can adopt a range of strategies to identify the collective desires and demands of a community. Specifically, she will examine possible mechanisms of accountability in clinic design, community involvement in case or project selection, and guidelines for community engagement. Further, she will explore how clinics can facilitate opportunities for deliberation and consensus building across groups.

Creatively Embracing Change Using an Eco-System Model

Ambassador 5

Jennifer Fan, University of Washington School of Law

Lisa Kelly, University of Washington School of Law

Randi Mandelbaum, Rutgers School of Law - Newark

Mary Helen McNeal, Syracuse University College of Law

The goal of this session is to create an environment to neutrally examine the impediments to thinking about our work differently and brainstorm novel ideas for enhancing our work in this “new normal” universe, acknowledging the tensions that further constrain the equal justice mission.

Utilizing the “liberating structures eco-systems model,” which posits that change is inevitable and that leadership for surviving change must be heretical, participants will explore the following questions: How can we embrace the changes we are experiencing rather than resist or become rigid? Does the traditional in-house clinic still work? Is it becoming obsolete? Which aspects of the “mature” clinic are we willing to modify to embrace the “new normal?” How do we balance getting our students ready for practice and staying true to our social justice mission? Should we redefine social justice, and if so, how?

Concurrent Sessions & Workshops

Through interactive exercises, participants will explore where each of their programs or clinics exists within the model – Are they just “born?” Have they reached “maturity?” Are they in a period of “creative destruction?” Or being “renewed and reborn?” The eco-systems model assumes that all institutions that survive change are somewhere on an infinite loop of flux. The trick is to develop techniques to move from one place to the next within the model, and identify the impediments that limit our ability to see our work differently. Takeaways will be action steps to explore new pedagogical models and exposure to a framework that may assist our larger institutions in embracing change.

Implicit Bias

Ambassador 6

Deborah N. Archer, New York Law School

Natalie M. Chin, Brooklyn Law School

Llezzlie Green Coleman, American University Washington College of Law

Janet Thompson Jackson, Washburn University School of Law

Hina B. Shah, Golden Gate University School of Law

Law school clinics play a critical role in preparing students for legal practice across various disciplines as well as teaching law within a social justice framework. Clinical teaching emphasizes the development of student lawyering skills such as client counseling, transactional practice, interviewing, fact investigation and trial techniques. However, in addition to skills-based learning, clinical teaching plays an important role in shaping thoughts and ideas through the teaching of client-centered lawyering and providing culturally sensitive legal services. But what role does the examination and exploration of implicit bias play in preparing students to be practice-ready advocates?

Implicit biases occurs when people hold negative associations in their mind unconsciously even while consciously rejecting stereotypes. Based on cognitive science research, most individuals show some evidence of bias. Bias (whether explicit or implicit) leads to discriminatory behavior. How do we address these two truths in the legal arena? Specifically, what impact does implicit bias have on student learning, on delivery of legal services to underserved populations, and on the diversity of the legal profession?

This session will explore the challenges of incorporating discussions around implicit bias in clinical teaching and arm participants with tools to help move this conversation forward.

Contemplative Space

Polo

Open space available for anyone to use for their own contemplative and mindfulness practices.

Tuesday, May 5, 2015

11:15 am – 12:30 pm

Workshops

Teaching Justice

Rancho Mirage

Amna Akbar, The Ohio State University, Michael E. Moritz College of Law
 Sameer M. Ashar, University of California, Irvine School of Law
 Nicole Smith Futrell, City University of New York School of Law
 Rachel E. Lopez, Drexel University Thomas R. Kline School of Law

The clinical movement remains largely committed to the social justice imperatives from which it took root. However, new pressures from administrators, students, and employers, combined with the near-term retirement of clinical leaders with strong justice commitments, raise pressing concerns for our teaching and our community. Now, more than ever, clinicians must be able to articulate the pedagogy and value of justice education in clinics and by extension within law schools. We hope to engage in this discussion with colleagues from a wide range of types of clinical practice settings and subject matter disciplines and across age and status cohorts.

These are some of the questions we will consider:

- Is it possible to cultivate an interest in social justice in our students? Are there effective ways to prompt a “justice skill set” amongst diverse groups of students working toward a broad range of types of post-graduate work?
- Does public interest practice offer a model from which to think backwards?
- How can we use pedagogical strategies to more explicitly link clinical practice with systemic barriers to justice?
- How do we integrate social movement activity in our communities into our clinics?
- How can we think more strategically and democratically about case intake?
- What would a holistic justice pedagogy look like, one that was attuned to the various sites of our teaching, including supervision, seminar, and rounds?

We aim to build a coherent working group over four sessions at the conference. We will be working toward a multi-session design with the input and engagement of those who have opted into the workshop.

Navigating the Complexities of the Clinical Teaching Market

Celebrity C

Bernice Grant, New York University School of Law
 Ragini N. Shah, Suffolk University Law School

This is a four-session workshop designed to provide information to those contemplating or planning to apply for clinical teaching positions. Today’s clinical teaching market demands a tremendous amount from candidates. Because of the vast differences in the structure and expectations of clinical jobs, applying to the clinical market is demanding in a way that is very different from the more traditional academic market, and there is a paucity of information about the process that is specific to clinicians. Although this has always been true, today’s extraordinarily competitive market makes these information and preparation disparities all the more worrisome. This workshop is designed to fill this information gap and is broken down into four sessions. The first session focuses on data about the range of jobs in the clinical market and presents information about entry into the meet market as well as other application processes. The second session focuses on how to get ready for the meet market itself and will include a few mock interviews. The third session focuses on the call back process. The workshop concludes with a session on handling offers and provides some time for more open discussion and questions. Each session will feature a panel of clinicians who will talk about the topic at hand and who will conduct brief moots if interest and time allow.

Scholarship Support

Celebrity A&B

Michele Estrin Gilman, University of Baltimore School of Law
Jeffrey J. Pokorak, Suffolk University Law School

The Scholarship Support Workshop is designed to support new and emerging scholars in identifying scholarly topics, developing writing strategies, gaining feedback on writing, and obtaining publication. This workshop is a safe space to ask questions, share ideas, and obtain support. There are four sessions: (1) in session one, we consider the advantages clinicians have as scholars, and we brainstorm about ways to overcome writing barriers; (2) in session two, we discuss the nuts and bolts of the presentation and publication processes; (3) in sessions three and four, each attendee shares a scholarly idea and receives feedback in a roundtable format designed to help them refine their thesis and the scope of their project. Attendees do not share written work or drafts. Prior workshop attendees have reported that the workshop motivated them to start and complete their scholarly projects.

Teaching and Evaluating Reflection

Celebrity F

Susan L. Brooks, Drexel University Thomas R. Kline School of Law
Timothy M. Casey, California Western School of Law
Becky Rosenfeld, Benjamin N. Cardozo School of Law
Alexander Scherr, University of Georgia School of Law

This workshop focuses on how to teach and evaluate reflection. Reflective practice has long been a core value of clinical teaching; but over the last few decades, remarkably little discussion has occurred about how to teach it and how to evaluate it. This workshop will have four interactive sessions on these questions. The workshop will address at least four topics:

- What we teach when we teach reflection: discussion of the outcomes for reflective practice and of integrating reflective practice into clinic design.
- Teaching reflection in the classroom: classroom teaching of reflective practice, including rounds, simulations, open discussion and journaling exercises.
- Supervising individual reflective practice: how to talk with and give feedback to students about individual reflective practice, or to encourage feedback between students, including the methods, the language and evaluative content of feedback.
- Evaluating and grading reflection: identifying standards of evaluation for reflection and developing rubrics for reliable and uniform evaluation.

This workshop will speak to clinicians of all kinds, in in-house, externship, and hybrid courses. In the experience of those who have presented and consulted on this issue, clinicians mean to foster reflective practice, but may not have the tools to do so in a structured and transparent way. This workshop should help participants to find those tools and to foster more reflective students.

(Re-)Designing a Clinic Using Backwards Design

Celebrity G

Alicia Alvarez, The University of Michigan Law School
Susan D. Bennett, American University, Washington College of Law
Christine N. Cimini, Vermont Law School
Danielle Cover, University of Wyoming College of Law
Carwina Weng, Indiana University Maurer School of Law

This workshop is a four-part, interactive program that covers the beginning phases of developing a new clinic or revising an existing one. During the workshop, participants will use backwards design, an approach to instructional design and planning pioneered by Grant Wiggins and Jay McTighe. By the end of the workshop, participants can expect to have identified the

major goals of their clinics, the final grading assessment and rubric of their clinics, and the learning outcomes for their students. Readings will be assigned before the conference. Then, throughout the workshop, participants will receive feedback from colleagues and facilitators on the work they do during the workshop.

Creating Online Educational Videos

Celebrity H

Aaron Dewald, University of Utah, S. J. Quinney College of Law
Michele R. Pistone, Villanova University School of Law
William Slomanson, Thomas Jefferson School of Law
Debora L. Thredy, University of Utah, S. J. Quinney College of Law

This workshop will focus on the creation and use of online educational videos. Materials will be provided to participants, and participants will be asked to take part in conference calls/webinars, prior to the conference; these will go over the learning science behind educational videos, the different types of videos, and an overview of the process of creating them. Participants will be asked to bring scripts and images to the workshop. The workshop will be made up of four interactive sessions. Session one will focus on the scripts; participants will break into small groups to critique, edit and record their scripts. Session two will focus on the visual part of the videos; participants will break into small groups to critique the choice and arrangement of images to accompany their scripts, and they will also have the chance to be videotaped. Session three will provide participants with the opportunity to get hands' on experience with different methods of creating videos using free or purchased computer programs, including webcams, screencasting, and multimedia. Session four will introduce participants to a less widely known use of educational videos: as a method for giving students feedback on their work products, both written and performed; participants will have an opportunity to experiment with using videos for student feedback. By the end of the workshops, participants will have the information they need to make informed choices about using online educational videos and the experience they need to create their own videos.

Teaching About Race to Improve Racial Justice

Ambassador 1-4

Susan J. Bryant, City University of New York School of Law
Jean K. Peters, Yale Law School

Lawyers and clinic students remain stymied about how to raise issues of racial bias day to day in both the litigation and negotiation settings, and their own workplaces. Following up on the Habits of Cross-Cultural Lawyering, we plan to present principles, techniques, and analytical frameworks for the concrete work of addressing racial bias in our daily practice.

This two-part workshop, presents in the first session the principles, techniques, and analytical frameworks including how the Habits can be used more effectively to raise issues of race. Using an interactive style, with case examples, role-play and discussion, we will demonstrate some techniques for use in classroom discussions and elicit other successful strategies used by participants for talking about race. We will also explore how implicit bias functions in practice to shape our work with clients and interactions with decision makers. In the second session, we will use a rounds structure to identify successful teaching techniques that teachers can employ to discuss race in supervision or classroom settings including discussion of how clinical courses in teaching and performing work, can or are implementing specific initiatives directly out of the wake of Ferguson, Garner, Rice, et.al. In debriefing this session, we plan to tie the substance of the rounds back to the principles, techniques and analysis in the first session.

Tuesday, May 5, 2015

2:45 – 4 pm

Concurrent Sessions #2

Track 1: Responding to the New ABA Standard 314 – Assessment in the Law School and in the Field: What We’re Doing and How We Can Do It Better

Rancho Mirage

Kendall L. Kerew, Georgia State University College of Law
 Inga Laurent, Gonzaga University School of Law
 Kelly S. Terry, University of Arkansas at Little Rock, William H. Bowen School of Law

In summer 2014, the ABA adopted Standard 314, which requires law schools to “utilize both formative and summative assessment methods in [their] curriculum to measure and improve student learning and provide meaningful feedback to students.” Because all law schools must follow this standard, externship teachers must carefully consider how best to assess our students’ learning in light of course goals and objectives.

Externship clinicians are likely incorporating assessment methods in their field placement course. Some may be doing so without realizing it. Others may be deliberate about connecting their assessment methods with their course goals and objectives. Given the new ABA Standard, however, we want to ensure that all externship clinicians have the tools to create an assessment plan that best measures student learning and that delivers meaningful feedback in the context of the externship course. In addition, externship clinicians must consider an additional set of questions about how to best incorporate the site supervisor in the development and use of assessment methods because, unlike other courses, student learning in externships centers on the student’s field placement experience.

This session will give attendees the tools to create an assessment plan for use with their externship course. Specifically, attendees will identify and evaluate course goals and objectives, the formative and summative assessment methods they are already using, and new assessment methods for possible use. In addition, attendees will leave this session better equipped to assist other law school faculty and field supervisors in formulating assessment methods.

Track 1: Establishing and Improving Clinical Teaching Fellowship Programs

Ambassador 1-4

Patience A. Crowder, University of Denver Sturm College of Law
 Deborah Epstein, Georgetown University Law Center
 Avi Frey, New York University School of Law
 Melina Healey, Loyola University Chicago School of Law

Fellowship programs are of great interest—and concern—to the clinical teaching community. Debate abounds over who these programs are designed to serve (community legal needs/clients, students, the development of new clinical faculty); whether the fellowship model is useful only for certain types of legal practice; what makes an ideal fellowship candidate; and whether the experience helps advance fellows’ careers. As we face a “new normal,” with reductions in enrollment and resources and an uncertain job market for teachers, it is increasingly urgent that our community find ways to resolve these tensions.

In this session, we will briefly frame the issues from our multiple perspectives. Our panelists are current and former fellows, as well as fellowship supervisors and directors. We will use these perspectives to launch an interactive discussion about what strategies might be used to understand the role of and improve fellowship programs. Our discussion and break-outs will explore tensions from the perspectives of multiple stakeholders, including administrators, supervisors, fellows, students, and clients.

The issues raised include:

- Goals of fellowship programs and consistency of these goals between schools, among a particular institution's clinics, and even within individual clinics
- Structure, training, length of service, and scope of the fellow's responsibility in the areas of seminar instruction and field work
- How fellows can best position themselves to obtain future employment, including what emphasis should be placed on scholarship, pedagogy, post-graduate degrees, litigation skills or successes, etc.

We hope that participants will come away with better understandings of how to navigate the clinical fellowship landscape.

Track 2: Facing Our Fears in Changing Times: Critically Examining the Benefits and Opportunities of Clinical Legal Education Models in Order to Lead Within Our Institutions Celebrity A&B

Carolyn Kaas, Quinnipiac University School of Law
Deborah A. Maranhville, University of Washington School of Law
Antoinette Sedillo Lopez, University of New Mexico School of Law

The presenters are co-editors the forthcoming book, *Building on Best Practices: Transforming Legal Education in a Changing World*, and are the primary co-authors of sections on experiential education, clinics, and externships. At the beginning and end of a book editing retreat they shared their hopes and fears for the project. Both the hopes and the fears came to pass. As editors and as co-authors, they struggled to define the essential characteristics of law clinics, externships, and simulations, going through many iterations of each section.

During this process, they discovered that underlying their similar values were differences in interpretation, definition, and categorization of key terms, concepts, and perspectives. They were called on to examine when they were being defensive and when they were being realistic. These tensions stimulated spirited conversations that challenged the editors to see other points of view. Familiar tensions between clinics and externships surfaced, as well as between simulation and real life experiences, and in the way they conceptualized and “drew lines” between form and content. Even in the midst of tears and fears, the editors were forced to engage in frank and at the same time caring discussions about attitudes, feelings, beliefs, values, and facts. This open approach allowed the four to maintain an ongoing, respectful dialogue.

The lessons the group learned are important ones for clinicians in the “new normal.” In order to provide leadership within their institutions during a time of uncertainty, clinicians must face their fears – fear of definitions, fear of loss, fear of change, and fear of the future. We hope to model one way of accomplishing this feat.

Track 2: The New Normal in Public Interest Lawyering: Small Business and Transactional Clinics at the Forefront of Change Hospitality 517

Eve Brown, Suffolk University Law School
Cynthia Dahl, University of Pennsylvania Law School
Victoria F. Phillips, American University, Washington College of Law
Paul R. Tremblay, Boston College Law School

Over 85 transactional and business-related law clinics have developed in the last several years, most of which are represented at the AALS Conference on Clinical Legal Education. The number is growing annually, with business-related clinics comprising the majority of new clinics added to existing law school clinical programs in both 2014 and 2015. These clinics include Entrepreneurship Clinics, Community Enterprise or Development Clinics, Intellectual Property Clinics, and Technology Clinics, among others. These clinics may be markedly different from the traditional indigency-based clinics that represent the origins of clinical pedagogy and practice. This session addresses the questions raised by the expansion of clinics into the world of transactional and business-related matters. Specifically, what outcomes are we aiming to achieve through these clinics in the post-Carnegie and MacCrate Report world? Are there identifiable “practice-ready skills” that can best be taught with certain nontraditional categories of clients? What exactly is driving the growth in transactional clinics? Additional

questions discussed will include how business-related clinics can best integrate into the traditional clinic community, where these clinics fit into the access to justice/public interest model, how business-related clinics are choosing clients, and other logistical and policy-based issues. By the end of the session, participants will gain an understanding of the current state of one of the newest and fastest growing types of clinics, and how these clinics fit into the social justice notion of law school clinical pedagogy, as well as the direction in which such clinics are likely to move in coming years.

Track 2: Clinical Education at the Intersection of Immigration Law and Criminal Law

Celebrity C

Linus Chan, University of Minnesota Law School
Ingrid V. Eagly, University of California, Los Angeles School of Law
Jennifer Lee Koh, Western State University College of Law
Vanessa H. Merton, Pace University School of Law
Stacy Taeuber, University of Wisconsin Law School

Over the past decade, the traditional practice boundary between criminal law and immigration law has begun to fade. This practice merger, sometimes referred to as “cimmigration,” reflects the on-the-ground reality that the criminal justice system and immigration enforcement have grown increasingly intertwined. More than ever before, the immigration system relies on criminal mechanisms, such as detention in prisons and jails, to enforce the immigration law. At the same time, the criminal system now plays a central role in adjudicating immigration status, including detecting noncitizens subject to deportation and advising noncitizen defendants regarding the immigration consequences of criminal convictions.

The integration of criminal law and immigration law has given rise to a “new normal” for the practice of immigration law and criminal law. This concurrent session will address efforts by clinical law professors to reflect this new practice reality in their clinical teaching of law students in both criminal and immigration clinical settings. Our learning objectives for participants include: (1) to provide participants with ideas for generating new clinic projects or collaborations that reside at the intersection of the criminal and immigration laws; and (2) to develop frameworks for navigating the various challenges that arise in the “new normal” of clinical work described by the session.

Track 3: Teaching with Technology: Clinicians + Law Librarians = Innovation

Celebrity F

Maritza Karmely, Suffolk University Law School
Alex Berrio Matamoros, City University of New York School of Law
Kim McLaurin, Suffolk University Law School
Joseph A. Rosenberg, City University of New York School of Law
Ronald E. Wheeler, Suffolk University Law School

Technology assisted teaching, which includes flipped classrooms, hybrid courses, synchronous or asynchronous fully online courses, has become all the rage in law schools as of late. However, there are a myriad of ways that clinical professors can use technology in easy, innovative ways to enhance their learning outcomes, achieve their learning outcomes in more engaging ways, or impart particular skills. Teaching with technology is indeed the new normal and will continue to be the future normal.

Law librarians are uniquely equipped to aid clinicians with designing instructional techniques that incorporate technology and achieve learning outcomes or impart skills in new ways. Many law librarians have studied instructional design and teaching in library school, taught hands-on experiential research courses, or taken online courses as part of a graduate school curriculum. Law librarians working with clinicians are a logical and workable pairing to help innovate clinical teaching with technology.

This session will present two examples of how law librarians, at two different law schools are helping clinicians at their schools incorporate technology into their teaching. At Suffolk University Law School, working with a law librarian, two clinicians incorporated technologies into their teaching pedagogy and supervision plans and have updated their syllabi for the 2014-2015 academic year. At CUNY School of Law, an embedded law librarian works with the Dean of Clinical Programs to identify and assist in the introduction of law practice technologies and digital assessment tools to aid in the evaluation of student work in simulations and live client interactions.

Track 3: Where the Jobs Are Now and What They Require: Preparing Law Students for an Interprofessional World

Celebrity G

George V. Baboila, Co-Director, University of St. Thomas Interprofessional Center for Counseling and Legal Services,
St. Paul, Minnesota

Melissa Brown, University of the Pacific, McGeorge School of Law

Yael Cannon, University of New Mexico School of Law

Michael J. Gregory, Harvard Law School

Yvonne Troya, University of California, Hastings College of Law

Julie K. Waterstone, Southwestern Law School

Carolyn Welty, University of California, Hastings College of the Law

Jennifer L. Wright, University of St. Thomas School of Law

The New Normal involves a move away from traditional legal practice and a new appreciation for the necessity of interdisciplinary collaboration to leverage scarce resources, improve the delivery of legal services, and better prepare law students for a changing job market. This session will explore how an interdisciplinary clinical education works, why it is so effective, and what skills and competencies are necessary for successful interprofessional practice.

Participants will learn about the challenges of interdisciplinary collaboration and then explore its many advantages from the perspectives of clinicians working across a range of interprofessional practice, including medical-legal partnerships, clinics integrating law students with learners of other disciplines, and projects focused on policy change, coalition-building, and joint scholarship. Specifically, participants will discover the pedagogical benefits of interdisciplinary collaboration as well as its advantages in the provision of legal services to children and older adults.

In addition, participants will engage in a lively interactive exercise to help them consider best practices for interdisciplinary clinical education and how interprofessional skills and corresponding competencies can be effectively measured. Participants will also be encouraged to explore how they can effectively integrate an interprofessional focus and/or interprofessional partnerships into their current clinical practice.

Track 3: Plugged In or Tuned Out? Teaching a New Generation of Tech-Savvy Clinical Students

Celebrity H

Ty Alper, University of California, Berkeley School of Law

Vida Johnson, Georgetown University Law Center

Kate Weisburd, University of California, Berkeley School of Law

Texting with clients? Facebook posts about clinic? Poor email etiquette? This session tackles the challenges and opportunities presented by a wide variety of technological innovations and “disruptions” in the way we teach substantive law and skills, the way we supervise in the clinical setting, and the way we teach and model professional identity. This session aims to be concrete, and focused, so that participants emerge with tangible take-aways (in the form of policies and rubrics) and fuel for further discussions. The three topics addressed in this session will be: 1) teaching confidentiality in the age of Facebook and Instagram; 2) attorney-client, and supervisor-student, communication in an age of increased texting and instant-messaging and (among some students) decreasing reliance on email; and 3) teaching professionalism in an age of laptops, iPhones and tablets. Through a series of demonstrations and interactive role plays, we will engage in a discussion not only about “best practices” around technology, but, even more importantly, how to engage with students to use emerging technology as a vehicle for exploring professional identity.

Responding to the New Normal in Field Placement Clinics: Teaching Students to Work in and Manage the Small Firm

Ambassador 5

Jodi S. Balsam, Brooklyn Law School

Seth M. Lahn, Indiana University Maurer School of Law

Reena Elizabeth Parambath, Drexel University Thomas R. Kline School of Law

Sarah Shalf, Emory University School of Law

Externship placements in small law firms are becoming the new normal as more students seek out these opportunities to develop important lawyering skills, explore career interests, and build their professional network. Small firm placements, however, pose challenges: They require our students to assimilate a diverse set of business, management, and interpersonal skills. And small firm practitioners may need additional support from the law school in providing effective supervision to our students.

This session will prepare participants to meet these challenges and optimize their students' fieldwork experience, covering topics such as:

- Administering the small firm externship program, including recruiting and vetting practitioners
- Designing the concurrent seminar and other curricular support to offer business education and skills training that prepares students for small firm practice
- Evaluating the student experience in the small firm placement
- Collaborating with the small firm practitioner in developing best practices for mentorship and supervision

A panel of field placement clinic directors will present a range of small firm externship models and engage the audience in discussion and interactive exercises, including a demonstration of how a small firm externship seminar can teach different and needed skills. Takeaways will include summaries of best practices in designing and administering the small firm field placement clinic, sample syllabi for the concurrent seminar, reflective and interactive exercises to advance student learning, bibliography on curriculum design for faculty and on small firm practice for students, and sample practitioner outreach materials, including written guidelines and a training webinar.

“Newish Clinicians” Navigating the (New) Normal – Experiences, Strategies, and Opportunities

Ambassador 6

E. Tendayi Achiume, University of California, Los Angeles School of Law

Kevin M. Barry, Quinnipiac University School of Law

Sarah R. Boonin, Suffolk University Law School

Annie Lai, University of California, Irvine School of Law

Valerie Schneider, Howard University School of Law

At conferences, in the media and in faculty meetings, there seems to be endless chatter about the “new normal” in law schools. But what does this “new normal” mean for “newish” clinicians, for whom the “new normal” may be the only normal they’ve known? How does the dramatic drop in law school applicants, heightened financial pressures, a contracting job market, new ABA guidelines, and a related transformation in the design, branding and pedagogical goals of many of our clinics impact those who have only recently jumped into clinical academia?

This panel is designed to foster a candid and open space for “newish” clinicians, and the more experienced clinicians who serve as their mentors and allies, to explore the ways in which this transformation in legal education may present unique challenges and opportunities for “newish” clinicians. We use the term “newish” liberally and subjectively – those who see themselves in the formative, earlier years of their clinical careers.

The session will explore three broad questions: (1) What are some unique challenges for newish clinicians in the new normal? (2) What are effective strategies for addressing these challenges? and (3) What opportunities may flow from the new normal? The panelists and participants will explore challenges, strategies and opportunities within the following broad and interrelated categories: (a) Clinic Mission and Pedagogy, (b) Students, (c) Regulatory and Administrative Changes, and (d) Professional Development and Promotion.

Collaborative Concurrent

Ambassador 7

Subversive Outcome Assessment: Learning Taxonomies and Pop-Up Workshops

Elizabeth Ford, Seattle University School of Law

The “new normal” includes a focus on outcome assessment. There are many ways in which this shift is ominous, but at least one way that we can use it to enhance teaching and learning. Assessment, done well, presents an opportunity to move from the relentless ranking of students against one another, to a more constructive set of learning goals and benchmarks. By leveraging the new ABA requirements, we can use the assessment tools that clinicians have been using for decades and import these more student-focused and humane approaches into legal education across the curriculum.

This session will present different approaches to the task of assessing student skills and using that assessment to guide the teaching and learning goals. What are the proficiencies that we should be assessing? How do existing learning taxonomies help us set benchmarks? What can we take from other disciplines?

Next, the presentation will move to the question of how to integrate the baseline assessment into the fabric of the course. How do we use technology to enhance the effectiveness of the assessment tool? How do we respond nimbly to the students’ strengths and weaknesses as revealed in our baseline assessments? How do we create a meaningful summative assessment that does not pit students against one another but rather gives us valid information about how and where our teaching made a difference?

Engaging Students in Organizational Representation

Helen H. Kang, Golden Gate University School of Law

Susan Kraham, Columbia University School of Law

Deborah Sivas, Stanford Law School

The “new normal” and notions of developing “practice-ready” law graduates may increase the demand for offerings in clinics dealing with organizational clients whether in litigation, transactional or corporate matters. These clients present a unique teaching opportunity as well as challenges. Clinicians and students have the opportunity to focus on professional responsibility, decision making, and client-centeredness in contexts that are hard to replicate in clinics representing individual clients. While these are valuable opportunities, representing organizations challenges clinical teachers and students in many ways. For example, students may be presented with challenges in developing a case narrative and empathizing with the client.

Many existing clinics, including environmental clinics, have been representing organizational clients since their founding. Some of these organizational clients are established ones and others may have formed solely for the particular issue for which it has sought representation.

This concurrent panel will explore how we teach important lawyering skills in the context of relationships that exist when lawyers represent organizational clients and special issues and challenges that arise in a clinic setting with such representation, including the following questions:

- Who is the client?
- How are litigation decisions made by and with organizational clients?
- How to engage the students when individual narratives of hardship and injustice may be absent?
- How can students learn to understand community narratives of hardship and injustice?
- How do you interview the client?
- How does the client organization's collaboration model impact representation?

Representing Enterprises

JIANG Dong, Renmin University of China Law School, Beijing, China
Brian Krumm, University of Tennessee College of Law

Although the number of transactional clinics of all varieties has been rapidly growing in number in the past 10 years, the types of experiences that they can offer students to become “practice ready” do have some limitations. For example, giving the students an opportunity to work on large complex transactions, in order to understand the overall process and to develop the necessary drafting, collaboration, and negotiations skills is limited in the live clinical setting.

The goal of this session is to provide an example of how the LawMeets simulation exercises can be used to supplement doctrinal business courses with clinical methodologies, but also to expand opportunities for clinical experiences through the use of such simulations.

A presentation of how the LawMeets simulation exercise was used to teach “Representing Enterprises” which was a course offered jointly to American students at the University of Tennessee Law School and Renmin University of China Law School via video conference. Professors who participated in this collaboration from the United States and China, as well as the LawMeets concept creator will provide a perspective on the value of this exercise in developing student skill sets.

We anticipate providing an overview of the LawMeets concept and pedagogy, a discussion of how LawMeets was applied in the classroom setting, the benefits and challenges of using technology in the classroom, and most importantly how this course achieved the objective of assisting in developing “practice ready” skills in the students that participated.

Contemplative Space

Polo

Open space available for anyone to use for their own contemplative and mindfulness practices.

Wednesday, May 6, 2015

9 – 10:15 am

Concurrent Sessions #3

Track 1: Maximizing What Law Students Learn From Experience: Building Effective Reflective Classroom Components for Law Students in Field Placements under the New ABA Standard 305(e)7

Rancho Mirage

Carmia Ceasar, Georgetown University Law Center
Susan B. Schechter, University of California, Berkeley School of Law

There is a symbiotic relationship between the placement and the reflective/classroom component of externships. Both support each other in helping the clinician/instructor gain a better understanding of what students are learning, and provide students with a safe space to explore and enhance their time in the field. This session will begin with an analysis of how schools currently meet the ABA Standards that govern the reflective/classroom component and an exploration of creative and innovative ways that we could be going beyond the minimal requirements.

Because no Field Placement Program wants to award credit for field work without a reflective or classroom component, we as instructors need to evolve continually to ensure that we add value to our students' experiences in their field placements. With the diversity of students and placements, how do we build a reflective/classroom component that will be meaningful to the students and responsive to the placements? How do we support this component of our work in a way that feels real and connected to the students and their placements?

Attendees will leave with a better understanding of the ABA Standards on the reflective/classroom component and with innovative, inspiring and concrete ideas of how our colleagues are approaching the reflective/classroom aspect of field placement pedagogy.

Track 1: Competencies and Rubrics, What are they Good For?! Law, Social Work and Psychology Standards in an Interdisciplinary Context

Ambassador 1-4

George V. Baboila, Co-Director, University of St. Thomas Interprofessional Center for Counseling and Legal Services, St. Paul, Minnesota
Patricia Anne Stankovitch, Director of Psychology Clinic, University of St. Thomas Interprofessional Center for Counseling and Legal Services, St. Paul, Minnesota
Virgil O. Wiebe, University of St. Thomas School of Law

The revised ABA accreditation standards now require law schools to publish and measure competence over a range of learning outcomes. Legal education can learn lessons from other professional educators about the power and pitfalls of measurement tools like rubrics. At the Interprofessional Center for Counseling and Legal Services, we have adapted a set of interprofessional competencies from the health professions and have begun assessing student and supervisor performance. Our social work and psychology colleagues already have been required by accrediting bodies to measure competencies for some time now and will share the joys and pains of using rubrics. In addition, we will introduce other tools used by the health professions in the clinical context, including review of videotaped simulations, objective structured clinical examination, knowledge tests, multi-source assessment by team members, and implicit association tests.

Track 2: Collaborative Concurrent

Celebrity A&B

Readiness for the Profession: Enriching Law School Pedagogy

David Baluarte, Washington and Lee University School of Law

C. Elizabeth Belmont, Washington and Lee University School of Law

Timothy C. MacDonnell, Washington and Lee University School of Law

James E. Moliterno, Washington and Lee University School of Law

We posit that the term “practice-readiness” begs a narrow construction that limits our understanding of essential learning outcomes. We suggest that legal educators should seek to ensure that students are “prepared for the profession” rather than simply “prepared for practice.” The distinction is more than semantic. The term “prepared for practice” risks communicating a fundamental misunderstanding about the goals of experiential education, because it often invokes simply the transfer of technical skills necessary to perform as a practicing lawyer. Establishing as a goal ensuring that our students are “prepared for the profession” not only embraces the “whole lawyer”, it connects with established learning theory that undergirds clinical teaching methods, and thus includes conscious engagement with the professional identity formation that is traditionally a significant component of clinical pedagogy.

With the call to legal education reform, the focus has shifted to the need for experiential education. But in supporting and advancing this “new normal”, efforts must be made to ensure that legal educators embrace the necessity of a pedagogy that engages and reflects upon professional identity formation, including, for example, values, norms, ethics-in-context and personal/professional autonomy and accountability. Because engagement with professional identity formation should not wait for (or be exclusively dependent upon) traditionally experiential elements of the curriculum, clinicians can and should lead the way in educating students and faculty in this regard.

Integrating a Clinical Experience into the First-Year Curriculum: Beyond the Legal Writing Course into the Doctrinal Curriculum

Myra E. Berman, Touro College, Jacob D. Fuchsberg Law Center

Lewis Silverman, Touro College, Jacob D. Fuchsberg Law Center

While legal education is attempting to address deficiencies noted in the Carnegie Report about the lack of creating “practice-ready” lawyers, much of the focus suggests pushing students through necessary doctrinal courses as quickly as possible, and then building skills development in the second year and live-client experiences in the third-year. There is still inadequate discussion of introducing students to a live-client clinical experience in the first year, and most of the discussion that has occurred has suggested associating any clinical “experience” with the legal writing course.

The “new normal” will initiate clinical training in the first year of legal education. Rather than reserving skills training to a simulation in the legal writing course, a live-client clinical experience can be developed in conjunction with one or more of the traditional first-year doctrinal courses, which we have done at Touro Law Center, where, in our “Portals to Practice” program, first-year students work closely with either unrepresented litigants seeking help with filing the papers for a divorce or tenants seeking help with eviction proceedings. This panel will explore the development of such a project, including the underlying theory and pedagogy, practical applications, and thoughts for further development.

The goal of the session is to show the development of one prototype for such a program. Professor Berman will discuss the development of the program, from the initial concept through program development and execution. Professor Silverman will demonstrate how he was able to integrate preparation for the live-client experience into his Civil Procedure syllabus. He will also offer suggestions for other types of live-client experiences that can be integrated with other first-year doctrinal courses.

Track 2: Is there Room for Racial Justice, Truth and Equality in the New Normal?

Celebrity C

Alina Ball, University of California, Hastings College of the Law
Jyoti Nanda, University of California, Los Angeles School of Law
Mae C. Quinn, Washington University in St. Louis School of Law
Josephine Ross, Howard University School of Law
Keith Wattley, University of California, Los Angeles School of Law

Legal education is in an intense period of rethinking given economic challenges and new demands from today's graduates and the legal market they are entering. Schools are trying to meet the ABA guidelines while prioritizing job placement for students and demands from students, donors, alums and University administration. With all of this reorientation and rethinking, vulnerable populations may be overlooked – in the community, our student bodies and faculty – now more than ever. This is particularly problematic in light of recent events in places like Ferguson. This panel is concerned with how questions of racial justice and equality, in particular, may be the first victims of this “new normal.”

The panel will address a number of questions, including:

- How do we as a clinical community lift the voices and concerns of these populations while grappling with realities of the economy and legal market?
- How do we as clinicians deal with the pressure to “sell” our programs when they may not be, particularly now, delivering services consistent with their original vision?
- When we are talking about “costs” associated with legal education, what do we really mean?
- Do we have an additional responsibility to be more explicit with our racial justice advocacy given the current times?; if so, how?

Through small group dialogues, we expect participants to further develop their consciousness around these issues and take away some tips of ways to effectively address these issues. We will generate a list of “best practices” and a working document and/or working group that we hope will continue well beyond the conference

Track 2: Erasing Boundaries Across the Curriculum

Celebrity F

Melissa Frydman, University of Illinois College of Law
Kevin Lapp, Loyola Law School
Joy Radice, University of Tennessee College of Law

With an increased push to create “practice-ready” lawyers, the “new normal” in law schools has encouraged law professors to focus on ways to better integrate practice, law, and theory. In this workshop, we plan to offer several examples that blur the lines between practice, doctrine, and theory with the aim of improving student learning from the first to last year of law school. We will present three different approaches across the curriculum: a first-year clinic-pro bono collaboration, an upper level doctrinal hybrid, and a direct representation clinic altering focus to address systemic change. Each approach falls on an experiential learning continuum that deepens students’ lawyering competencies. In addition to presenting our examples, we will invite the audience to participate in a conversation about this continuum and how to blur the traditional divide of doctrine, theory and practice in an intentional way throughout the three years of law school. Small groups will explore the pedagogical and symbolic benefits of these kinds of changes, but also will wrestle with the challenges and dangers that come with a change of norms. Our hope will be to encourage participants to freshly examine the assumptions we make about what we should be teaching or what is typical or “normal,” more thoroughly integrate practice, law, and theory across the law school curriculum, while tackling some of the challenges of this new approach as well.

Track 3: Collaborative Concurrent

Celebrity G

Clinics in the Cloud: Ensuring the New Normal is Heavenly

W. Warren Hill Binford, Willamette University College of Law

Jack I. Lerner, University of California, Irvine School of Law

Do you know what “cloud computing” is? Are you using digital practice management software in your law school clinics? Have you violated any ethical obligations in modernizing your clinic’s technology? Our jobs and professional responsibilities are changing rapidly both on and off campus. The “Future in the New Normal” involves daily use of online technology in legal practice. Indeed, the “future” is already here. Clinicians have the opportunity and obligation to model best practices for students and fellow law faculty alike, and to lead them into the realities of 21st century law practice. Our role as “clinicians in the new normal” should be to help fellow law faculty and law students alike understand how best to utilize these new technologies effectively and ethically. This session aims to raise awareness and facilitate a conversation in the clinical community about the vexing security and confidentiality problems that modern digital practice management tools raise. We will provide a brief overview of cloud-based law practice management software, an overview of the ethical and legal issues implicated in utilizing these programs, and suggest best practices to follow.

Participants who attend this session should gain general awareness about the major issues raised by utilizing digital practice management software (especially those in the “cloud”), the due diligence that should be done beforehand, specific contractual provisions that should be considered, and best practices for (1) structuring clinics’ communication and storage architectures overall and (2) training students to be conscious of these issues and to implement sound technology procedures.

The New Normal: How the University of Richmond School of Law is Using iPads and Other Technology to Facilitate the Practice of Law

Dale Margolin Cecka, The University of Richmond School of Law

Julie McConnell, The University of Richmond School of Law

Mary Kelly Tate, The University of Richmond School of Law

Adrienne E. Volenik, The University of Richmond School of Law

As we consider the future in the “new normal,” we are aware of the pressure to graduate “practice-ready” students that has prompted clinical educators to reassess the range of skills they introduce or reinforce in the clinical setting. At the University of Richmond, clinicians developed an iPad Initiative to explore how tablet technology can enhance the delivery of legal services through improved record keeping and increased efficiency. We can help participants find ways to integrate technology into their work for clients. We elected to integrate the use of iPads into our clinics for two primary reasons. First, traditional law school courses rarely address practical issues of law office management, including how technology is used in the legal setting. Second, as we worked with other practitioners in the community, we noticed that these lawyers routinely used iPads for scheduling, case management, and research. We thought that the clinical setting was an ideal one in which to train students in this important skill, with the expectation that they would understand the technology that is now typically used in the practice of law and that is especially essential in a small firm environment. We will discuss how applications can enhance student efficiency and facilitate effective and efficient record keeping. We plan to demonstrate the apps we use most often in our different clinics and discuss why we chose those particular apps over others, as well as the advantages that iPads and these apps provide in the clinic settings.

The Future in the New Normal: Integrating Emerging Technology in the Classroom and the Importance of Technology Fluency

Alyson Carrel, Northwestern University School of Law

Kara Young, Northwestern University School of Law

Laptops are more than note-taking machines - let’s bring them back into the classroom and engage our students in new and exciting ways. This presentation explores how technology is changing client expectations of attorneys and the practice of law. Contemporary legal education needs to play a more active role in preparing our students to be the competent and innovative users of technology that clients (and the marketplace) increasingly demand.

We will touch upon innovative ways to integrate emerging technology in the classroom, such as Google Apps, Twitter, and A2J Author platforms to better engage students and reflect the current state of technology in the practice of law. The talk will also introduce the idea of *technology fluency* and why it is an important outcome of legal education. In working to prepare students to meet the technological requirements of today's work environment, we must keep in mind that tools and client needs evolve. The unfettered pace of technological change necessitates the ability to adapt and learn new technologies efficiently to proactively meet these changes. By introducing technology in the classroom and asking students to use new technology or technology in new ways, we are not only better engaging our students and creating opportunities for higher order learning, but we are also teaching the skill of deliberately seeking, evaluating, and choosing tools in pursuit of more effective practice.

Track 3: Just What the Doctor Ordered: Multi-Disciplinary Clinics at the Forefront of Change Celebrity H

Emily Benfer, Loyola University Chicago School of Law
Colleen Boraca, Northern Illinois University College of Law
Katie Cronin, University of Kansas School of Law
Allyson E. Gold, Loyola University Chicago School of Law
Daniel Schaffzin, The University of Memphis, Cecil C. Humphreys School of Law

This session will discuss the skills needed to practice multi-disciplinarily in the clinical setting—highlighting the benefits, problem-solving through the challenges, and providing practical tools that clinicians can take home and use as they pursue or strengthen multi-disciplinary relationships in their clinical work. The presenters are experienced in directing and/or starting multi-disciplinary clinics in the medical-legal partnership (MLP) model, and the MLPs represented by the presenters are diverse in the subject matter of cases handled, included professions, and the roles played by other disciplines. The presentation will not be limited to MLPs, but rather will explore how multi-disciplinary work can benefit, and be integrated into, any type of civil or criminal legal clinic.

Through the presentation, hypotheticals, and opportunities for group discussion, attendees will learn the “nuts and bolts” for constructing clinics with multi-disciplinary elements, including identification of different professional partners, the steps for establishing relationships with other professions, navigation of the rules of confidentiality and other ethical issues for varying professions, and how multi-disciplinary faculty and students can be incorporated into a classroom component. Attendees will walk away with a repository of sample documents that can be used to forge multi-disciplinary partnerships in the clinical setting.

Track 3: Globalization of Legal Practice: A Comparative Exploration of the Benefits, Challenges, and Pitfalls of Preparing Lawyers for Practice in the Global Community through Clinics and International Externship Placements

Ambassador 5

Gillian Dutton, Seattle University School of Law
Sarah Paoletti, University of Pennsylvania Law School

Globalization of law practice is the “new normal,” but more needs to be done to expand American law students’ knowledge and skills to prepare them to work effectively across borders, legal systems and cultures. American law schools are not unique in confronting these challenges, and can do a better job of learning from the increasing numbers of clinicians and externship supervisors operating outside of the United States. While clinical faculty have been at the forefront of creating experiential learning opportunities in international and comparative law and practice for law students outside of the United States, and have played a significant role in training and otherwise supporting emerging clinicians and clinical programs across the globe, there has been less of a focus on what we can learn from our colleagues from around the world as we prepare our students for practice. With participation from our clinical colleagues from outside the United States, this session will critically examine how law school clinical and externship programs can effectively and responsibly meet the pedagogical and training needs of law students, as well as the emerging and increasingly transnational legal needs of the communities our students go on to serve. The session will also explore the opportunities and challenges for engaging foreign lawyers through our LLM programs, and for collaboration with our clinical colleagues in other parts of the world.

Fact-finding in the Human Rights Context and Beyond: Strategies for Teaching Fact-finding in Clinics

Ambassador 6

Sarah Knuckey, Columbia University School of Law
Meera Shah, New York University School of Law
Stephan P. Sonnenberg, Stanford Law School
Shana Tabak, American University, Washington College of Law

Fact-finding – the process of investigating human rights violations – is a core component of human rights work, and is currently undergoing significant innovation. Incorporating the teaching and practice of fact-finding into clinical education can be challenging, and requires a tailored approach to teaching and implementing skills and issues such as interviewing, working with experts, multidisciplinary analysis, security and privacy assessments, the use of technology and social media, and ethics.

In this session, we will explore how fact-finding can be best used and taught by clinics, within and beyond human rights. When fact-finding is implemented by civil society or by law school clinics, its purpose is generally to inform advocacy campaigns and tactics, including litigation, name and shame, and quiet diplomacy. Fact-finding skills can often overlap with other lawyering skills, but may also differ significantly: compare, for example, the skills, purposes, and ethical issues raised by a client interview in the context of a lawyer-client relationship, and interviewing victims, families, officials, or others for the purpose fact-finding. These differences, as well as other challenges, require a thoughtful and comprehensive approach to teaching fact-finding and raise a host of ethical questions, many of which are poorly answered in the broader human rights field or in clinical pedagogy.

During this session, participants will (1) consider how fact-finding methodologies might be relevant within their clinics, (2) identify how teaching lawyering skills in the fact-finding context may be similar and different from other lawyering contexts, and (3) share practical strategies for developing pedagogical approaches to teaching fact-finding.

Collaboration: Unpacking the “Old Normal” in Light of the New Normal

Ambassador 7

A. Rachel Camp, Georgetown University Law Center
Laurie S. Kohn, The George Washington University Law School
Tamara Kuennen, University of Denver, Sturm College of Law

In many clinical programs, collaboration – through team pairings and group work – is the norm. It fits within a broader emphasis on a collaborative model of working/learning: Walls are coming down in offices so employees can have access to one another to brainstorm ideas; children’s desks are formed into pods rather than rows to encourage team work; and collaboration is viewed as critical to the success of ideas/products in both settings. The themes of learning being “inherently social” and “an active process” are commonly-asserted when describing increased collaborative work.

When not engaged in with intention, process, and thought, research indicates that collaboration may actually harm learning, productivity, and creativity. This session explores whether clinicians are giving enough thought to the “how” of collaboration. The increasing trend towards collaboration may value a process that isolates individuals with introverted personality styles, or others who do not fit within the “Extrovert Ideal,” which assumes that how an extrovert approaches group work, learning, and decision-making is the standard towards which all should strive. This notion may be particularly problematic for law students who, as a group, tend towards introversion. Are clinicians losing an opportunity to teach students the value of space and solitary thought when demanding collaboration?

As a result of this session, attendees will more effectively: 1) define collaboration; 2) identify the costs/benefits of collaboration based on empirical research; 3) articulate pedagogical goals underlying collaboration; and 4) increase collaborative options more deliberately.

Contemplative Session

Polo

Deborah J. Cantrell, University of Colorado School of Law

Join in 50 minutes of guided contemplative practices, followed by shared conversation about the experience.

Wednesday, May 6, 2015

10:30 – 11:45 am

Workshop

Supervision: Theory, Planning, Problem Solving and Practices

Ambassador 1-4

Jane Aiken, Georgetown University Law Center
Elliott Milstein, American University Law School

This workshop will build understanding of the framework and practices involved in supervision presented in *Transforming the Education of Lawyers: The Theory and Practice of Clinical Pedagogy*. We will present three key ideas:

- 1) Supervision involves two concurrent developmental processes, which we call the arc of client representation and the arc of student learning. Through supervision, students progress in their handling of a case or project and they progress in their learning. The processes proceed in a dynamic relationship with each other.
- 2) Teachers need to think about supervision from three vantage points, or frames. These are the frame of the matter, that is, the trajectory of each case or project in which the students provide representation; the frame of the student's entire experience within the clinic; and the frame of each meeting, that is, the concrete setting of supervision.
- 3) While teachers can gain many insights from using arcs and frames and expand the depth and breadth of possibilities for supervisory structure and interventions, three key guideposts can help them make decisions about which to pursue. These guideposts are assessment of student capacity for lawyering and learning; the goals for each student; and the operation of time.

Through presentation, exercises, group discussion, and by conducting rounds about supervision, workshop participants will become familiar with these concepts and build comfort and facility with using them in analysis of their own experience of supervision. Participants will leave this workshop with a comprehensive strategy and tools for a more intentional approach to clinical supervision.

Thursday, May 7, 2015

8:30 – 9:45 am

Concurrent Session #4

Track 1: New York’s New Pro Bono Scholars Program: A Report on the First Year of Implementation and Reflections for the Future

Rancho

Jennifer A. Gundlach, Hofstra University School of Law
 Lisa C. Smith, Brooklyn Law School

This session will provide an overview of the roll-out of the first year of the Pro Bono Scholars Program in New York, providing details from the experience at New York law schools and offering an opportunity for clinical and externship faculty in other states to learn more as they prepare their own students for participation in this program or as they consider similar proposals to be implemented in their own jurisdictions. The session will begin with a brief description of the goals of the program as articulated by Chief Judge Jonathan Lippman, the substance of the program and its requirements, and the process by which the program was enacted and developed. The presenters will share the range of models of the program as implemented at different law schools, as well as the experiences of students, field placement supervisors, and clinical and externship faculty during the inaugural semester. The program will include reflections about the successes and challenges in the implementation of the program, as well as initial assessment of its impact on improving access to justice and inspiring students to commit to pro bono service during their professional careers. Attendees will be encouraged to engage the presenters in a dialogue about whether such programs can or should be designed to increase and improve access to justice, how schools can advance pedagogical goals for students, and the impact such programs might have on practicing lawyers’ pro bono responsibilities.

Track 1: Persuasive Presentations in Informal Settings: Helping Students Recognize What Matters to Them and Their Audience

Mirage

Laurie A. Barron, Roger Williams University School of Law
 Eden E. Harrington, The University of Texas School of Law
 Avis L. Sanders, American University, Washington College of Law

Ask a student to explain a case, convey the results of research, or describe how her clinical experience is relevant to a potential job and you are likely to hear a rambling recitation. How can we help students improve their performance in important informal professional presentations?

There are many types of presentations – descriptive, persuasive, objective, personal -- but all good ones involve the use of narrative. Learning to effectively present in informal settings requires the reflective and goals-oriented processes that are at the heart of clinical teaching. It requires an understanding of what matters most to the speaker and to the audience. Clinics and externships provide excellent opportunities to assist students in learning these skills.

In today’s challenging job market, we should do more to educate students about informal presentation skills as part of their professional identity and performance. The same professional skills enable students to communicate effectively both within their roles as advocates, colleagues and supervisees, and within their roles as job seekers and new lawyers.

The objective of this session is to help us improve our methods for teaching students how to improve their informal presentation skills, with a focus on understanding the power of narrative structure and their own perspectives. Attendees will discuss, share and develop a list of the elements of effective presentations, student exercises that work, rubrics for assessing and giving feedback to students, and rubrics to help guide students in making presentations.

Track 2: A Commitment to Inner Development: Connecting the “New Normal” with Clinics’ Social Justice Mission

Celebrity A&B

Timothy Dempsey, Executive Director, Community Building Institute, Chattanooga, Tennessee
Edward Groody, President, Community Building Institute, Knoxville, Tennessee
Paulette J. Williams, University of Tennessee College of Law

The “new normal” includes increased interest in clinical courses and in incorporating clinical pedagogy among the whole student body and faculty, and new emphases on alternative dispute resolution processes, on preparing students to deal with difference, multiculturalism and bias, on building students’ capacities for reflection, and on incorporating explicit practices across the curriculum (in both clinical and doctrinal classes) which connect students’ legal education with social justice goals. Some ways of connecting this new dynamic with the clinic’s social justice mission include processes of community building, restorative justice, contemplative lawyering and mindfulness practice. Ultimately, this panel will explore how the foundation of these new approaches is a commitment to normalizing and developing methods of infusing personal development as a component of legal education for the 21st century.

This panel will 1) present the four stages of community building, 2) encourage law school programs to offer community building workshops and other practices that promote the personal development of students and attorneys, and 3) will connect that personal development to the social justice mission of clinics.

Track 2: Maintaining the Gold Standard: Preserving Live-Client Clinics in the New Normal

Celebrity C

Cheryl Prestenback Buchert, Loyola University New Orleans College of Law
Christine E. Cerniglia, Loyola University New Orleans College of Law
Ramona G. Fernandez, Loyola University New Orleans College of Law
Davida Finger, Loyola University New Orleans College of Law
Janet M. Heppard, University of Houston Law Center
Hiroko Kusuda, Loyola University New Orleans College of Law
R. Judson Mitchell, Loyola University New Orleans College of Law
D. Majeeda Snead, Loyola University New Orleans College of Law

In this time of declining law school enrollments and seismic changes in the profession, there is increasing pressure on clinics to adapt and survive in difficult circumstances. The presenters are clinical professors at heavy-caseload, intensive “live client” clinic law schools with historic roots in social justice. In this stormy climate in legal education, the presentation will provide new ideas about embracing the “new normal” while maintaining a strong foundation in social justice in preserving “live client” clinics.

Presenters will discuss:

- 1) How to break down silos between clinical and doctrinal faculty by understanding the tension between teaching, scholarship, and service and modeling collaborative behavior. We will discuss our success in providing new experiential components in traditional doctrinal classes.
- 2) Modeling community service as a critical foundation in our profession while moving forward with pivotal partnerships and representing new client bases as the needs arise.
- 3) How clinicians can take leadership roles in graduating “practice-ready” lawyers; we will demonstrate new programs geared towards technology, legal business skills, and advancing social justice.
- 4) How to deal with new expectations in clinical pedagogy, such as outcome-based assessments and required experiential curricula.

Attendees will reflect independently and collaboratively on changes affecting their clinics and how they are transforming to meet the new normal and continue to promote social justice through “live client” representation.

Track 3: Collaborative Concurrent

Celebrity F

Harnessing the Power of a New Database Application to Improve Clinical Student Assessment

Joshua Wease, Michigan State University College of Law

This is a demonstration and discussion of how to use a customizable database to strengthen the collection of assessment/observation data and improve timely assessment and feedback to students. The database (using Filemaker Pro) is currently used by the Michigan State University College of Law Tax Clinic and allows clinicians to easily and quickly enter qualitative and quantitative data for any number of assessment and observation opportunities (written work product, professor-student interaction, classwork, class participation, courtroom presentation, client interactions, etc.). This is particularly effective for clinics with multiple supervisors. The clinician has real-time tools to track a student's progress on a daily, weekly, semester or per client basis. There are nearly unlimited customizations that allow clinicians to track student performance on any task, project or interaction. It also has fully customizable reports that can be printed for prompt written student feedback and to review every student assessment events in one document. The application runs on Mac, Windows, and tablets in a networked environment. The database is protected by strong encryption to protect student data and comply with FERPA. The software can be completely customized to any particular area of law and clinic process. Recording assessments and observations can be easier and more complete with the assistance of database software.

Mind Mapping: A Tool for Training the 21st Century Attorney in a Clinical Setting

Brett C. Stohs, University of Nebraska College of Law

Clinical faculty face stark tensions in preparing the next generation of attorneys in this era of rapid technological and economic change. As the availability of "apprenticeship" positions for new graduates declines, mindful acceleration of each student's learning curve becomes increasingly important. Mind mapping is an efficient tool to help clinic students and faculty meet their respective educational and professional objectives through tailored client assignments.

Characterized by visual representations of hierarchical information, mind maps take a central idea and surround it with connected branches of associated topics. Coupled with tactile electronic devices (like tablet computers and smart phones), modern mind mapping applications give clinical faculty and students a new way to brainstorm, organize, process, and share information in approachable, meaningful ways.

Mind mapping is used at the University of Nebraska College of Law Entrepreneurship Legal Clinic to outline, organize, and maintain student attorney workloads. Student and faculty learning objectives are matched with the unique pedagogical opportunities presented by each client through use of basic visual cues (e.g., colors, shapes, icons). The resulting blueprint provides clinical faculty with a clearer, more accessible picture of this complex set of variables, fostering efficient and effective experimentation with different combinations.

The primary learning objective for this session is to demonstrate the application of mind mapping to assignment of client matters. Through exposure to this application, attendees will also obtain a basic understanding of mind mapping and begin to explore other potential applications in their own clinical teaching.

Track 3: Clinical Community 2.0: Online Tools to Build, Expand, and Strengthen Clinician Support Networks

Celebrity G

Jeffrey R. Baker, Pepperdine University School of Law

Jill C. Engle, Pennsylvania State University The Dickinson School of Law

Jeremiah Ho, University of Massachusetts School of Law – Dartmouth

Jean K. Phillips, University of Kansas School of Law

Benjamin Pietryk, Uncommon Individual Foundation and LegalED, Devon, Pennsylvania

No “techie” status required! This session explores innovative uses of new technologies that can sustain support for our clinician community and enable resource sharing throughout the year. Panelists will discuss the variety of existing technological tools currently being used by experiential educators, such as listservs, teaching and legal practitioner blogs, websites with sample syllabi, teaching videos and lesson plans, social media, online meeting platforms, and webinars for hosting case rounds. “New normal” factors make this topic timely: 1) the exponential growth of experiential legal education, both within the American legal academy (due in part to new ABA curricular standard 303(a)(3)) and around the world, means that more people are looking for resource sharing, professional support, and mentoring; 2) shrinking law school budgets mean fewer faculty can attend in-person conferences to connect and communicate with fellow clinicians; 3) our society’s increased reliance on the internet and social media for connecting, engaging, and organizing action on social justice issues; and 4) our profession’s use of new technologies allows for nimble, smart responses to challenges, and our community thrives when we can share ideas and information broadly, and quickly, with one another. This session is a joint venture between members of the Communications and the Teaching Methodologies Committees of the AALS Clinical Section, and LegalED. We share the goal to improve access to useful online teaching resources for all legal educators. New technologies, such as “Zoom” online conferencing, and “flipping the classroom” will be discussed, and we hope to “flip the workshop” as well—to learn from audience members and facilitate resource sharing about additional uses, or potential new applications, of technology. Come share the excitement of embracing change and innovation as we break it all down for, and with, our audience!

Track 3: The “New Normal” of Dispute Resolution: Pedagogical Lessons and Secrets from Mediation Clinics

Celebrity H

Deborah Thompson Eisenberg, University of Maryland Francis King Carey School of Law

Douglas N. Frenkel, University of Pennsylvania Law School

Art Hinshaw, Arizona State University Sandra Day O’Connor College of Law

Lydia Nussbaum, University of Nevada, Las Vegas, William S. Boyd School of Law

Kelly Browe Olson, University of Arkansas at Little Rock, William H. Bowen School of Law

The “new normal” of legal practice is resolution of disputes outside the courtroom. The overwhelming majority of cases in the United States are resolved through some type of negotiated or collaborative process rather than judicial decisions. Mediation, in particular, has become an integral part of legal practice. Once limited to collective bargaining and divorce, mediation now has widespread application disputes ranging from small claims, to eldercare, child dependency, personal injury, employment, school and special education, bioethics, environmental, as well as in the criminal context. Mediation is closely connected with state and federal courts at both trial and appellate levels, used by administrative agencies in their quasi-judicial and quasi-legislative rule-making activities, statutorily mandated, and privately contracted for by businesses and organizations.

To catch-up to the reality of legal practice, mediation and alternative dispute resolution must become core components of clinical law programs and, more broadly, law school curricula. Future advocates need to learn the array of skills necessary to negotiate, advocate, and counsel clients in non-litigation processes. Indeed, placing students in a neutral/non-partisan stance may be the pedagogy of choice in developing unbiased lawyering judgment. In this session, panelists explore the relevance and importance of mediation clinics to clinical law programs and to legal education more broadly. The presentation will demonstrate how mediation clinics are uniquely positioned to engage students in modern law practice, to collaborate across clinical practice settings, and to prepare future attorneys how to define and advance justice in all advocacy settings.

Exploring the 5 Intelligences of Effective Lawyers

Ambassador 5

April Land, University of New Mexico School of Law
J. Michael Norwood, University of New Mexico School of Law
Aliza G. Organick, University of New Mexico School of Law
Carol Suzuki, University of New Mexico School of Law

Building on neuroscience research on multiple intelligences, this concurrent session will introduce participants to a novel framework for analyzing intelligences of the effective lawyer so that we can consider how to nurture these intelligences in, and evaluate effective lawyering by, our law students. Drawing on the theories and writings of Howard Gardner, author of *Intelligence Reframed – Multiple Intelligences for the 21st Century*, Professor Mike Norwood has identified five intelligences of an effective lawyer: Navigation, communication, collaboration, exploration, and reflection.

We will present the framework of the five intelligences, with a group discussion of their definitions and how our current concept of skills possessed by the effective lawyer fit into this rubric. As a group we will discuss methods for nurturing the development of these intelligences through our clinical teaching in order to prepare our students to be closer to “practice ready” and to be able to transfer their clinic learning to professional practice. Also important, we will discuss measurement of the five intelligences and reflect on them as a way of defining student success and student learning outcomes.

Goals and objectives for this session include defining the five intelligences and exploring ways to measure them and nurture them in our students. This session is designed to help us to become more effective teachers of transferable lawyering skills. A handout will be distributed, with the intelligences and other terminology and definitions, in order to categorize effective lawyering skills into the intelligences.

Collaborative Concurrent

Ambassador 6

Helping Strangers in a Strange Land: Teaching Students Professional Behavior

Harriet N. Katz, Rutgers School of Law – Camden
Faith Mullen, The Catholic University of America Columbus School of Law

Some of our students fall short in regard to conduct, appearance, or oral and written communication. We fear harm to our clients, our law schools’ reputation, relationships with others on whom we rely, even the atmosphere in the clinic office. We are concerned about a future of ineffective advocacy by the students. What can clinical faculty do?

Professional conduct standards can be dictated or demonstrated, teased out from bad examples or inspired by good examples, arrived at by trial and error or left to emerge from the student’s personal character. In addition to these avenues, we are hopeful that student learning about professional behavior can benefit from a deeper understanding of their motivations. Does the student really respect others? Has he reckoned with his own anxiety? Attendees will leave the session with better understanding of their own standards for professional behavior, impediments law students face in meeting professional standards, and tools for helping law students meet those standards.

In this session, we will explore selected examples of student conduct, underlying issues and ways to teach about our concerns, beginning with a short, humorous video that Professor Mullen created. Professor Mullen will offer a perspective from an in-house clinic, as these concerns are stressed in orientation and raised again in case-specific contexts. Professor Katz will offer a perspective from externship, where conduct standards and how to teach them are primarily in the purview of the field supervisor, but can also be addressed in seminar, journaling, and tutorial. Participants will join in discussing challenges and solutions from their own experience.

Documenting Unprofessional Conduct in Clinics and Externships

Clark D. Cunningham, Georgia State University College of Law

JoNel Newman, University of Miami School of Law

One of America's most highly regarded medical schools, the University of California, San Francisco (UCSF), has developed procedures for reporting observed lack of professionalism during clinical rotations. A pattern of unprofessional conduct can lead to academic probation and even dismissal from medical school, despite passing grades. Initial research at USF showed that students who had received such reports were twice as likely to be disciplined once in practice, especially if reports indicated: (1) poor reliability and responsibility, (2) lack of self-improvement and adaptability, or (3) poor initiative and motivation. In contrast, standardized test scores and grades did not identify who would have disciplinary problems. Subsequent research including two additional medical schools indicated that disciplined physicians were three times more likely to have displayed unprofessional behavior in medical school. Like the directors of medical school rotations, clinic teachers are uniquely situated to observe and assess professional conduct, but to date nothing like the UCSF approach has been developed in legal education. Development of well designed and tested forms and procedures for reporting on unprofessional conduct will make the wealth of information gained by clinic teachers of considerable potential benefit both to the law school as an institution and ultimately the profession. After reviewing the medical school information, participants will be invited to share any approaches they have developed for documenting unprofessional conduct, examine in small groups sample forms developed at UCSF, and begin to draft comparable forms that could be used in law school clinics and externships.

Discussion of Disruptive Innovation and the Future of Legal Education

Ambassador 7

Michelle R. Weise, Senior Research Fellow, Clay Christensen Institute for Disruptive Innovation, San Mateo, California

During this concurrent session, Michelle Weise will lead an information discussion about her expertise on higher education and the impact of technological change on education generally and legal education specifically. Because of her recent work on change in higher education, Dr. Weise will help the audience understand the theory of disruption and how it relates not only to our own role as clinical professors but also to outside changes that will soon disrupt us.

The Clayton Christensen Institute is the world's leading think tank on disruptive innovation. The Institute focuses its work on how changes in technology or business models impact industries. The term "disruptive innovation" refers to an innovation that creates a new market by appealing to a whole new population of consumers based on different metrics of performance. These innovations ultimately gain traction and overtake established organizations in an existing market. The term has central relevance to the conference theme of the "new normal." We see clinical education itself as a form of "disruptive innovation" within the legal academy. Our values and methods now stand ready to overtake and profoundly transform legal education, creating a "new normal." At the same time, we face the prospect that other innovations (in technology and in law practice) will disrupt us—our schools and legal education as a whole. As part of a focus on the "new normal," we see a strong need to assess how emerging innovations in technology and practice will transform our clinics and our schools.

Contemplative Space

Polo

Open space available for anyone to use for their own contemplative and mindfulness practices.

Thursday, May 7, 2015

10 – 11:15 am

Concurrent Sessions #5

Track 1: Making the Best of the New Normal: Integrating Adjunct Professors in Clinical Design

Rancho

Stephen J. Ellmann, New York Law School
Linda H. Morton, California Western School of Law
Dana Sisitsky, California Western School of Law

In the current economic climate, clinical programs have come under increased pressure to do more with less. The integration of adjuncts in clinical programs presents a lower cost alternative to full time clinical faculty, and increases the range and potential depth of experiential offerings. But questions remain. How can we train adjuncts efficiently? Is there a cost in terms of the quality of the experience students receive? What can we learn from adjuncts? And ultimately, are we arranging our own demise, or relegating ourselves to purely administrative tasks?

The presenters will describe their experience integrating adjuncts in various experiential offerings, and discuss the training programs they have developed and deployed, including *Clinical Teaching 101* and the *Clinical Adjunct Roundtable*. By using clinical pedagogy to teach the teachers about teaching, these training programs allow adjunct professors to learn clinical teaching through experience, while simultaneously providing clinicians with a fresh perspective from practice.

The presentation will include an interactive simulation of a Clinical Adjunct Roundtable session, where participants in the session play the role of adjunct professors. The session will conclude with a guided reflection that focuses on the broader implications of a “new normal” where full-time clinical faculty train teachers, not students.

Participants in this session will come away with new ideas to expand their current models for training adjuncts, including how to use clinical rounds pedagogy and reflection within their training. Participants will also gain a deeper understanding of the economic rationale and potential trade-offs for the use of adjunct clinical faculty.

Track 1: New to the New Normal: Externship Professor Edition

Mirage

D’lorah L. Hughes, Wayne State University Law School
Sunil Ramalingam, University of Idaho College of Law
Amy Sankaran, The University of Michigan Law School

The “new normal” has been a time of growth in externship programs, leading to an influx of new externship professors from a variety of backgrounds. While new faculty are sometimes hired to run existing programs, many of us are being asked to create new programs from scratch or redesign programs to meet increased demand. In doing so, we face an almost unlimited number of design and pedagogical choices, including number of credits, graded or ungraded, local or distance, seminar or no, students or faculty select sites, and so on.

Led by three relative newcomers to externships from three distinct backgrounds—live-client clinician, legal practice attorney, and student services administrator—we will discuss some of the things that we wish we had known when we began working as externship clinicians or things we are glad someone told us before we began. We will frame the choices we made and the issues we faced around the themes of the “new normal”. Participants will takeaway an understanding of some of the possible externship design choices with the overriding message that, whatever they choose, they almost certainly have company in that choice. The session structure will be interactive, drawing on the experience of the panelists and the collective wisdom of the audience. As such, professors of all experience levels are encouraged to attend!

Track 2: From the Ivory Tower to the Courtroom: Academic Writing for Social Justice in the New Normal

Celebrity A&B

Christopher Lasch, University of Denver Sturm College of Law
Alison Siegler, The University of Chicago, The Law School
Robin Walker Sterling, University of Denver Sturm College of Law
Katie Tinto, Benjamin N. Cardozo School of Law
Erica Zunkel, The University of Chicago, The Law School

This concurrent session is founded on our belief that clinicians can produce high-quality “academic” scholarship without forfeiting our commitment to social justice activism. In this session, we will consider the comprehensive role clinicians can play in the academy as scholars, practitioners, and social justice advocates. We will propose a conceptual framework that understands, and accounts for, the limited time clinicians have to plan for and accomplish work that fulfills each of these three roles.

Participants will be encouraged to think broadly about the various types of activism they and their students have pursued and to consider which of their clinic’s social justice pursuits might translate well into scholarship. We hope to galvanize participants to translate scholarship into activism and activism into scholarship. With that goal in mind, we intend for each participant to leave this session with a concrete idea for a piece of scholarship informed by social activism or a clinical litigation/advocacy project informed by scholarship. Our hope is that participants will come away from the session with concrete tools for facilitating the synergies between their lawyering, activism, and scholarship.

Track 2: Collaborative Concurrent

Celebrity C

Challenges of International Human Rights Clinics in the New Normal

Thomas M. Antkowiak, Seattle University School of Law
Alejandra Gonza, University of Washington School of Law

How do we meet increased student demand for meaningful international experience as budgets dwindle across the country? Must we reduce direct client representation and rely on more “academic” work such as amicus briefs?

This session will present a recent project of the International Human Rights Clinic at Seattle University School of Law and examine it over several phases. The case involved: researching and drafting a merits petition before the Inter-American Commission on Human Rights; requesting and obtaining precautionary measures from the Commission; using those measures (which instructed Mexico to protect the health of our wrongfully-incarcerated client) to leverage negotiations with federal authorities to achieve our client’s release; and eventually obtaining a wide-ranging settlement for our client and his family.

We will examine how we engaged clinical students in each phase of the project, over about five years—discussing the many positive experiences, as well as our mistakes and miscues. We will also consider how costs can be managed for such litigation, and emphasize the centrality of trusted partnerships “on the ground” in the foreign country. Another major objective of the session is to encourage participants to share their successful methodologies for international human rights litigation.

Pedagogical Responses to Humanitarian Crisis on the Border: Clinical Work in Family Detention Facilities

Sioban Albiol, DePaul University College of Law
 Denise L. Gilman, The University of Texas School of Law
 Lisa Graybill, University of Denver Sturm College of Law
 Karla M. McKanders, University of Tennessee College of Law

The recent legal and humanitarian crisis on the Southern Border has concentrated attention on the ways lawyers, including clinicians and law students, respond to emergencies in an already deficient legal system. This summer, a spike in the number of Central American women and children entering the United States to seek asylum led the government to open three family detention centers in rural, under-resourced towns in New Mexico and Texas. The government's stated intention was to deport the women and children as quickly as possible; without immigration representation, many women were unable to successfully articulate their fears of persecution despite having valid claims for asylum in the United States. Several Immigration Clinics around the country organized student trips to the detention centers to help represent migrant families. This panel will explore the different clinical and pedagogical models that were utilized in order to educate student attorneys on how to effectively respond to this legal and humanitarian crisis. The panelists will address whether there is still the need to train lawyers to be "change agents" in light of the "new normal," and if so, how clinicians can respond most effectively within this context to emergent situations. The pedagogical benefits and limitations of engaging clinical students in a chaotic, rapidly changing, crises environment will be explored. To the extent that some clinics are undertaking remote representation, the role of technology in facilitating this representation will be also explored, along with the pedagogical benefits and limitations of remote representation.

Track 2: Integrating Non-Clinical Faculty into Clinic and Experiential Courses: What's the Recipe(s) for Success?

Celebrity F

Dwight Aarons, University of Tennessee College of Law
 Paul D. Bennett, The University of Arizona James E. Rogers College of Law
 Becky L. Jacobs, University of Tennessee College of Law
 Patrick Charles McGinley, West Virginia University College of Law
 Alistair E. Newbern, Vanderbilt University Law School
 Valorie K. Vojdik, University of Tennessee College of Law
 Suzanne Weise, West Virginia University College of Law

As law schools seek to expand clinic offerings, how might clinical programs effectively leverage the talents and interests of non-clinical faculty?

Seeking to expand clinical opportunities for students, many clinical programs have collaborated with non-clinical faculty in a variety of ways. The possibilities for collaboration include co-teaching clinics with non-clinical faculty, collaborating on particular matters, and pairing doctrinal classes with clinic labs or mini-clinics to better integrate theory and practice. The benefits can be substantial: increased clinical and service opportunities for students, better integration of clinical and non-clinical faculty, and more meaningful integration of theory and practice within traditional doctrinal courses.

What role can and should clinical faculty play in these collaborations? How can clinical programs best support non-clinical faculty given our typically demanding and pressured work? What role can talented alumni play in offering mini-clinics? Are there any drawbacks to clinical programs? For example, is it important to preserve clinical pedagogy and if so, how do we insure that non-clinical faculty use traditional clinic methods?

The participants include both clinical and non-clinical faculty engaged in developing such collaborations. In this session, we will discuss (1) ways that participants might develop similar programs/courses/collaborative opportunities at their institutions, (2) the benefits of this work, and (3) the practical challenges presented and possible solutions.

Track 3: Start-Up Success in Clinic Projects: Generating Project Ideas, Choosing Clients, and Planning for the Unexpected

Celebrity G

Anna Carpenter, The University of Tulsa College of Law

Jason Parkin, Pace University School of Law

Colleen Shanahan, Georgetown University Law Center

Many clinics now handle advocacy projects where students solve legal problems through the use of strategies and tactics other than litigation. This session is focused on the “start-up” aspect of projects and is designed to make clinic projects both manageable and achievable. Participants will explore the early stages of project planning by addressing three key issues: 1) Whether a project should have a client; 2) How to generate and choose a project client and idea; and 3) How to plan for the unexpected. Participants will gain concrete tools to navigate the initial stages of project development and will obtain feedback on their own clinic’s efforts.

The session will speak to those who are creating a new project-based clinic, wish to add projects to an existing clinic, or teach in or wish to create a clinic that handles both direct representation and project-based work. Participants are encouraged to come to the session with an idea, however preliminary or unformed, about the type of project work they hope to do, as well as some potential goals for teaching through projects. Participants with project experience are encouraged to come to the session with particular challenges they have faced in project planning. Clinicians working in any practice area are welcome in this session.

Collaborative Concurrent

Celebrity H

What Can We Learn from Leadership Coaching? Insights from Transactional Clinics

Alice Hamilton Evert, The George Washington University Law School

Susan R. Jones, The George Washington University Law School

Transactional law clinics, focused on teaching business law and skills, provide a unique lens for rethinking lawyers’ roles during these times of intense changes in legal markets, declining law school enrollments, and a down market for law graduates. This concurrent session will explore the role of leadership coaching (also known as executive coaching), a personalized form of professional and personal development, which helps leaders weather storms, and embrace new knowledge and transformation. Indeed, leadership coaching has been available to some graduate business school students as a core part of their professional development and is widely used as a professional development tool in corporations, nonprofit organizations, and government. As clinicians consider their leadership roles in the new normal of legal education, leadership coaching is a palpable opportunity.

This session will explore: 1) basic principles of leadership coaching and 2) why leadership coaching is useful to law students, graduates, and lawyers undergoing change and uncertain markets. Using focused powerful questions, participants will witness a coaching conversation and will consider: What can law schools learn about coaching from business schools? Why should law schools make leadership a core part of the curriculum? What does it mean to be a leader? How can leadership coaches support emerging leaders?

Redesigning Clinics to Creatively Integrate J.D. and LL.M. Students

Kathy Heller, Chapman University Dale E. Fowler School of Law

Wendy Seiden, Chapman University Dale E. Fowler School of Law

As law schools reposition themselves and more lawyers seek advanced degrees, many of us are restructuring our clinics to integrate a growing number and diverse array of LL.M. students. The result can be challenging as well as rich in potential for J.Ds, LL.M.s, and clinic clients. We will explore this process in the context of two very different clinical programs – one a transactional entrepreneurial film clinic and the other a domestic violence clinic. Our students range from U.S. lawyers with more than 10 years of experience to recent U.S. law graduates to lawyers from as far as Afghanistan, Kashmir, Japan, Germany, Israel, and elsewhere. We have been experimenting, often successfully, with ways

to redesign our seminars and restructure client opportunities in order to effectively teach every student, to provide highly competent legal services to every client, and to ensure an integrated environment in which all of our students gain from rich collaborative exchange. Our clients have similarly benefitted from an increased knowledge base, expanded language capacity, and greater cultural competence. Inevitably, challenges also surface, such as the need to redesign seminars to be more relevant, accessible and challenging to every student, the difficulty in assessing and grading students from disparate backgrounds, and the need to provide client experiences that meet the educational goals of all students while ensuring that clinic work is of the highest quality and value to our clients. Session participants will wrestle with these and other challenges while sharing creative curricular ideas afforded by this new normal.

Representing Clients and Educating Students Amid Risk Management, Background Checks, and Compliance Regimes

Paul Holland, Seattle University School of Law

Kimberly A. Thomas, The University of Michigan Law School

In the aftermath of the Penn State child sex abuse scandal, states and universities amended their laws and policies regarding university employee and program interaction with minors. Many of these laws/policies include provisions making employees, or university persons working with minors, mandated reporters of child abuse or neglect. Many universities likewise adopted policies requiring background checks and imposing restrictions on contact between university staff and minor children. As another example of regulatory regimes that may affect our practice, detention and correctional institutions frequently prohibit individuals who acknowledge illicit drug use from entering the facilities, sometimes even when said drug use has been made legal under state law. These regulatory regimes are the “new normal” within our universities and the broader society and have important implications for clinics.

Our short session asks and begins to answer the following questions: How do these laws and policies intersect with our professional responsibility to our clients, including the duty of confidentiality? How can we use these laws/policies, and their implementation as a teaching moment for our students? How can we begin and sustain a dialogue with others on campus about the work that we do and the role that we play? How can we work with others to develop changes or accommodations to these law/policies that recognizes our unique role in both academia and legal services?

Popular Media, Fear Appeals, and a Sense of Humor: Three Approaches to Engaging Students in Justice Learning, Teaching Substantive Law and Lawyering Skills, and Preparing Students for the “Real World” of Practice

Ambassador 5

Part I: 10 – 10:35 am

Priya Baskaran, Georgetown University Law Center

Allison Korn, University of Baltimore Law school

Sarah Sherman-Stokes, Boston University School of Law

The objective of this section is to expand the use of multi-media in clinic seminars and practicums. First, we will explore using popular media to unpack complex issues surrounding poverty, politics, race and identity. Second, we will discuss how complex substantive law concepts can be introduced through multi-media. Finally, we will demonstrate how multi-media can be applied to teach core lawyering skills. We draw from our combined experience teaching in transactional clinics, immigration clinics, family law clinics, and practicums to demonstrate the breadth and utility of multi-media in the classroom and will present on multi-media, skills and concepts that are transferable across different fields of practice.

Part II: 10:40 – 11:15 am

Carolyn Young Larmore, Chapman University, Dale E. Fowler School of Law
Abigail A. Patthoff, Chapman University, Dale E. Fowler School of Law

The session will next consider the “fear appeal” (sometimes referred to as “cautionary tale” or “scare tactic”), a common device in the law classroom. Yet research shows that people already in a state of high stress (i.e., law students) react poorly to threats, so that fear appeals can instead backfire. Presenters will discuss best practices for making the fear appeal a more useful pedagogical tool. Finally, the session will move to the other side of the spectrum, exploring why humor is a useful teaching tool, how to use it effectively, and pitfalls to avoid.”

Contemplative Space

Polo

Open space available for anyone to use for their own contemplative and mindfulness practices.

Poster Descriptions

Posters are presented at the Reception on Monday, May 4, 2015, 6:45 – 8 p.m.

Preparing Clinical Students to Attain their Dream Job

Samantha Buckingham, Loyola Law School

My poster will focus on what we can do for our clinic students to help them not simply to get a job, but to attain the job about which they dream of having and for which their clinical education has prepared them. I have launched several endeavors to support students our juvenile justice clinics to transition to post-graduation employment, including forging relationships with targeted offices, harnessing alumni as mentors, and conducting targeted resume and interviewing workshops. Many ideas may be replicated in other types of clinics and tailored to the specific practice area of any clinic.

New Clinicians on the Block

Danielle Pelfrey Duryea, SUNY Buffalo Law School

Cody Jacobs, SUNY Buffalo Law School

J. Christopher Moellering, SUNY Buffalo Law School

Our poster will share lessons we have learned as new clinicians starting new clinics (or reinventing existing ones) in a new city. While growing into our identities as new academics, teachers, and clinic directors, we've been integrating ourselves into the close-knit legal community of a mid-sized city where none of us had lived previously. Our poster is designed to resonate both with new clinicians facing similar challenges, and with experienced clinicians integrating new clinicians into their programs. Simultaneously, we hope to provide inspiration for anyone contemplating a novel clinic in the "new normal" of uncertainty amid reduced funding and enrollment.

UC Hastings Startup Legal Garage – Rebooting Legal Education

Alice Armitage, University of California Hastings College of the Law

In the UC Hastings Startup Legal Garage, our students do corporate and intellectual property work for early stage Tech and BioTech companies, with the work supervised for free by outside law firms. The students then bring redacted versions of the deals they are working on into the accompanying doctrinal classroom, to give life to the legal cases they are studying. With 60 students and 24 law firms, the Startup Legal Garage has been named one of the most innovative law school programs in the country.

As one of our past students said: "As a first-year corporate attorney in Silicon Valley and former student of the Startup Legal Garage, I can attest to its real world value. I can honestly say that this clinic did more to prepare me for the work that I'm doing on a day to day basis than any other class in law school."

Using Reality Television and Social Media to Raise Legal and Social Consciousness and to Develop Critical Thinking in Domestic Violence Advocacy

Deria P. Hayes, North Carolina Central University School of Law

The MC/Law Adoption Legal Clinic: Bringing Families Together

Shirley T. Kennedy, Mississippi College School of Law

The Adoption Legal Clinic at Mississippi College School of Law partners with the Mississippi Department of Human Services to provide a learning experience for law students while providing a public service to prospective adoptive families. Adoptive families give permanent homes to children without incurring any expenses as law students work with them through every phase of finalizing the adoption. MDHS receives greater federal funding due to increased numbers of completed adoptions accomplished using the Clinic. MDHS pays a fee to the Clinic for completed adoptions; this income not only maintains the Clinic, but also pays the salary of an adjunct professor who works with the clinical professor.

Experiential Learning For Beginners: Introducing First-Year Law Students To The Attorney - Client Relationship

Lisa M. Mead, University of California, Los Angeles School of Law

In the fall of 2014, UCLA School of Law piloted a new course in the first year curriculum, *The Introduction to the Lawyer-Client Relationship*. The course introduces first-year students to the unique fiduciary qualities of the lawyer-client relationship, including the ethical obligations of loyalty, confidentiality, competence, and cross-cultural effectiveness. The defining characteristic of the course is that the students began to explore these fundamental lawyering concepts experientially, through a combination of lectures, simulations, and practical training—ultimately conducting live-client interviews in public interest law offices. The course was taught by lawyering skills and clinical faculty partnering with experienced legal services lawyers. The poster presentation highlights the goals and structure of the course, including the live-client interviews; the partnership between the law school and the legal services practitioners; the challenges and successes; and future plans for the course.

Teaching Trauma-Informed Lawyering in Family Law Clinics and Beyond

Deeya Haldar, Drexel University Thomas R. Kline School of Law

Sarah Katz, Temple University, James E. Beasley School of Law

This poster will define the terms “trauma-informed practice” and “trauma-informed lawyering.” We will summarize how teaching trauma-informed lawyering to clinic students enhances the key goals of clinical education. The main focus of our poster will be on the pedagogy of trauma-informed lawyering in clinics. We will highlight four teaching goals of teaching clinic students trauma-informed lawyering, and will present pedagogical methods for achieving those goals. The four teaching goals are: 1) identifying trauma; 2) adjusting the attorney-client relationship because of trauma; 3) adapting litigation strategy; and 4) becoming aware of and preventing vicarious trauma.

Works-in-Progress

Schedule & Program Descriptions

Wednesday, May 6, 2015

1:30 – 2:45 p.m.

Law Reform

Polo Room, Lobby Level

Mass Justice Revisited: An Empirical Look at a Non-Adversarial Blueprint

Jessica Steinberg, The George Washington University Law School

My article, “Mass Justice Revisited: An Empirical Look at a Non-Adversarial Blueprint,” arises out of two years of data collection in an experimental housing conditions court recently launched in the District of Columbia. The legal system has been notoriously ineffective at holding landlords accountable for the repair of housing code violations, and yet my findings demonstrate that this court has an unusually successful record in bringing units up to code. While precise causation is difficult to determine, I argue that the court’s success is tied to the exercise of quintessentially non-adversarial procedures: judicial control over investigation, fact development, and enforcement in each matter. Time and resources are typically in short supply in a court that hears dozens of matters a day, and yet judicially managed proceedings require a substantial outlay of both. My data demonstrate that judges in the HCC manage to implement non-adversarial procedures efficiently by sidestepping what is traditionally seen as the primary duty of the decision-maker in an American court: formal fact-finding. The Article explores the costs and benefits of non-adversarial procedure in a mass justice system, with an eye toward evaluating whether such procedures address the fairness and due process concerns that arise in habitability matters, and by extension, in other civil contexts involving low-income litigants.

Aging Injunctions and the Legacy of Institutional Reform Litigation

Jason Parkin, Pace University School of Law

What will become of the consent decrees and permanent injunctions that are the legacy of institutional reform litigation? More than fifty years have passed since the Supreme Court first endorsed the notion that courts could compel and oversee system-wide remedies intended to bring government agencies into compliance with the law. During the decades that followed, institutional reform litigation has reshaped countless bureaucracies notorious for resisting change, including public school systems, social services agencies, correctional facilities, and police departments. The injunctions that result from these lawsuits comprise a body of binding, enforceable obligations that supplement the rights and requirements created by constitutional, statutory, and regulatory law. As time passes and courts grow increasingly hostile to this form of litigation, however, the big question is how long these existing injunctions will remain in force. This article will consider the legacy of institutional reform litigation by examining the ongoing viability of aging injunctions. After identifying the (often hidden) ways that existing institutional reform injunctions are dying off, the article will weigh the consequences of injunction death for plaintiffs, government defendants, courts, and legislatures. Turning to the future, the article will argue that now is the time to rethink how institutional reform injunctions can and should come to an end, and it will offer potential arguments and strategies for ensuring that aging institutional reform injunctions are not eliminated prematurely.

Constitutional Law

Oasis 1, Lobby Level

Non-Compete Agreements as a Constitutional Violation

Ayesha Bell Hardaway, Case Western Reserve University School of Law

There is a growing trend across the nation for employers to require low-level, unskilled workers to execute non-compete agreements as a condition of being hired to work as an at-will employee. The application of non-compete agreements in low-wage positions occupied by unskilled workers is outside of the original scope and purpose of such agreements. These individuals lack both bargaining power and protection from being terminated without cause. Moreover, upon termination of their employment, the executed non-compete agreement can legally prevent these workers from securing employment with another company.

The enforcement of non-compete agreements in these circumstances may require low-level, unskilled workers to choose between lengthy bouts of unemployment or what would essentially amount to “wage slavery.” The Reconstruction Era debates reveal that the Thirteenth Amendment’s prohibition against slavery and indentured servitude was intended to prevent such injustices. Though Section 1 of the amendment contains only thirty-two words, the debates held before, during and after the ratification of the amendment provide a full illustration as to what Congress deemed to be “fair and just labor relations” in America. That original notion of “fair and just labor relations” provides timeless and substantive guidance on how to identify and rectify power imbalances in employer-employee relationships. This paper will argue that contemporary non-compete agreements between employers and unskilled, low-wage workers is a violation of the Thirteenth Amendment.

Shouldn’t Unconstitutional State Statutes Be Repealed?

Joel M. Schumm, Indiana University Robert H. McKinney School of Law

More than a decade after the U.S. Supreme Court held it was unconstitutional to prohibit consensual sex between adults in *Lawrence v. Texas*, anti-sodomy statutes remain on the books in a dozen states. In 2013 police arrested men for violating the unconstitutional Louisiana statute, although the district attorney ultimately refused to file charges. A state legislator proposed repeal of the statute, which failed by a large margin. A leader of a group opposing the repeal told USA Today: “It’s not a Louisiana value.” This paper will examine the repeal, failed efforts of repeal, or inaction in response to *Lawrence* and other Supreme Court cases. How do various state legislatures respond to Supreme Court or other court decisions finding statutes or state constitutional provisions unconstitutional? What are the consequences for citizens when unconstitutional statutes remain on the books?

Non Profit / Business Development Law

Oasis 2, Lobby Level

Procurements Favoring Racial Minorities: The Link from Adarand Constructors to DynaLantic and the 8(a) Business Development Program

Hugh McClean, University of Baltimore School of Law

The government has a tumultuous history of interjecting social policy into government procurements, often with varied success. Private industry abuse of minority business development programs has raised questions about the virtues of such programs. Nonetheless, the government continues its zealous support of section 8(a) of the Small Business Act, a law which permits the federal government to circumvent competitive procedures and award contracts to socially and economically disadvantaged businesses, such as those owned by racial minorities, women, and disabled veterans. Constitutional challenges to section 8(a) programs have generally been unsuccessful. However, in *DynaLantic Corp v. Department of Defense*, et al., the U.S. District Court for the District of Columbia issued an order enjoining the Small Business Administration and the Department of Defense from “awarding procurements for military simulators under the section 8(a) program without articulating a strong basis for doing so.” Applying a strict scrutiny standard, the court said the government had failed to produce evidence of discrimination in the military simulation and training industry sufficient to demonstrate a compelling interest. This article discusses the impact of the *DynaLantic* decision on section 8(a) contracts and explores the question

of whether the allocation of risk in section 8(a) contracts hinders the government's policy objectives. I argue that the government incurs significant risk and impossible management challenges under the program, and that eliminating racial factors will result in a more robust business development program.

Social Enterprise as Commitment

Alicia E. Plerhoples, Georgetown University Law Center

For-profit social enterprises lack the external accountability mechanisms of the charitable and corporate sectors. Absent legal reform, a for-profit social enterprise must develop internal mechanisms to prioritize its social mission, mitigate tensions between pursuing dual missions, and avoid engaging in deceptive greenwashing. This paper contributes to the field of law and entrepreneurship by presenting a commitment approach to social enterprise governance within the bounds of existing social enterprise laws. Commitment to the amelioration of a social or environmental problem is a central attribute of social enterprise. A commitment approach is one in which for-profit social enterprise founders and the board of directors, in the early stages of the firm, adopt governance policies and processes that create an organizational identity committed to mission-accountability, transparency, and stakeholder governance. Adoption of a commitment approach at the highest levels of the organization aids in creating an organizational identity that reigns in conflict between social mission and financial profitability when managers face difficult decisions over costs and resource allocation. This paper presents the commitment approach through the lens of a fictional for-profit social enterprise, and recommends specific governance policies and processes for public benefit corporations, benefit corporations, and social purpose corporations.

Pedagogy / Lawyering

Oasis 3, Lobby Level

The Indoctrination of Social Justice Morality in Legal Education

Julie D. Lawton, DePaul University College of Law

I seek to examine the role social justice should play in legal education. Law schools, often intentionally, encourage law students to participate in the promotion of what is broadly termed "social justice." Many schools provide scholarships for law students with summer positions in public interest or loan forgiveness for alumni working in public interest. Law schools in New York now require students to provide pro bono assistance as a condition of admittance to the New York bar. Many law schools provide funding to legal clinics on the condition that those legal clinics only provide assistance in a manner consistent with social justice. Authors have argued that law students should be taught their "responsibility" to provide social justice and to provide pro bono assistance to those in need. In contrast, law schools rarely provide such assistance or support to law students working in business or corporate law. Law schools promote their vision of social justice to law students as though it is an objective responsibility beyond question. We, as professors, laud the idea of exposing our students to opposing viewpoints, but rarely to arguments against the importance of social justice. This article argues that the provision of social justice, while admirable, is a reflection of a chosen morality. Law schools are to provide education, not indoctrination, to law students. While law students can be exposed to the different constituencies receiving legal services, law schools, as a place of education, should refrain from indoctrinating students with the morality of its leaders.

Implicit Bias: What's a Person of Color Supposed to Do?

Virginia Benzan, Suffolk University Law School

There has been a surge in legal writing on how implicit bias heavily influences our decision-making without our conscious knowledge. Scholars discuss the role culture plays in perceptions, decision making and communication. In the clinical field, much of the literature covers strategies for addressing racial dynamics in the classroom or how to teach cross cultural lawyering. My paper hopes to explore the impact of implicit bias on students, lawyers, and clinicians of color. When recent studies show that faculty are more likely to discriminate against women and minorities, women and minorities are systematically less likely to get responses from professor and less likely to get positive responses from professors, legal memos of minorities are scrutinized more harshly, what is a person of color to do? Is there any hope? Does implicit bias create an insurmountable barrier to equality? My paper will pose these questions to examine and explore the impact of implicit bias on people of color in the legal profession and to figure out whether people of color can find success despite the heightened scrutiny and discounting.

Pedagogy / Lawyering / Ethics

Oasis 4, Lobby Level

Clinics in the Cloud: Modernizing Law Practice in the Law School Clinic

W. Warren Hill Binford, Willamette University College of Law

Jack I. Lerner, University of California, Irvine School of Law

All attorneys face the challenges inherent in adapting traditional law practice to 21st century technology. For law school clinics, these challenges are even greater and more complex due to the unique nature of clinic practice, which includes the accelerated orientation of large numbers of inexperienced emerging lawyers two to three times a year, the obligation of clinic faculty and administrators to model best practices for students and fellow law faculty alike, the unique nature of our client populations, and our role as leaders in the legal community. In this paper, we consider the security, confidentiality, and other ethical concerns inherent in selecting cloud-based practice management software specifically in the context of a law school clinic. The paper explores the major challenges raised by the utilization of digital practice management software (especially those in the “cloud”), the due diligence that should be done beforehand, and specific contractual provisions that should be considered. We argue that the national clinical community can and should engage modern law practice management technologies, and can appropriately limit risk of ethical violations or legal liabilities if clinical faculty are well informed and develop best practices for dealing with cloud services, structure clinics’ communication and storage architectures thoughtfully and intentionally, train students to be conscious of these issues, and implement sound technology procedures.

Riding the Legal Technology Wave - Will Low-Wage and Immigrant Clients Be on Board?

Sherley Rodriguez, Suffolk University Law School

Technology is revolutionizing the delivery of legal services, and forward thinking law schools are increasingly incorporating technology into the academic curriculum. As a result, attorneys and legal educators must consider how technology will impact the delivery of legal services to low-wage and immigrant clients. Will technology help close the justice gap, or will these clients face greater barriers to legal assistance? This article will (1) provide an overview of current technology use in legal practice; (2) review Suffolk University Law School’s Accelerator to Practice program, a three year course of study and practice program that utilizes technology and practice management tools to prepare law students to join or start sustainable law practices upon graduation, and Suffolk’s Institute on Law Practice Technology & Innovation, a curriculum designed to prepare students for this new and evolving legal marketplace by providing students with the knowledge and skillset that 21st century lawyers need, as illustrations of how to teach law students to utilize technology in various forms and to various degrees to improve access to justice; (3) identify the accessibility of various technological tools to low-wage and immigrant clients; (4) examine technology’s impact on the justice gap; (5) and identify technological tools and techniques that will increase access to justice to immigrant and low-wage workers.

Immigration

Oasis 5, Lobby Level

Unequal Protection: Availability of Relief Under the Former INA Section 212(c) Versus Under INA 212(h).

Kate Aschenbrenner, Barry University Dwayne O. Andreas School of Law

Issues in immigration law often exist at the complex intersection of constitutional, administrative, and immigration law. One area that highlights what occurs when these areas of law overlap is waivers of inadmissibility under the former INA section 212(c) and the current INA section 212(h). Both are used to waive criminal convictions for long-term lawful permanent residents so that such LPRs may remain legally in the United States. By their language alone, they apply only to noncitizens seeking admission into the United States or otherwise subject to the grounds of inadmissibility. Both also, however, have been the subject of extensive litigation seeking to extend their reach to allow them to also waive grounds of deportability. This article will analyze that litigation, with particular focus on the treatment of the three administrative and constitutional law frameworks—*Chevron* deference, arbitrary and capricious review, and equal protection—that run throughout.

The article reveals that these decisions are inconsistent, sometimes incoherent, and often irrational in terms of both outcome and doctrine and explores reasons behind those discrepancies. Ultimately, the article concludes that the tendency to view immigration law problems through separate and individual lenses – immigration law, constitutional law, administrative law, and theory – has long masked underlying patterns and issues. It has distracted us from fully seeing and analyzing the big picture of our immigration law and policy. A combination of perspectives and a big picture view are necessary if we hope to achieve a comprehensible, rational, fair and just immigration policy in the United States.

Study on Resistance: Secure Communities and Civil Disobedience

Karen Pita Loor, Boston University School of Law

On November 20, 2014, Obama's change in immigration policy expanded beyond his attempt to grant undocumented parents of U.S. citizens and residents temporary relief from deportation and swept even more broadly drastically affecting the lives of all immigrants in the US. On the same date of his primetime address, the Department of Homeland Security published a memo stating that the Secure Communities Program was discontinued. DHS cited, among other things, the increasing refusal of local and state authorities to cooperate with the Secure Communities Program. This paper will assess the states' and localities' refusal to cooperate and abide by detainers lodged pursuant to the Secure Communities Program through a civil disobedience/conscientious objector lens and argue that such strategies are an effective way to influence change in government policy. This paper will initially focus on describing the Secure Communities Program. Second, the paper will document resistance towards the Secure Communities Program in its various formats. Third, this paper will describe the theory of civil disobedience/conscientious objector and argue that the Secure Communities case study fits the theory. This paper will also compare resistance to Secure Communities with other civil disobedience/conscientious refusal movements and hypothesize about what attributes made the resistance to Secure Communities particularly effective. The paper will conclude by evaluating what lessons the Secure Communities case study provides for resistance.

Immigrant Rights

Oasis 6, Lobby Level

States at the Forefront: Expanding Access to Healthcare for Undocumented Immigrants

Maggie Morgan, Harvard Law School

Recent federal reforms, particularly the Patient Protection and Affordable Care Act (ACA or Obamacare), have expanded access to health insurance coverage to millions of Americans previously lacking access to low-cost, comprehensive care. However, the rising tides of this historic reform have not lifted all boats. Some groups are still excluded from these advances, particularly undocumented immigrants, and to a lesser extent, immigrants with legal status. Non-citizens face several far-reaching obstacles, including ineligibility for federally funded insurance programs such as Medicaid and Medicare, and for undocumented immigrants specifically, a bar on purchasing insurance through the ACA-created health insurance marketplaces.

Given federal gridlock over immigration reform, legal and policy innovation at the state-level is a promising way to help resolve this humanitarian and financial crisis over the next several years. This paper explores some of the most viable policy solutions that states may develop to provide health benefits to undocumented immigrants, including state-funded analogues to the ACA's health insurance exchange and state-operated single payer systems, as well as less-systemic solutions such as state-level employer mandates, state subsidies for DSH payments, and piecemeal expansion of coverage to certain categories of undocumented immigrants (e.g. DACA grantees). Each of these options has administrative, fiscal, legal, and political advantages and disadvantages, and this paper will explore these, as well as analyze the feasibility of these options given different states' varying economic and political climates. In doing so, this paper will also analyze any potential thorny legal issues surrounding implementation.

Ethical and Effective Representation of Unaccompanied Immigrant Minors: A Law School Clinical Case Study Exploring Tensions, Opportunities, and Best Practices

Julie Marzouk, Chapman University Dale E. Fowler School of Law

The representation of unaccompanied immigrant minors presents tremendous pedagogical opportunities for law school clinical courses and excellent training for pro bono attorneys who seek to improve their lawyering skills. Ethical and effective representation of unaccompanied minors in domestic violence based asylum cases calls for the application of a complex and evolving area of law. Furthermore, it is critical that law students and attorneys utilize a specific set of tools in counseling these clients. Attorneys must take into account the unique mental state of these children, accommodating for their age and particular vulnerability due to past trauma. Litigation decisions must be evaluated in the larger context of the child's best interest. Counsel's duty of loyalty and confidentiality will be complicated by third parties- such as mental health professionals, representation of multiple family members, and powerless clients. Pains must be taken to minimize the re-victimization of clients. Students and attorneys must themselves be prepared for the personal consequences of representation and given sufficient mechanisms to adequately address the possibility of vicarious trauma. The author views the challenges of representing unaccompanied minors through a case study, a law school clinic's representation of four teenage siblings. The four children fled Central America to escape extreme sexual and physical abuse at the hands of their father and arrived in the United States seeking asylum.

Child Advocacy

Oasis 7, Lobby Level

Incompetent to Plead: Client Counseling Challenges in Juvenile Court

Jojo C. Liu, Loyola Law School

This project arises in the context of deal-making and plea-taking in juvenile delinquency court. It focuses on the client counseling challenge that arises when a child client's diminished capacity rises to the level of decisional incompetence, but that incompetency is not recognized by the court.

What brain science tells us about the cognitive development of children is now well recognized by the law. This understanding, however, is not adequately accounted for in the context of pleas in juvenile court.

Defense attorneys for children confront/ are forced to occupy a problematic space: helping a client navigate a plea offer where the client—despite an attorney's sustained efforts to communicate the offer and counsel in developmentally appropriate ways- is unable to understand and intelligently weigh the risks/ benefits of the choices before him/her. And where the client's decisional incompetence is not recognized by the court as a basis of incompetency to stand trial.

This problematic space is one created by the intersection of the inherent limited capacity of youth and high stakes litigation (collateral consequences, adult transfer) in a legal environment where competency is often understood in narrow ways, ways which do not adequately embrace the concept of decisional incompetence, which arguably implicates a very significant percentage of the children who are before the court.

A First Amendment Theory for Meaningfully Addressing Bullying

Emily Suski, Georgia State University College of Law

The vast majority of bullying laws give schools the authority to discipline, meaning suspend or expel, students for bullying and nothing more. If suspension and expulsion addressed the problem of bullying in anything more than a very immediate, short-term way, then this approach would seem logical. Instead, however, research that shows these types of interventions do little or nothing to address the problem of bullying and other interventions exist that do.

What is more, in exacting these consequences, the students' First Amendment rights are implicated. Students are typically being punished for their speech—either written or verbal—when they are punished for bullying. In determining whether and when schools can limit student speech by way of discipline, the Supreme Court has relied on rationales regarding the educational mission or work of the schools. While much scholarship has worked to categorize or explain the Court's

conceptual approach to education based on these cases and other cases in the school context, none have yet used the Court's language to develop a theory to support a more robust, effective approach to bullying. This Article takes up that task. It argues that in the context of students' First Amendment rights, the Supreme Court has provided guidance generally on what schools' educational mission is and that substantive standard, fleshed out by educational philosophy, provides a theory for requiring schools to intervene in bullying incidences in ways that adhere to that educational mission.

Family Law / Domestic Violence

Rancho Mirage, Lobby Level

Mirandizing Family Justice Centers

Jane K. Stoeber, University of California, Irvine School of Law

Family Justice Centers, which co-locate governmental and community responses to domestic violence, are rapidly proliferating sites at which survivor autonomy is frequently in tension with state intervention. Abuse survivors often benefit from being able to access multiple services in one location, but the presence of mandatory reporters at the Centers, along with the Centers' criminal justice locus, can create unanticipated criminal justice and governmental involvement, monitoring, and control, contrary to the help survivors expect to receive. Although the Centers are typically advertised as "confidential," most of the service providers—including police, prosecutors, safety advocates, and medical personnel—are mandatory reporters of abuse who can initiate criminal justice or protective services cases. As the Family Justice Center model propagates, abuse survivors should be counseled about the implications of providing information to the various governmental and community agents they come into contact with so that they understand all possible collateral consequences and are able to make more informed choices. Survivors can essentially be "Mirandized" or provided with tailored information from Attorney Navigators to enhance their safety, autonomy, and available options. Such warnings could salvage the noble intentions of Family Justice Centers and protect survivors' Constitutional privacy rights while disarming the state from using survivors' information in ways contrary to their wishes and well-being.

The Stream of Violence: Asserting Personal Jurisdiction Over Out of State Domestic Violence Perpetrators

Cody Jacobs, SUNY Buffalo Law School

There is currently a split among state courts about whether personal jurisdiction must be established over an alleged domestic violence perpetrator in order to obtain a civil protection order preventing the defendant from contacting the victim. This Article argues that even if personal jurisdiction is required for such orders, courts should take an expansive view of personal jurisdiction in this context because of the unique character of domestic violence. The article draws a parallel between domestic violence perpetrators and product manufacturing defendants in cases involving the stream-of-commerce doctrine. Under the stream-of-commerce doctrine, companies that place products in the stream of commerce with the knowledge or intent that those products will be sold in a particular forum may be subject to personal jurisdiction in that forum. Because domestic violence perpetrators often have intimate knowledge about their victims, they are usually aware of locations where victims may choose to flee and seek protection, and therefore should be evaluated similarly to product manufacturers. The Article also looks at this issue through the lens of the "effects test" courts have used to analyze personal jurisdiction in intentional tort cases. Under that test, a defendant may be hauled into court if the defendant knew or should have known that his or her tortious conduct would have an effect in the forum asserting jurisdiction. This Article uses this framing to buttress the case for expansive personal jurisdiction in the domestic violence context because of the close relationship between domestic violence and intentionally tortious activity.

Domestic Violence / Sexual Assault

Ambassador 6, Lobby Level

Sexual Assault on Campus: A Call for Due Process

Kendea Johnson, Benjamin N. Cardozo School of Law

Reported incidents of sexual assault on the campuses of educational institutions for higher learning have become a national conversation. The national discourse calls for an examination of inadequate fact investigation of incidents of sexual assault and a need to bring safety to communities of higher education experiencing these personal, yet potentially terrifying incidents, dividing and diminishing the academic communities of young adults.

This paper will evaluate the current adjudication process the majority of these proceedings follow and address the reason they fail to advance justice, despite the specific recommendations under Title IX regulations that are designed to prevent exactly the kind of injustice these hearings produce regularly. The first portion of this paper will review the historic role of Procedural Due Process in fact finding and disciplinary Proceedings, through an analytic study of the case law establishing the rights and entitlements at issue in these hearings. The second portion of the paper will explore the absence of procedural due process in these proceedings through an appraisal of collected examples of school procedures. The second portion will serve as an introduction to the third section which will be an examination of the consequences of the failure to preserve procedural due process. The paper will close with suggestions for rebuilding with a vision of due process, and a discussion of the inadequacies of the proposed legislation thought to be avenues for improvement.

Breaking the Code of Silence About Domestic Violence in Greek Life on Campus

Tanya Cooper, The University of Alabama School of Law

Domestic or dating violence is an epidemic affecting millions each year, and students who participate in the PanHellenic system (Greek-letter fraternities and sororities in American and Canadian colleges and universities), are especially vulnerable. Statistics show that 1 in 5 students are victimized during their college career, but because of a number of related factors, the problem's magnitude remains unknown. As social societies bent on secrecy, Greek life in particular bears many features that hide violence. Scandals on campus and in sports have recently sparked public outrage against the problem of relationship violence, which disproportionately affects women although men are victims too. Laws and policies offer little help to victims, who are often secondarily traumatized by the different systems in which they report crime and seek relief and recourse. Critical theories help uncover why this problem remains entrenched in Greek life, and systems change strategies point to possible solutions. Without collective action, we will continue to put millions of American youth at risk of great harm that jeopardizes their education and health. Many Greek organizations already educate their members, and their philanthropy helps victims. Many campuses model collaborative and interdisciplinary programs that produce better outcomes and safer educational havens for our students.

Domestic Violence and Immigrant Rights

Celebrity A&B, Lobby Level

Choice, Force, or Suspect Enterprise? The Burgeoning Business of Russian Mail-Order Brides and IMBRA's Attempts to Regulate the Industry

Christina Pollard, University of Idaho College of Law

This paper examines the "forced migration" of Russian and Ukrainian women who come to the United States as "mail-order brides." Scores of internet web pages advertise selections of beautiful Russian and Ukrainian women, all available to men in the United States for marriage, at the right price. Since the fall of the former Soviet Union and the simultaneous onslaught of internet usage, so-called "mail-order brides" have come to the United States in droves, usually marrying United States citizens. Some of the brides are happy pursuing their "American dreams," but a high proportion of others are abused by their husbands. This paper explores this trend from the "forced migration" perspective by analyzing why these women are compelled to leave their home countries for unknown futures with men they barely know. The International Marriage Broker Regulation Act of 2005 (IMBRA), which was enacted as part of the reauthorized Violence Against Women Act, attempts to regulate and prevent abuse in the international marriage broker industry. This paper attempts to expose the issues regarding the increase in mail-

order brides and to explore whether the ten years of IMBRA progress has actually resulted in a decrease in domestic abuse in mail-order bride situations. This paper provides a critique of the U.S. government's implementation of IMBRA and offers suggestions for amendments and further legislation.

The Disparate Treatment of Immigrant Survivors of Domestic Violence in the United States

Rachel D. Settlage, Wayne State University Law School

This work addresses systemic problems facing immigrant survivors of domestic violence in the United States, focusing on the relief available to those seeking to remain in the United States, specifically the Violence Against Women Act (VAWA) and the "U Visa." My article will discuss the different requirements for these two forms of relief, explaining that while the only substantive difference in the experiences of the immigrant survivors relates to whom they are married or not; the impact of these disparate processes is great. I argue that U.S. lawmakers hold deep-rooted attitudes, stereotypes, and misperceptions about immigrant women that not only impact survivors' access to immigration relief but, as importantly, their empowerment, recovery, and well-being.

Community and Economic Development

Ambassador 5, Lobby Level

Skating the Edges of the Unconstitutional Conditions Doctrine: Community Benefits Agreements in Land Use Approvals and the Right to Skate

Edward DeBarbieri, Brooklyn Law School

When local governments transfer valuable development rights to private companies – often to build sports and entertainment projects – how can we be certain that economic gains benefit neighboring residents, typically low-income, who face increased rents and diminished quality of life? I argue that "community benefits agreements" ("CBAs"), private contracts between a developer and a coalition of community organizations to provide financial benefits in exchange for not opposing the project, should be considered by government officials when making land use approvals.

It's possible for governments to consider CBAs in land use decisions while keeping within the boundaries of the unconstitutional conditions doctrine. In reviewing CBA terms, governments should only require conditions that have an essential nexus to a legitimate state interest and are roughly proportional to the project's impact.

The CBA negotiation and drafting process itself creates buy-in among diverse constituencies. Procedural justice literature suggests that dissenting groups are more likely to consent to a development project, even an undesirable one, following a meaningful opportunity to participate in the approval process.

I make recommendations for safeguards governments should put in place when considering CBAs in land use approvals, and present a case study of a 2013 CBA executed around the redevelopment of the Kingsbridge Armory in the Bronx into the largest ice sports complex in the world.

Contracting for Complexity: Collective Impact Agreements and Regional Equity

Patience A. Crowder, University of Denver Sturm College of Law

The full impact of the Great Recession will not be known for years; however, its debilitating effect on state and local governments is clear. Compounded by cuts in spending at the federal level, shrinking philanthropic resources and property tax revenue, and dormant housing and construction industries, state and local governments froze or reduced spending on redevelopment projects and economic development programs. Some state and local governments, however, are beginning to creep out of shell shock to respond to the crisis in innovative ways, and they are not isolated in their efforts because many community advocates are boldly leading the way. Most importantly, however, these advocates are doing so in ways that seek to cure the inequities that have historically run through such programs. This particular time in history presents a unique opportunity to explore innovative approaches to alleviating poverty in our metropolitan communities. Collective impact agreements are one such approach. These contracts are an emerging tool that secures the participation of a diverse group of organizational actors for the purpose of addressing a specific social problem (e.g. public education or childhood obesity).

Like community benefit agreements, collective impact agreements are designed to contract for improvement in underserved neighborhoods. Unlike community benefits agreements and because of their very nature, collective impact agreements are agreements that do not have clearly identified deliverables or mechanisms for measuring the parties' accountability. In other words, collective impact agreements appear to be more aspirational than effective because, due to the shared agenda among the parties, the agreements are not currently structured to determine which parties are responsible for which deliverables – an outcome completely counter to fundamentals of contract law. Because these are an emerging type of contract it is important to analyze current collective impact contract practices to develop a more efficient form that still speaks to the goal of achieving a shared agenda while providing mechanism for accountability to help ensure that the public outcome of collective impact agreements are more likely to be achieved. The ultimate goal being to increase the utility and scope of collective impact agreements as tools for addressing spreading regional inequities.

Affordable Housing / Community Empowerment

Celebrity C, Lobby Level

Public-Private Mismatch and Residual Value: Lessons from Housing Policy for Privatization Theory

Brandon Weiss, University of California, Los Angeles School of Law

Federal rental housing policy aimed at low-income U.S. households has been a highly contentious subject of debate and experimentation for nearly a century. Drawing upon this rich historical record, case studies of tax credit deals, and interviews with a variety of stakeholders, this Article makes two novel arguments: 1) our current predominant federal supply-side policy, the Low-Income Housing Tax Credit (LIHTC) program, while solving several problems along the efficiency-accountability axis, nonetheless repeats certain important failures of prior discarded federal housing policies, and 2) these failures shed light on particular dynamics at play whenever private agents are enlisted to pursue public goals. With respect to the first argument, the structural mismatch between the public goals of the LIHTC program and the private incentives of profit-motivated developers, creates opportunities at the design, construction, operations, and exit stages for the private sector to capture what I dub in the Article “residual value”— namely, value that exceeds what is otherwise necessary to motivate the private agent to deliver the bargained for good. This descriptive account of the realities of the LIHTC program and its predecessors provides the basis for my normative argument in the context of privatization theory: specifically, that with respect to relationships between the government and private providers, we should attempt to structure these arrangements such that the maximum amount of residual value flows to public rather than private interests. The Article concludes with suggestions for how these principles might inform the next much-needed iteration of our federal affordable rental housing policy.

Lessons Learned from the Foreclosure Crisis: Utilizing Empowerment Advocacy Models to Foster Social Capital in Communities and Create a New Economy

Komal Vaidya, University of Illinois College of Law

Since the implementation of the Dodd Frank Wall Street Reform and Consumer Protection Act and Trouble Asset Relief Program, advocates have had mixed success curbing abusive lending practices and ensuring affordable housing in response to the foreclosure crisis. While clinicians often face a tension in deciding whether to provide direct services or engage in community lawyering techniques, both strategies have been vital to stabilizing communities hit by foreclosures. Indeed, each model has presented advantages and limitations in combating the latent financial issues faced by homeowners and consumers. My topic invites clinicians to consider whether a collaborative individual law model is appropriate to achieve systemic change. However, the foreclosure crisis has had lasting imprint on communities beyond affordable housing issues. Indeed, the causes and solutions to the foreclosure crisis cannot be viewed in isolation from the financial crisis at large, which has had significant effects on community land use, access to capital, and consumer protection. Drawing from lessons learned in the foreclosure crisis and the difficulties of achieving financial reform on the national level, the article ends by exploring how legal clinicians, advocates, and community groups can work together to foster social capital in communities through localized community efforts including participatory budgeting and civic engagement in municipal government.

Housing

Celebrity F, Lobby Level

Hypocrisy in Housing: How Federal Housing Policy Violates Due Process and Fair Housing Principles

Michelle Ewert, University of Baltimore School of Law

Federal housing policy violates due process and fair housing principles in ways that harm women, people of color and people with disabilities. It does so by establishing radically different sanctions for federally-assisted renters and homeowners when a household member, guest or person under their control engages in criminal activity. Under the “one-strike” policy in subsidized rental housing, low-income renters receiving government assistance are subject to loss of their housing subsidy through eviction or termination, regardless of their involvement in or knowledge of the alleged criminal activity. Conversely, homeowners are not subject to loss of the home mortgage interest tax deduction if a household member, guest, or person under their control engages in criminal activity. Further, if civil forfeiture proceedings begin, homeowners may claim an “innocent owner” defense, while no such defense is available to subsidized renters. The differential treatment in the two housing assistance programs is deliberate. This article explores that inequality. First, it argues that both subsidized renters and homeowners who utilize the home mortgage interest deduction have a property interest in their housing. Second, this article explores how the one-strike policy in subsidized rental housing conflicts with due process because it unnecessarily imposes a strict liability standard on an important property interest. Finally, this article concludes by using data from the Census Bureau and the Department of Housing and Urban Development to show that the one-strike policy violates fair housing principles because it has a disparate impact on women, people of color and those with disabilities.

A Housing Crisis: A Case Study Demonstrating What Can Happen When Tenants Effectively Have No Rights

Jessica Long, University of Idaho College of Law

Syringa Mobile Home Park sits on the outskirts of Moscow, Idaho, approximately three miles from the University of Idaho. Syringa is one of the poorest communities in the county. The residents – working families, the mentally and physically disabled, felons, drug addicts – have nowhere else to live. In December, 2013, the residents awoke to discover no water coming out of their faucets. This was actually not a new occurrence. For as long as residents could remember, there were periods when the water did not work. On December 18th, the water came back on. But testing showed lead and high levels of coliform bacteria in the water. Residents were told not to drink the water, even after boiling it. For 93 days, the residents lived without potable water. This article first tells the story of what happened to the residents – the events leading up to the water crisis, how the residents survived without potable water, the community reaction to the crisis, and the class action lawsuit filed on behalf of the residents. This article then analyzes what went wrong – from abhorrent management by the owner of Syringa to poor oversight from local and state government officials. Finally, this article analyzes Idaho’s landlord-tenant statutes, some of the least friendly statutes for tenants in the country, and offers suggestions for how the statutes could be revised to offer more protections to tenants like those living at Syringa.

Criminal

Celebrity G, Lobby Level

Implementing the Lessons from Wrongful Convictions: An Experimentalist Approach to Eyewitness Identification Reform

Keith A. Findley, University of Wisconsin Law School

Learning about the flaws in the criminal justice system that have produced wrongful convictions has progressed at a dramatic pace since the first innocent individuals were exonerated by post-conviction DNA testing in 1989. Application of that knowledge to improving the criminal justice system, however, has lagged far behind. The general unresponsiveness of the criminal justice system to lessons learned from the study of system error is troubling. For a system committed to truth and fairness, failure to incorporate new knowledge that can simultaneously minimize the risks of convicting the innocent while enhancing the ability to convict the guilty is deeply problematic. This sluggishness thus demands inquiry into what approaches (if any) can be and have been effective at translating the growing body of knowledge about wrongful convictions

into criminal justice system reforms. This article attempts to address that question, focusing in particular on the example of eyewitness identification reforms. After canvassing the state of eyewitness identification reform around the country and alternative models for pursuing reform, the article considers new empirical evidence about an attempt to foster bottom-up reform based in part on principles of democratic experimentalism. Using data from Wisconsin as the focal point, the article describes the Wisconsin reform effort, its fit with experimentalist theory, and preliminary data from the field to assess the extent to which reforms have been adopted at the local level as a matter of policy.

Out of the Frye-ing Pan and Into the Fire: Defenders and Restorative Justice

Eve Hanan, University of Baltimore School of Law

Restorative justice promises to resolve crime in a manner that is satisfying to the victims of crime and rehabilitative to the offenders. If its claims are to be believed, the defendant and complaining witness are invited to engage in what has been called a “private plea bargain” in lieu of conviction or traditional sentencing. What is the role of defense counsel in weighing the option of a private plea bargain? Within the context of traditional plea bargaining, the *Lafler-Frye* line of Supreme Court cases has made clear that, at the very least, defense counsel must inform the client of the potential consequences of either accepting a plea offer or proceeding to trial. While it is difficult to predict the outcome of trial, the outcome of a guilty plea is usually certain. Restorative justice, however, adds an additional element of uncertainty because the complaining witness negotiates directly with the defendant in proceedings ungoverned by external standards of fairness. Yet direct negotiation with the complaining witness may result in better outcomes for defendants than in-court proceedings precisely because of the absence of legal norms and the human element that is present in face-to-face encounters. In advising clients whether to participate in restorative justice, defenders should adopt a holistic approach to client objectives, including extra-legal objectives, as they grapple with the uncertainty of variable outcomes. Final recommendations include addressing systemic bias against defendants in restorative justice and advocating for individual clients in restorative justice proceedings to ensure procedural and substantive fairness.

Criminal

Celebrity H, Lobby Level

Plea Bargaining on the Ground

Jenny Roberts, American University, Washington College of Law

Recently, and belatedly, the Supreme Court has come to recognize the reality that our criminal justice system “is for the most part a system of pleas, not a system of trials.” Despite the Court’s recent decisions in *Padilla v. Kentucky*, *Missouri v. Frye*, and *Lafler v. Cooper*, constitutional regulation still plays at the margins of bargaining. The conversations defense counsel and judges have with defendants relating to guilty pleas are lightly regulated, but the bargaining conversation between defense counsel and the prosecutor are not. That next step may be on the horizon, as lower courts encounter claims of ineffective assistance in the bargaining process rather than in the presentation of the outcome of that process to a defendant.

It is time to shed more light on the internal regulation and practice of actual bargaining. This three-phase empirical project is an attempt to map the bargaining part of plea bargains, in light of well-established insights from negotiation theory. This study, done with Professor Ron Wright from Wake Forest law, focuses on three main questions:

- What if any training do public defenders receive on actual negotiation skills?
- What preparations do defense attorneys make before starting to bargain?
- To what extent do defense attorney bargaining practices in different court and crime settings reflect the insights of negotiation theory?

In Phase 1 we conducted field interviews of public defenders; Phase 2 involves public defenders completing an on-line survey. Phase 3 will involve sending the survey to non-public defender indigent defense providers (assigned counsel, contract attorneys), and to private defense counsel.

Lafler v. Cooper, 132 S.Ct. 1376, 1388 (2012).

The Promise of Criminal Justice Reform: Lessons from 100 Years of Public Defense in America

Megan Quattlebaum, Yale Law School

A century ago, breakaway members of the Republican Party (Progressives) supported an idea popular among liberal reformers (the creation of the public defender). The two groups agreed that public defenders would improve criminal justice administration, but they disagreed about why. Progressives wanted increased court efficiency, while liberals sought justice for indigent defendants. The reformers' efforts resulted in the creation of public defender offices across the country, but defenders aimed only to meet Progressive's relatively modest goals: processing guilty defendants through courts as quickly as possible, and rationing defenses for those few whom they believed to be innocent.

America in 2015 is poised for a new round of significant criminal justice reform. Breakaway members of the Republican Party (Tea Party libertarians) support an idea popular among liberal reformers (reducing the prison population). The two groups agree that "mass incarceration" is, at best, counterproductive, but they disagree about why decreasing prison populations would be beneficial. The breakaway Republicans focus on cutting costs, while liberals make a moral case for reform, focused on their belief that the U.S. punishes too harshly. What reforms this coalition will be able to enact remains to be seen.

This paper discusses the lessons of the creation of the public defender for today's criminal justice reformers. I argue that liberals have too quickly made common cause with the libertarian wing of the Republican Party, even though other conservatives (religious communities and criminal justice professionals) are more likely to share their goals for reform.

Sports Law / ADR

Oasis Den, Lobby Level

What is Sports Dispute Resolution?

Daniel Gandert, Northwestern University School of Law

During the past couple of decades, a lot has been written debating what constitutes sports law. Some academics have written that there is no specific field of sports law, but that sports law is merely all areas of the law that relate to sports. Others have found sports law to consist of statutes and case law that directly relates to sports, while others have debated the merits of "lex sportiva," which consists of the rules of sports federations, Court of Arbitration for Sport (CAS) case law, and the World Anti-Doping Code. Not as much has been written about what constitutes sports dispute resolution. This article describes how sports dispute resolution should be viewed as a broad field that includes most off the field issues in the sports world, as well as many on the field issues that result in a dispute. Generally, the term "dispute resolution" refers to the processes of negotiation, mediation, and arbitration as well as many related processes. These processes are used to resolve most sports disputes, whether in a formal manner, such as through the Court of Arbitration for Sport, or an informal manner, such as through contract negotiations. Most decision making bodies in sports, such as the NCAA Committee on Infractions, either act as arbitrators or use a process that is similar enough to arbitration that all cases heard by them should also fall into the sports dispute resolution field. Thus, all issues relating to these bodies fall into the sports dispute resolution subject matter.

Section on Clinical Legal Education Bellow Scholars Program Report on Projects

Wednesday, May 6, 2015

1:30 – 2:45 p.m.
Ambassador 7

Increasingly, clinic faculty in diverse settings engage in empirical research related to their clinical work. This research can have several functions in furthering the mission of a clinic: enhancing the delivery of legal services or promoting economic and social justice; demonstrating the need for proposed legal or policy reforms; testing assumptions about the way courts work; examining the way we approach our students, our profession, and the development of clinical teachers. The Bellow Scholars program recognizes and supports the work of clinicians who have embarked on such projects. The current Bellow Scholars will present updates on their work:

Moderators:

Faith Mullen, The Catholic University of America, Columbus School of Law

Joseph B. Tulman, University of the District of Columbia, David A. Clarke School of Law

Kim Diana Connolly, Danielle Pelfrey Duryea and Lisa Bauer, SUNY Buffalo Law School

Vision and Action: Access to Justice, Professional Formation, and Employment Prospects in the Inaugural Classes of New York's Pro Bono Scholars Program

Interdisciplinary longitudinal study of the Pro Bono Scholars Program's impact on expanding access to justice and helping law students to become "practice-ready," and impact on community partners and law schools.

Stacy E. Seicshnaydre, Tulane University School of Law

Tenant-Based Affordable Housing as a Tool of Opportunity in Post-Katrina New Orleans

Empirical study of the use of tenant-based housing subsidies by low-income renters in the pre- and post-disaster New Orleans and effect on access to education, employment, and transit, with recommendations for mechanisms to reduce income inequality and segregation.

Emily Benfer and Allyson E. Gold, Loyola University Chicago School of Law

Achieving Health Equity for Low-Income Clients: The Effect of Medical-Legal Partnership in the Law School Setting

An empirical study of the effect of inter-professional collaboration and the medical-legal partnership model, in a law school clinic setting in particular, on access to justice and health equity for low-income clients.

Alina Ball, Colin Bailey, and Pearl Kan, University of California, Hastings College of the Law

Disadvantaged Communities Access to Safe Drinking Water in Salinas Valley, California & Beyond

A project to identify and implement community-driven solutions through organizing, education, legal advocacy, and technical assistance to secure safe drinking water. Through legal research compiling empirical data on low-income, rural communities with contaminated water sources, the researchers are analyzing how corporate and transactional representation may facilitate safe drinking water.

Margaret Drew, University of Massachusetts School of Law – Dartmouth

Building Community Capacity for HIV-Positive Individuals in Southcoast, Massachusetts

The research is designed to assess the unmet legal and other needs of those in the community living with HIV. The long-range goal is to determine if meeting these needs improves health outcomes. This project assesses the social determinants of health.

AALS Section on Clinical Legal Education Schedule of Committee Meetings

Monday, May 4, 2015

3:15 – 6 p.m.

Section Executive Committee

Oasis 6

Tuesday, May 5, 2015

7 – 8:30 a.m.

Awards

Chairs, Margaret Barry, Mary Lynch
Oasis 1

Externships

Chairs, Inga Laurent, Lisa Smith
Oasis 2

Interdisciplinary

Chair: Lucy Johnston-Walsh
Oasis 3

Lawyering in the Public Interest (Bellow Scholars)

Chairs: Judy Fox, Leah Hill
Oasis 4

Membership/Outreach/Training

Chairs: Jaime Lee, Michael Vastine
Oasis 5

Policy

Chair: Ragini Shah
Oasis 6

Technology

Chairs: Marjorie McDiarmid, Michele Pistone
Oasis 7

Wednesday, May 6, 2015

7 – 8:30 a.m.

Clinicians of Color

Chair: Karyn Mitchell-Munevar
Oasis 1

Thursday, May 7, 2015

7 – 8:30 a.m.

ADR

Chair: Deborah Eisenberg
Oasis 1

Ethics & Professionalism

Chairs: Cynthia Batt, Reena Parambath
Oasis 2

Communications

Chair: Jill Engle
Oasis 3

Externships

Chairs: Inga Laurent, Lisa Smith
Oasis 4

International

Chair: Peggy Maisel, Sarah Paoletti
Oasis 5

Scholarship

Chairs: Josephine Ross, Emily Suski
Oasis 6

Teaching Methodologies

Chair: Wendy Bach
Oasis 7

Transactional

Chairs: Susan Jones, Vicki Phillips
Moroccan Boardroom

Law School and Organization Events

Tuesday, May 5, 2015

Mission Hills Boardroom

Clinical Legal Education Association (CLEA) Board Meeting

Wednesday, May 6, 2015

6:30 – 8:30 p.m.

Celebrity C

American University Washington College of Law Reception

5:30 – 7:30 p.m.

Mission Hills Boardroom

Clinical Law Review Board Meeting

6 p.m.

Celebrity H

Clinical Legal Education Association (CLEA) Membership Meeting

5:30 – 7:30 p.m.

Oasis Courtyard

Harvard Law School Clinical Program Reception

5:30 – 7:30 pm

Celebrity D&E

West Academic Presentation and Reception – Teaching with *The Clinic Seminar*

Committees

Planning Committee for 2015 AALS Conference on Clinical Legal Education and Law Clinic Directors Workshop

Kimberly Ambrose, University of Washington School of Law
Claudia Angelos, New York University School of Law
Eduardo R. Capulong, University of Montana School of Law
Michele R. Pistone, Villanova University School of Law
Laura L. Rovner, University of Denver Sturm College of Law
Alexander Scherr, University of Georgia School of Law, **Chair**

2015 Task Force on Professional Development

Bennett Capers, Brooklyn Law School
Susan D. Carle, American University Washington College of Law, **Chair**
Sheila R. Foster, Fordham University School of Law
Shauna I. Marshall, University of California Hastings College of Law
Elizabeth E. Mertz, University of Wisconsin Law School
Carol A. Needham, Saint Louis University School of Law
Jason Palmer, Stetson University, College of Law
Barbara A. Schatz, Columbia University School of Law
Michael E. Waterstone, Loyola Law School

AALS Executive Committee

Blake D. Morant, Wake Forest University School of Law, **President**
Kellye Y. Testy, University of Washington School of Law, **President-Elect**
Daniel B. Rodriguez, Northwestern University School of Law, **Immediate Past President**

Devon Wayne Carbado, University of California, Los Angeles
Darby Dickerson, Texas Tech University School of Law
Guy-Uriel E. Charles, Duke University School of Law
Vicki C. Jackson, Harvard Law School
Wendy C. Perdue, The University of Richmond School of Law
Avi Soifer, University of Hawaii, William S. Richardson School of Law

Biographies of Planning Committee Members, Plenary, and Luncheon Speakers

AMBROSE, KIMBERLY Lecturer, University of Washington School of Law.

ANGELOS, CLAUDIA Clin. Prof., New York University School of Law. JD, 1974, Harvard.; BA, 1971, Radcliffe. Clin. Prof.; Clin. Assoc. Prof. (86-92); Clin. Ass't Prof. (80-86); Staff Att'y, Prisoners' Legal Servs. of NY NYC (76-79); Staff Att'y, Greater Boston Legal Servs. MA (74-76)
Subjects: Clinical Teaching *Memberships:* Executive Committee: Clinical Legal Education Association; Board of Governors: Society of American Law Teachers; Board; Executive Committee: ACLU; General Counsel; Board; Exec. Com.: NYCLU Massachusetts; New York.

AREEN, JUDITH C. Executive Director, Association of American Law Schools (since 2014). Paul Regis Dean Professor, Georgetown University Law Center (on leave). JD, 1969, Yale; BA, 1966, Cornell. Interim Dean, Georgetown University Law Center (10-10); Exec. V.P. & Dean, Georgetown (89-04); Fellow, Woodrow Wilson Int'l Cntr. for Scholars DC (88-89); Assoc. Dean, Georgetown (84-87); Prof., Community & Fam. Med. Georgetown Med. Cntr. (82-89); Gen. Counsel & Domestic Reorg. Coord'r (79-80); Dir., Fed. Leg. Rep. Proj. Pres.'s Reorg. Proj. Off. Mgt. & Budget DC (77-79); Prof.; Vis. Assoc. Prof., Michigan (75-76); Assoc. Prof., Georgetown (72-76); Fellow & Dir., Educ. Voucher Study Cntr. for the Study of Public Policy Cambridge MA (70-72); Prog. Planner for Higher Educ., Budget Bur. Off. of the Mayor NYC (69-70)
Subjects: Family Law (35); Judgement & Decisionmaking (15); Higher Education Law (8). *Books and Awards:* Cases and Materials on Family Law (with Spindelman and Tsoukala), 6th ed...; Higher Education and the Law (with Peter Lake), 2d ed.; Cases and Materials on Law, Science and Medicine (with King, Goldberg,... *Memberships:* ALI; ABF (Fellow).

ASKIN, JONATHAN Brooklyn Law School.

BACH, WENDY A. Assoc. Professor, University of Tennessee College of Law. JD, 1996, New York University School of Law; MA, 1991, University of Pennsylvania; BA, 1991, University of Pennsylvania. Clinical Instructor, The City University School of Law (05-10); Director, Homelessness Outreach and Prevention Project, The Urban Justice Center (01-05); Staff Attorney, The Legal Aid Society (96-01) *Books and Awards:* Order of the Coif: (96); Eric Dean Bender Public Interest Prize: (96).

BLISS, LISA R. Assoc. Clin. Prof. & Co-Director, HeLP Clinic., Georgia State University College of Law. JD, 1988, Univ. of Florida.; BA, 1985, Univ. of No. Fla.. Associate Clinical Professor, Georgia State; Instructor of Law, Georgia State (01-06); Assoc., Magill & Atkinson P.C. Atlanta (99-01); Dep. Dir., Atlanta Volunteer Lawyers Fdn. (96-99); Clin. Lect., Univ. of Florida (94-95); Assoc., Neely & Player P.C. Atlanta (89-93) *Subjects:* Clinical Teaching (15); Advanced Techniques in Pretrial Litigation (5); Health Care Law (5); Law & Medicine (5) *Memberships:* AALS Clinical Section Interdisciplinary Education Committee; Best Practices in Legal Education Implementation Committee.

CAPULONG, EDUARDO R. Professor of Law, University of Montana School of Law. JD, 1991, City University of New York School of Law; BA, 1986, New York Univ.. Professor of Law, University of Montana School of Law; Director of Public Interest and Public Policy Programs, and Lecturer in Law, Stanford Law School (99-03); Dir., Public Interest Policy Prog. & Lect. Stanford (99-03); Public Policy Associate, No. CA Coalition for Immigrant Rights (97-99); Policy Assoc., No. CA Coalition for Immig. Rts. San Fran. (97-99); Acting Assistant Professor of Lawyering, New York University School of Law (04-07); Senior Policy Analyst, Community Service Society (94-96); Karpatkin Fellow, American Civil Liberties Union (93-94); Att'y, Weston & Capulong Bklyn. (92-95); Pro Se Law Clerk, U.S. Court of Appeals for the Second Circuit (91-93); Partner, Weston & Capulong (94-96) *Subjects:* *Other/Non-Listed (13); Clinical Teaching (10); Lawyering (6); Alternative Dispute Resolution *Books and Awards:* Robert and Pauline Poore Law Faculty Service Award: (09) *Memberships:* Society of American Law Teachers; Clinical Legal Education Association; Northwest Clinicians Conference New York; New Jersey; Montana.

EDELMAN, PETER B. (M) Prof., Co-Dir., Jt. Degree in Law & Public Policy & Fac. Dir., Ctr. on Poverty, Inequal. and Pub. Policy, Georgetown. b.1938. AB, 1958; LLB, 1961, Harvard. Treasurer, Harvard Law Rev. Admitted: NY, 1962; DC, 1979. Clerk, Judge Henry Friendly NYC, 1961-1962; Clerk, Just. Arthur Goldberg DC, 1962-1963; Spec. Ass't, Ass't Att'y Gen. John Douglas DC, 1963-1964; Legis. Ass't, Sen. Robert F. Kennedy DC, 1965-1968; V.P., Univ. of Mass. Boston, 1971-1975; Dir., NY St. Div. of Youth Albany, 1975-1979; Part., Foley Lardner Hollabaugh & Jacobs DC, 1979-1982; Prof., Georgetown, Since 1982; Assoc. Dean, 1989-1992; Counselor to the Sec'y, U.S. Health & Human

Servs. DC, 1993-1995; Ass't Sec'y for Plng. of Eval., DC, 1995-1996. *Subjects:* Constitutional Law; Legislative and Regulatory Processes; Poverty Law (S); Public Interest Lawyering. *Books & Awards:* Searching for America's Heart: RFK and the Renewal of Hope, 2001; Reconnecting Disadvantaged Young Men (with Holzer and Offner), 2006. Member: Nat'l Acad. of Soc. Ins. Consultants: Chair, District of Columbia Access to Justice Commission, since 2004; Bd. Chair, Nat'l Cntr. for Youth Law, since 2004; Bd. Chair, Public Welfare Foundation, since 2008.

ELLMANN, STEPHEN J. Prof. & Assoc. Dean, Fac. Dev. & Collaborative Learning, New York Law School. JD, 1976, Harvard.; BA, 1972. Assoc. Dean, New York Law School; Prof., New York Law School; Assoc. Prof., New York L.S. (92-94); Assoc. Prof., Columbia (83-92); Lect., Harvard (82-82); Law Fac., Jones Law Inst. Montgomery (78-81); Staff Att'y, So. Poverty Law Cntr. Montgomery (77-83); Clerk, Hon. Elbert Parr Tuttle U.S.C.A. 5th (now 11th) Cir. Atlanta (76-77) *Subjects:* Clinical Teaching (15); Constitutional Law (15); Professional Responsibility (10); South African Law *Books and Awards:* Lawyers and Clients: Critical Issues in Interviewing and Counseling (with...; The Post-Apartheid Constitutions: Perspectives on South Africa's Basic...; In a Time of Trouble: Law and Liberty in South Africa's State of Emergency *Memberships:* Law & Soc. Ass'n; U.S. Const'l Law Ass'n.; CLE Ass'n.

FARMER, LARRY C. Marion G. Romney Prof., J. Reuben Clark Law School. PhD, 1975, Brigham Young.; BS, 1968, Wash., Seattle. Prof.; Assoc. Prof. (79-82); Ass't Prof., Brigham Young (77-78); Jud. Fellow, Fed. Jud. Cntr. DC (76-77); Res. Assoc., Brigham Young (74-76) *Subjects:* Computer-based Practice Systems (15); Legal Interviewing & Counseling (15); Strategies for Acquiring Professional Expertise.

FLOYD, TIMOTHY W. Prof. & Dir., Law & Public Serv. Prog., Mercer Law School. JD, 1980, Georgia.; MA, 1977, Emory; BA, 1977. Prof. & Dir., Law & Public Serv. Prog. Mercer; Vis. Prof., Georgia State (04-06); Prof. (92-04); Assoc. Prof., Texas Tech (89-92); Att'y, Sutherland Asbill & Brennan Atlanta 1981-82 (87-89); Ass't Dir. & Dir., Legal Aid Clinic Georgia (82-87); Clerk, Judge Phyllis Kravitch U.S.C.A. 5th Cir. Atlanta (80-81) *Subjects:* Alternate Dispute Resolution (15); Clinical Teaching (15); Criminal Law (15); Jurisprudence (15); Legal Profession (15); Trial & Appellate Advocacy (15); *Books and Awards:* Can a Good Christian Be a Good Lawyer: Homilies, Witnesses, and Reflections...; The Lawyer As A Professional (with Newton) *Memberships:* TX Bar Fdn. (Fellow, since 1996).

GOLDFARB, PHYLLIS Jacob Burns Fdn. Prof. & Assoc. Dean for Clin. Affrs., The George Washington University Law School. LLM, 1985, Georgetown.; JD, 1982, Yale; MA, 1979, Harvard; BA, 1978, Brandeis Univ.. Assoc. Dean for Clin. Affrs., Geo. Wash.; Prof.; Assoc. Prof. (91-97); Ass't Prof., Boston Coll. (86-91); Ass't Prof., No. Illinois (84-86); Supervising Att'y, Georgetown (82-84) *Subjects:* Clinical Teaching (24); Criminal Justice (15); Criminal Procedure (15); Evidence (15); Jurisprudence (15); Legal Profession (15); Women & the Law (15); *Books and Awards:* CLEA Outstanding Advocate for Clinical Teachers Award: (12) *Memberships:* Board of Editors, Clinical Law Review District of Columbia.

HADDON, PHOEBE A. Chancellor, Rutgers University – Camden. MA, 1985, Yale; JD, 1977, Duquesne; BA, 1972, Smith Coll.. Dean and Professor of Law, University of Maryland School of Law; Prof., Temple; Dep. Exec. Dir., Redev. Auth. of City of Phila. PA (86-88); Assoc. Prof. (84-93); Ass't Prof., Temple (81-84); Assoc., Wilmer Cutler & Pickering DC (79-81); Clerk, Hon. Joseph F. Weis Jr. Pittsburgh PA (77-79) *Subjects:* Constitutional Law (15); Torts (15); Constitutional Remedies (10); Jurisprudence (10); Products Liability (10); Race & Ethnicity & the Law (5) *Books and Awards:* Tort Law: Cases, Perspectives & Problems (with Terry, et al.); Constitutional Law: Cases, History & Dialogues (with Lively, Weaver, Araiza...; Tort Law: Cases & Materials (with Phillips, Terry, Maraist, McClellan ... *Memberships:* ALI; AALS (Recruitment & Retention of Minority Teachers & Students 2008, Exec. Com., 1996-98, Resource Corps., 1996, Prof'l Dev. Com.).

HERRERA, LUZ E. (F) Ass't Prof., U.C.L.A. AB, 1995, Stanford Univ. Harvard Civil Rts. Civil Liberties Law Rev. Admitted: CA, 2000. Clin. Fel., Harvard Law Sch., 2006 - 2007; Vis. Prof., Chapman Univ. Sch. of Law, 2007 - 2008; Ass't Prof., Thomas Jefferson Sch. of Law, 2008 - Pres. *Subjects:* Access to Justice Seminar (S) Community Economic Development (S); Corporations; Professional Responsibility; Wills & Trusts. Member: Clin. Legal Educ. Ass'n; Soc. of Am. Law Teachers. Consultants: Consult., Legal Aid Society of Orange County, 2010-10.

JOHNSON, CONRAD Clin. Prof., Columbia Law School. JD, 1978, Brooklyn; BA, 1975, Columbia; Dir., Lawyering in the Digital Age Clinic; Dir., Clin. Progs. (93-96); Clin. Prof.; Acting Dir., Clin. Prog. (92-93); Assoc. Clin. Prof. (90-92); Dir., Fair Housing Clinic (89-00); Vis. Assoc. Clin. Prof., Columbia (89-90); Ass't Prof. (88-89); Vis. Ass't Prof., CUNY at Queens (87-88); Att'y-in-Charge, Harlem Neighborhood Off. (83-87); Staff Att'y, The Legal Aid Soc. Civil Div. NYC (78-83) *Subjects:* Clinical Teaching (15);

Civil Rights (5); Legal Profession (5); Technology & Practice (5) *Memberships*: CLEA (Bd. of Dirs., 1999-01); AALS (Com. on Curric. & Res., 2000-02); AALS/ABA/LSAC (Jt. Com. on Racial & Ethnic Diversity, since 2002).

JONES, SUSAN R. Clin. Prof., The George Washington University Law School. JD, 1980, Antioch School of Law; MAT, 1985, Antioch.; BA, 1978, Brandeis Univ. Visiting Professor, Vanderbilt Law School (08-08); Distinguished Visiting Professor, University of Maryland School of Law (06-06); Haywood Burns Vis. Chair in Civil Rts., CUNY at Queens (03-04); Clin. Prof.; Clin. Instr., Geo. Wash. (88-95); Adj. Instr., American (87-88); Ass't Prof., CUNY at Queens (85-86); Clin. Fellow, Antioch (82-85) *Subjects*: Small Business Clinic (15); Legal Method (5); Legal Research & Writing (5) *Books and Awards*: Building Healthy Communities: A Guide to Community Economic Development...; Legal Guide to Microenterprise Development, ABA; A Legal Guide to Microenterprise Development: Battling Poverty Through... *Memberships*: AALS (Past-Chair, Section on Clinical Law, Section on Africa, Poverty Law Sect., Chair, Clin. Tchrs. Conf. Plng. Com., Exec. Com. & Chair-Elect, Clin. Tchrs. Sect.).

LEE, DONNA H. Professor, CUNY School of Law. JD, 1991, New York Univ.; BA, 1986, Brown Univ. Assoc. Prof., CUNY at Queens (04-11); Clin. Instr., Brooklyn Law School (02-04); Acting Ass't Prof. (01-02); Lawyering Instr., New York Univ. (00-01); Staff Counsel, Nat'l Prison Proj. ACLU DC (97-00); Staff Att'y, Civil App. & Law Reform Unit Legal Aid Soc. NYC (94-97); Clerk, Hon. Richard L. Nygaard U.S.C.J. Erie PA (93-94); Clerk, Hon. Anne E. Thompson U.S.D.J. Trenton NJ (91-93) *Subjects*: Clinical Teaching (10); Lawyering.

LEE, EUMI K. Associate Clinical Professor of Law, Hastings College of the Law. JD, 1999, Georgetown University Law Center; BA, 1994, Pomona College. Associate Clinical Professor of Law, University of California, Hastings College of the Law; Associate, Kecker & Van Nest LLP (02-05); Law Clerk, Judge Warren J. Ferguson, USCA (01-02); Associate, Thelen, Reid & Priest LLP (00-01); Law Clerk, Judge Jerome Turner, USDC (99-00) *Memberships*: CLEA.

LYNCH, MARY Clinical Professor; Director, Center for Teaching Excellence; Director, Domestic Violence Prosecution Hybrid Clinic, Albany Law School. JD, 1985, Harvard.; BA, 1982, New York Univ. Clin. Prof.; Clin. Assoc. Prof. (93-96); Clin. Ass't Prof. (90-93); Clin. Instr., Albany (89-90); Ass't D.A., NY Cty. (85-89) *Subjects*: Domestic Violence (5); Domestic Violence Prosecution Clinic (5); Trial Practice.

MCKANDERS, CAROLYN Co-Dir., Thinking Collaborative. BS, Michigan State Univ.; MA, Univ. of Michigan; MSW, Eastern Michigan Univ Former Co-Dir., Center for Adaptive Schools; Tchr, Detroit Public Schools; Counselor, Detroit Public Schools; Staff Dev. Specialist, Detroit Public Schools.

PADILLA, JOSE Exec. Dir., California Rural Legal Assistance, Inc. (CRLA). JD, 1978, Univ. of California Berkeley; BA, 1974, Stanford. *Books and Awards*: Named one of "100 Most Influential Hispanics in the U.S.," 2006, Hispanic Bus. Mag.; Hon. Doct., 2005, Chapman Univ.; San Francisco Min. Bar Coalition's Award of Excellence; Cal. La Raza Lawyers Ass'n Cryz Reynoso Community Service Award; Ohtli Award, 2003, Hispanic Nat'l Bar Conf.; Vis. Mentor, 2001, Stanford Haas Cntr. for Public Serv.; Ernesto Galarza Commemorative Lect., 2001, Stanford; Stanford's Alumni Multicultural Hall of Fame, 2000. *Memberships*: V-Chair, Poverty & Race Res. Action Coun.; Bd. of Dirs, Nat'l Legal Aid & Defender Assoc. (Chmn. 08).

PISTONE, MICHELE R. Professor, Villanova University School of Law. LLM, 1999, Georgetown; JD, 1989, St. John's; BS, 1986, New York Univ. Visiting Professor, American University Washington College of Law (14-14); Visiting Professor, American University Washington College of Law (08-09); Fulbright Scholar, University of Malta (06-06); Professor, Villanova University School of Law; Assoc Professor, Villanova University School of Law (99-04); Director, Clinical Program, Villanova University School of Law (99-08); Legal Dir., Human Rights First (95-96); Assoc. Att'y, Willkie Farr & Gallagher DC (91-97); Assoc. Att'y, Willkie Farr & Gallagher NY (89-91) *Subjects*: Clinical Education (17); Immigration Law (17); *Other/Non-Listed *Books and Awards*: Stepping Out of the Brain Drain: Applying Catholic Social Thought in a...; Fulbright Scholar, Spring. *Memberships*: AALS (Chair, Int'l Human Rts. Sect., 2004-05, Exec. Com., 2005-06); Co-Chair:ABA (Co-Chair. Clinical Skills Cmts); Conference Planning Committee: AALS, Clinical Section; Licensee: TEDxVillanovaU PA; DC; NY; CT.

POLLACK, ABRAHAM Geo. Wash.

REED, STEPHEN (M) Clin. Assoc Prof., Entrepreneurship Law Cntr., Northwestern. b. 1974. AB, 1996, Princeton; JD, 1999, Columbia. Notes Editor, Columbia Jour. of Law & the Arts. Admitted: CA, 1999; IL, 2006. Att'y at Law, Proskauer Rose LLP, Los Angeles, CA, 1999 - 2005; Clin. Assoc. Prof., Entrepreneurship Law Cntr. Northwestern, Since 2006. *Subjects*: Business Associations; Entrepreneurship Law; Entrepreneurship Law Center.

Speaker Biographies

ROVNER, LAURA L. Ronald V. Yegge Clinical Director and Assoc. Prof., University of Denver Sturm College of Law. MA, 1995, Georgetown.; JD, 1993, Cornell; BA, 1990, Pennsylvania. Associate Professor, University of Denver College of Law; Assoc. Prof. & Clin. Dir., North Dakota (02-04); Assoc. Prof. & Dir., Externship Prog. (01-02); Vis. Ass't Prof., Western State (00-01); Ass't Prof. & Dir., Public Interest Law Firm Syracuse (97-00); Staff Att'y/NAPIL Equal Just. Fellow, Nat'l Ass'n of the Deaf Silver Spring MD (95-97); Grad. Fellow/Staff Att'y, Inst. for Public Rep. Georgetown (93-95) Assoc. Prof. & Clin. Dir., University of Denver Sturm College of Law/Clinic (15); Civil Rights. *Memberships:* Phi Beta Kappa.

SCHERR, ALEXANDER Dir., Civil Clinic Progs. & Assoc. Prof., University of Georgia School of Law. JD, 1982, Michigan; BA, 1975, Yale. Assoc. Prof.; Ass't Prof. (96-04); Dir., Civil Clinic Progs. Georgia; Vis. Prof., Quinnipiac (95-96); Proj. Dir. (91-96); Staff Att'y, VT Legal Aid (84-91); Assoc., Downs Rachlin & Martin VT (82-84) Clinical Teaching (15); Dispute Resolution (15); Evidence *Books and Awards:* Georgia Law of Evidence (with Green) *Memberships:* CLEA (Pres., 2005).

SHALLECK, ANN C. Prof., Dir., Women & the Law Prog. & Carrington Shields Scholar., American University Washington College of Law. JD, 1978, Harvard.; BA, 1971, Bryn Mawr Coll.. Prof.; Assoc. Prof. (87-91); Lect. (84-87); Dir., Women & the Law Prog. American; Supv'g Att'y (81-82); Staff Att'y, Community Legal Servs. Phila. (78-81) *Subjects:* Clinical Teaching (15); Family Law (15); Juvenile Law (15); Women & the Law (15); Feminist Legal Theory *Books and Awards:* Lawyers and Clients: Critical Issues in Interviewing and Counseling (with...; Court Rules to Achieve Permanency for Foster Children: Sample Rules/ Commentary...American University, Washington College of Law Scholarship Award: (11); Outstanding Advocate for Clinical Teachers, Clinical Legal Education Association: (09); Stoneman Professor of Law & Democracy, Albany Law School: (06); Emalee C. Godsey Scholar: (96).

SWAN, KAREN Stukel Dist. Prof. of Educational Leadership, Univ. of Illinois Springfield. EdM, 1989, Teachers Coll. Columbia Univ.; EdD, 1985, Teachers Coll. Columbia Univ.; MeD, 1983, Keene State Coll.; BA, 1972, Univ. of Connecticut. Res. Prof., Res. Cntr. for Educational Tech., Kent State Univ. (03-08); Assoc. Prof., School of Ed., State Univ. of New York at Albany (95-02); Ass't Prof., School of Ed., State Univ. of New York at Albany (88-95). *Awards:* Burks Oakley II Dist. Online Tchg. Award, Univ. of Illinois Springfield (14); Cloan-C Fel., Sloan Consortium (10); Dist. Alumnus, Teachers Coll., Columbia Univ. (10); Dist. Res. Reviewer, Ed. Tech. Res. and Dev. (08); Outstanding Paper Award, 19th Ann. Conf. on Educational

Multimedia, Hypermedia, and Telecommunications (07); Most Outstanding Achievement in Online Learning by an Individ., Sloan Consortium (06); IBM Consulting Scholar (92-94). *Memberships:* Online Learning Consortium: Bd. of Dirs (08), Com. on Conf. (08), Com. on Res. and Pub. (13).

THOMPSON, DANA A. Clin. Prof, The University of Michigan Law School. JD, 1999, Michigan; BA, 1994, Bryn Mawr. Clin. Prof, The University of Michigan Law School; Clin. Ass't Prof., University of Michigan Law School; Ass't Clin. Prof., Wayne State University Law School (06-09); Vis. Clin. Ass't Prof., Michigan (05-06); Regional Att'y, The Nature Conservancy San Fran. (04-05); Assoc. Att'y, Miller Starr & Regalia Walnut Creek CA (03-04); Assoc., Morrison & Foerster LLP San Fran. (99-03) Clinical Teaching *Books and Awards:* Building Healthy Communities: A Guide to Community Economic Development... *Memberships:* Chair/Community Economic Development Committee: American Bar Association Business Law Section; Co-Chair/Awards Committee: AALS Clinical Law Section; Director/Board of Directors: Michigan Community Resources California; Michigan.

TREMBLAY, PAUL R. Clin. Prof. and Law Fund Scholar, Boston College Law School. JD, 1978, U.C.L.A.. Vis. Lect., Harvard (03-03); Clin. Prof.; Assoc. Clin. Prof. (94-99); Ass't Prof., Boston Coll. (82-94); Sr. Att'y, Legal Aid Fdn. of L.A. (82-82); Lect., U.C.L.A. (80-82); Staff Att'y, Legal Aid Fdn. of L.A. (79-82) *Subjects:* Clinical Teaching (30); Professional Responsibility (26); *Books and Awards:* Lawyers As Counselors: A Client Centered Approach (with Binder, Bergman...Emil Slizewski Excellence in Teaching Award, Boston College Law School, 2008: (08); CLEA Advocate of the Year: (04) *Memberships:* COIF; Ethics Committee: Boston Bar Association.

UPCHURCH, ANGELA K. (F) Assoc. Prof. and Dir. Adoption Cntr., Southern Illinois. b. 1976. BA, 1998; JD, 2001, Loyola, Chgo. Ed.-in-Ch., Loy. U. Chi. L.J. Admitted: IL, 2001. Jud'l Clerk, Hon. Avern Cohn U.S.D.C. Eastern Dist. of MI, 2001-2002; Jud'l Clerk, Hon. Michael Murphy U.S.C.A. 10th Cir., 2002-2003; Ass't Prof., Capital, 2003-2006; Assoc. Prof., Since 2006. *Subjects:* Children, Families & the State; Civil Procedure; Dispute Resolution; Torts. *Books & Awards:* Loyola, Chgo. Pres'l Medallion, 2001. *Consultantships:* Coach, Nat'l Moot Ct. Team; Fac. Adv'r, Moot Ct. Bd., Capital; Acad. Dir., Nat'l Cntr. for Adoption Law & Pol'y, 2007-10; Chair, Academic Affairs, since 2009; Chair, National Center for Adoption Law and Policy Academic Advisory Board, since 2010.

WEISE, MICHELE Sr. Research Fellow, Clayton Christensen Institute. PHD, 2008, Stanford Univ.; MA, 2004, Stanford Univ.; BA, 2000, Harvard Univ. V.P. of Acad. Affrs., Fidelis Inc. (12); Ass't Prof., Skidmore Coll. (08-12); Fulbright Scholar, Korea (05-06); Tchg Ass't, Stanford Univ. (02-04). *Books and Awards:* Hire Education: Mastery, Modularization, and the Workforce Revolution (with Christensen, 2014).

WU, FRANK H. University of California Hastings College of the Law. JD, 1991, Michigan; BA, 1988, Johns Hopkins. Chancellor & Dean, University of California Hastings College of the Law (10-14); Visiting Professor, George Washington (09-09); CV Starr Visiting Professor, Peking University (Transnational) (09-09); Professor, Howard (09-10); Visiting Professor, Maryland (08-08); Dean, Wayne State (04-08); Visiting Professor, Michigan (02-03); Professor, Howard (01-04); Clinic Director, Howard (00-02); Associate Professor, Howard (98-00); Assistant Professor, Howard (95-98); Fellow, Stanford (94-95) Associate, Morrison & Foerster (92-94); Judicial law clerk, Hon. Frank J. Battisti (N.D. Ohio) (91-92); *Subjects:* Civil Procedure (10); Professional Responsibility (5); Evidence *Books and Awards:* Yellow: Race in America Beyond Black and White; Race, Rights, Reparations: Law and the Japanese American Internment Chang-Lin Tien Leadership Award: (08); NAPABA Trailblazer Award: (07) *Memberships:* Trustee: Deep Springs College; Member: Dept. of Ed. NACIQI California; Washington, D.C.

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Web Site: www.cali.org

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Phone: (888) 858-2546
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Caroline Montano

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Phone (651) 202-4815
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Discussion Outlines and Materials

Reforming Law Schools: A Manifesto

Frank H. Wu¹

Over the past several years, I have been blogging about legal education. When I was encouraged to begin writing on the subject, I wondered who would care to read about it. As it turns out, both the legal marketplace and the higher education marketplace started to experience change of the greatest magnitude. Law schools have attracted intense interest. I have edited many of the posts here to make a set of arguments: legal education has worth; it must adapt; and the changes that are needed are structural.

Two Schools of Thought

There are two schools of thought about legal education.

One insists that law schools are fundamentally fine. They face only a momentary lull in demand. They will recover so long as they continue to do as they have done.

Another contends that the educational program leading into legal practice is fundamentally flawed. It needs reform even if the marketplace improves. The recent economic crisis exposed problems that always had been there.

I count myself among those who embrace the latter view. Adaptation is mandatory, not optional. But it already is underway, in need of encouragement.

Anyone who offers observations about a subject of such significance, to those who make a living through argument, should take care at the outset to frame the issues. The rule of law is the basis of our democracy. It constitutes the ideals we offer the world.

Our aspirations in the abstract, as well as our ability to lead the lives we take for granted in mundane aspects, depends on an independent, principled bench and the members of the bar who advance causes and represent clients. We conduct elections generally free of corruption, preceded by campaigns in which candidates declare their philosophies, thanks to law. We are able to buy food and drugs that have been tested and usually are not tainted, with recourse if there has been a mistake, thanks to law.

The tech boom that defines San Francisco is based primarily on engineering and science. But inventions generate entrepreneurial success only as they are monetized. A legal infrastructure protects intellectual property and enables initial public offerings. Our commerce with Russia and China would be greatly improved if they developed legal systems that were transparent, robust, predictable, and reliable.

Likewise, recent progress in the recognition of the rights of LGBT individuals has been embodied by legal transformation. Discriminatory conventions of the past have given way to anti-discrimination norms, though there remain unresolved tensions related to asserted religious exemptions. Although observers may disagree on the proper outcomes to disputes, everyone acknowledges that law is paramount. All government regulation takes the form of law in some sense, and social justice movements that proceed through law avoid chaos.

Thus the assertion, made by angry bloggers and then repeated by the mainstream media, that legal education is virtually worthless should be accepted as the hyperbole it is. There is – and there always will be, barring failure of democracy itself – a role for lawyers. Then there also must be a means of preparing them for their roles as leaders.

¹ Chancellor & Dean and William B. Lockhart Professor, University of California Hastings College of the Law. The University of California Hastings College of the Law is affiliated with the University of California, having been established in 1878 as the original law department for the UC system; it also has always been an independently governed stand-alone institution, with its own board, state appropriation, budget, and policies.

Yet the critics have a point. There should be vigorous discussion of how many lawyers are optimal, how they are trained, and what they should pay for the privilege of joining the profession.

The problem of legal education is more than one problem. At least three major concerns should be addressed.

First, there appears to be a glut of lawyers. Ironically, there also is unmet legal need. This seeming contradiction is explained by the maldistribution of lawyers. A surplus of lawyers wish to work in so-called “Big Law,” the giant firms serving corporations and high net-worth individuals. A deficit of lawyers, meanwhile, are available for old-fashioned general practice. There is insufficient funding for government lawyers, including those who would offer services the poor who cannot afford an attorney: city attorneys, prosecutors, and public defenders have workloads that cannot reasonably be supposed to ensure competent representation, and non-trivial levels of work are simply being left undone.

On its face, this supply and demand imbalance is not merely, or even mainly, a problem for law schools. It is a general problem facing the legal profession. It is the result of inexorable forces, including technological advances, structural innovations such as outsourcing and contract positions, and increasing sophistication on the part of purchasers of services.

Lawyers once possessed magic knowledge, not widely available; specialists in specific fields commanded a premium over even peers without similar expertise. But much of what we do can now be accessed by the public over the internet, and either they cannot discern quality or they are satisfied with “good enough.” It can be done by individuals overseas, with less training, or in allied fields such as accounting. And it can be packaged as a commodity, with the financial risks associated with uncertainty being shifted onto the lawyer rather than burdening the client.

Some law firms sought to conceptualize themselves as businesses. Other law firms preferred to regard themselves as a true partnership of professionals. Regardless of their culture, they find themselves facing the same challenges as other industries in an era of hyperaccelerating change, and they cannot suppose they are above competition.

Second, there is the cost structure of higher education. There is a lack of appreciation between professors on the one hand and students on the other hand, which is mutual, complete, and regrettable. Almost all academics balk at crude characterizations of “return on investment.” They value learning intrinsically, valuable in its own right; not instrumentally, a means to an end. Almost all who call themselves consumers (and the families paying the bills) demand measurements of job placement. They no longer believe, if they ever did, that critical thinking by itself is useful. The same unease is spreading beyond law schools to liberal arts colleges. The importance of American creativity to American competitiveness is not appreciated, and both are threatened.

Until recently, these considerations in the law school context were masked by the same exuberant expectations that led to the recession. People assumed law school was a great bet: for any student who was accepted, at any school, for any graduate regardless of their performance. Law school was promoted as a reasonable default option, even for those unsure of what lawyers in fact do for a living. That was not true before, but it has become obvious now: law school is for people who want to work in law or who have a well-thought out plan related to law (for example, operating a family business or entering public life).

Student loan debt is on the cusp of becoming the public policy hot button for the middle class. Its effects are not uniform. The notion that higher education can be a public good has been all but lost. Individuals pursuing a profession are being told implicitly that they will not be subsidized in the effort. Those who do not come from privilege will not be materially supported in upward mobility, and those from all backgrounds who wish to enter public service as a career will not be helped either.

Law schools face complications of existential magnitude altering their business model. The two tactics that were most popular in the past are no longer available. Those expedients were increasing tuition or increasing enrollment (or both). Tuition is the subject of populist outrage. The drop in applications is unprecedented, steep, with no bounce back.

Law schools are turning to alternate revenue sources, such as private philanthropy, new curricula, and straightforward commercial activity. These may be necessary but they are not sufficient, because they do not offset deficits in the core of the enterprise; they are off by at least an order of magnitude in fiscal terms. Moreover, the demands to improve rankings, enhance student services, and even employ graduates accumulates exorbitantly on the expenditure side of the ledger.

Third, there are the perennial complaints about the skills imparted during three years of formal schooling. The century-old case method is transitioning toward skills training. The task forces of the American Bar Association and the California Bar are urging us along.

The analysis of appellate decisions remains integral to the first year courses, but it would amount to an incomplete education at best. A competent lawyer must be able to reason from precedent and interpret statutes according to canons, but it would be an incompetent lawyer even if restricted to appellate practice, who could accomplish only those tasks. Whether it is substantive areas that were non-existent a generation ago, related to the internet for example, or techniques such as alternative dispute resolution, which were regarded as fads, there is so much more law to which a lawyer ought to be exposed. This is exacerbated by the demands within law firms, which are conducive to neither training nor mentoring.

A lawyer should be like a doctor. There isn't any medical school graduate who altogether lacks clinical experience. Every licensed physician has seen a live patient presenting actual symptoms before they charge anyone for a diagnosis. Yet some law school graduates manage to do quite well by book learning alone. They need not interview, counsel, or draft, to earn honors, if their exams and seminar papers are good enough.

The type of lawyers that the world looks for also have multiple skill sets. They blend STEM (science, technology, engineering, and math) backgrounds with the legal discipline. They were accountants, or, at a minimum, they can read a balance sheet and determine if a venture is making money or losing it. They are fluent at a business level, not merely conversationally, in Chinese, Spanish, Russian, or perhaps more than one other language. They are partners to their clients, taking seriously not only the concepts of representation but also advice and counsel.

Put all this together. There has not been, in the recollection of anyone now living, a similar set of challenges for law schools. As with all such situations, however, leaders must spot the issues. We are in danger. We should not deny that.

I welcome the opportunity. We must cooperate – bench, bar, teachers, students – to take apart the system and put it back together again better . . .

. . . A few excerpts to continue the conversation. Law schools cannot be the proverbial “ivory tower,” even if their constituents would like to construct them as such. There is no “moat” sufficient to protect them from the bench and the bar, with which they should be related anyway.

Law Remains Vital

Look at China. Specifically, observe what happens when a Chinese citizen who is ambitious and intelligent makes some money. I don't mean they become superrich. I mean they attain a middle class status comparable to the average American.

The Chinese invest in the United States. They put their new-found wealth in American bonds, American stocks, and American real estate. They do so on a staggering scale that plays into the fears of Yellow Peril. More to the point, they transfer assets to the United States (including human capital in the form of children to be educated), notwithstanding the relative growth rates of the two nations. That is, they prefer the United States with its more modest returns.

The reason is law. In American Treasury Bills, companies, land, or even plain bank deposits, the ordinary person can have confidence that, whatever partisan political changes take place and despite government shutdowns, there is an extraordinary high likelihood that nobody will steal one's possessions. An infrastructure has been built, imperfect though it may be, ensuring that.

But We're Never Coming Back

People ask me all the time, “Isn't it all a cycle?” They want to know if the legal marketplace will come back, with legal education then following.

My answer is, “No.”

A better answer, like most law professor's answers to simple questions, would be, "It depends on what you mean."

Yes, law as a business will rebound. It has already done so by some measures. However, it won't come back in the same form. Nothing ever does.

We all are the products of our backgrounds. For me, that means Detroit.

The American automakers, which gave the Motor City its nickname, once enjoyed 99% market share. You can look it up or ask your grandfather, who likely was a "Ford man" or a "Chevy man," identifying with a brand as marketing gurus wish for. That was transformed by the oil shocks of the 1970s.

Despite the challenge from overseas, "Big Four" car companies always believed that the domestic consumer would be patriotic and prefer their products. It is true, as gas prices dropped intermittently, shoppers demanded land yachts again. But the recovery was always to a point lower than before; there also was realignment underway that cannot be reversed.

There is an even more pertinent example for legal education. It is so-called "BigLaw." I should insert the caveat that the giant law firms, whether they are high-end or mid-market, have always constituted a minority of the bar, even in economic boom times. They serve as an excellent example, however, of how these two phenomena should not be confused.

Alongside the normal business cycle on the one hand is profound market restructuring on the other hand. The cycle should not obscure the trend.

While many law firms, those that remain, are enjoying profits per partner at levels that exceed the bullish figures before the Great Recession, they are doing it by different means than before. Assuming business picks up, which it has in some specialties and a few regions (but ought not be counted on more generally), law firms that have come to terms with this environment are not likely to revert to their former selves. They altered their cultures permanently, even if they were motivated by circumstances that were temporary. Unlike an automobile factory, a law firm does not recall laid off employees.

The structure of successful law firms is different now. They have bounced but to a different place.

The guaranteed means of ensuring increased profitability with flat revenue, not to mention decreasing demand, is to share the money with fewer people. This is hardly a sustainable model of growth. It does highlight the point that there are different configurations of the business model that may be more efficient, and those are increasingly the norm. Firms have revised the length of the partnership track, the amount of leverage, the requirements of equity, stratification of compensation, calculations of realization rates, and roles within the organization.

Yet I remain an optimist about the rule of law. The reason is legal services are still needed. The very economic factors that are disruptive necessitate new legal responses.

Our economy is about constant change. The tech sector depends on innovation. But everywhere else too that has become the norm. Ford, GM, and Chrysler are even offering exciting products.

The Intellectual Equivalent of Social Climbing

I would like to offer a hypothesis as to why law professors have become obsessed with producing scholarly work that most members of the bench and the bar regard as by and large useless verging on absurd.

The lament has been heard before.

As early as 1936, Professor Fred Rodell wrote a farewell to law reviews. He said about everything that could be said about the matter, declaring there were only two things wrong with almost all legal writing: "One is its style. The other is its content."

Twenty years ago, the Honorable Harry T. Edwards of the D.C. Circuit Court of Appeals, a former professor himself, criticized the trend of law professors becoming more like professors in other academic disciplines and less like judges and lawyers. A symposium was convened to study his complaint.

Yet the disapproval has blossomed into resentment of late. Entire books have been published decrying the role of law professors as scholars. We are writers subsidized by our students.

Nowadays anyone who discusses legal education without urging the prompt destruction of law schools is said to deserve personal attacks. Thus I'd like to open with a disclaimer about my own background. I began my academic career as a clinical professor. For seven years, I supervised student attorneys who did the most practical work that made them ready to represent clients. Their case files were grandparents in child custody disputes, tenants in eviction cases, indigent individuals who nonetheless needed a will, and so on.

So I agree with critics. Almost all law schools have done much more than most observers would give them credit for, promoting skills training -- but there is still work to be done.

An additional caveat before proceeding. My intellectual interests are grounded in another sense as well. I'd rather describe the world as it is (from an original perspective), than prescribe how it ought to be. What follows is an attempt to do that, not a defense of the situation.

Here is what has happened. There is a sequence of steps. Each of them appears rational in isolation. But cumulatively they lead to consequences that no group of actors foresees much less intends.

Alumni and students, among others, want their school to be highly ranked. The value of their degree depends on it.

Deans and professors concur. Our career success and satisfaction is measured by progress in this regard. We move our school up, or we move ourselves up.

An important factor in rankings are peer surveys: you are only as good as other professors believe you to be. To impress other professors, we aspire to be like them. Specifically, we as a collective body try to resemble the professors at the most prestigious schools. Either we imitate them or we hire them. Or, if we can't afford the famous names, we at least attempt to recruit as new colleagues the students whom they have mentored.

A digression. I'm reminded of an exchange that writers F. Scott Fitzgerald and Ernest Hemingway are reported to have had.

Fitzgerald remarked, "The very rich are different than you and me."

Hemingway replied, "Yes, they have more money."

Colleagues at the most elite schools can afford to undertake whatever scholarship they deem worthwhile. They can do so because their schools are supported by endowments that allow them to pursue projects as they wish. They are in the position to set the standards. Thanks to their reputation and network, their students are sought after regardless of whether they are prepared well—or at all—for a service profession.

The desire to avoid being perceived as a "trade school" becomes a self-perpetuating cycle. Professors have invented a metric for themselves. We assess our influence by "citation count." It's akin to Googling yourself. We track the number of hits for our names (and our rivals') in the database of law reviews.

People are rewarded on this basis: promotion, tenure, chairs, prizes, and raises. The number becomes not only a measure for merit but the primary means of defining it.

There is a school that symbolizes all of this. Yale.

A handful of law schools produces the majority of law professors. But none more so than Yale.

Discussion Outlines and Materials

Ironically, Yale was the home of “Legal Realism” long ago. That academic movement, as its name suggests, was all about the law as it operates in the “real world.” Rodell was a member of that school of thought. He supposedly never became licensed as an attorney.

It isn't all the fault of one Ivy League institution. All of the selection mechanisms of faculty members favor geeks. (I know: I'm one of them.) These preferences coincide with, if they do not directly cause, a distinctly cerebral orientation of the resulting community. (The corresponding desire to produce the “best” law school by conventional metrics means admitting students who happen to possess the highest test scores and undergraduate grades.)

The effect ratchets. The more sophisticated the work, the more solipsistic it seems. To be sophisticated, one must know what “solipsistic” means. In this enclosed environment, they have an expert who has a Ph.D in addition to a J.D.; consequently we need a pair with credentials to match.

Lest anyone wonder, I have nothing against Yale or its alumni. Some of my best friends are Yale graduates—just kidding. (For the record, I went to the public law school down the road from where I grew up and wouldn't have considered any other place a rational choice back when “in-state tuition” was meaningful.)

My point is that Yale is Yale. Very few other law schools should try to become a pale Yale. They don't have the financial resources.

It's great to hire a smattering of their graduates, clutching a Ph.D with their J.D., who emerge into the market each year. But even in New Haven, they recognize the need to recruit people who were educated elsewhere.

There is another reason for the overwhelming mass of heavily-footnoted nonsense. Students at Yale and elsewhere are no less savvy than their teachers. They want to impress prospective employers. They know that a means of distinguishing themselves is that line on one's resume that says “Editorial Board” of XYZ journal. They have an incentive to found more journals.

Coupled to the boom in law schools (opening at a rate of more than one per year for a generation), the proliferation of student-edited publications, a true anomaly in academe, means an accelerating demand for material. Assuming the ratio of quality work to dreck has remained approximately constant throughout, the absolute quantity of lousy ideas mathematically must have increased. The signal is overwhelmed by the noise.

These dynamics are no accident. You want smart; we'll give you smart.

The New Normal and Our Pedagogical Mission

Ann Shalleck, Laura Rovner, Donna Lee, Phyllis Goldfarb,
Wendy A. Bach, Claudia Angelos

Descriptions: New Experiential Offerings

A. Add-on for additional credit to doctrinal or topical course

1. Nature of legal work – someone else’s legal matter conducted in a practice setting and attached to a course on a related topic
2. Student experience – students work on (or are participant observers of) legal practice in legal institution – could be unitary (everyone does the same work) or varied (students engage in different projects)
3. Educational Settings
 - Supervision – by lawyer on site
 - Class (seminar) and/or rounds – faculty member integrates student work on (or observations of) legal matter into the doctrinal/topical course (provides framework for understanding experience)

B. Faculty projects as courses

1. Nature of legal work – faculty member’s work in the real world, such as commenting on regulations, writing reports, litigating a case; may be at the law school or in a center or organization with which the professor is affiliated
2. Student experience – students “help” faculty member with his/her projects
3. Educational Settings
 - Supervision – by faculty member or participant in faculty member’s project
 - Class (seminar) and/or rounds – faculty member creates a class with a framework for understanding student work on his/ her project in context of broader issues about law, legal system or lawyering

C. Short legal experiences

1. Nature of legal work -- discrete, short, clearly bounded legal activities (short-time-frame to complete legal tasks or unbundled services, such as advice/referral)
2. Student experience – students work on short legal activities that are responsibility of the legal organization
3. Educational settings
 - Supervision – by faculty member or lawyer from organization
 - Class (seminar) and/or rounds – faculty member creates a class with a framework for understanding how student work on short activities relates to law, legal system, or lawyering

D. Placements outside law school without faculty supervision

1. Nature of legal work – legal matters of the organization at which students are placed
2. Student experience – do legal work assigned by lawyers at the placement
3. Educational settings
 - Supervision – by lawyer from organization
 - Class (seminar) and/or rounds – lawyer at placement creates structured settings for teaching students what they need to know for their work at the placement and opportunities to discuss experiences

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Goals and Characteristics of Clinics¹

Goals

- Developing a Professional Identity—assuming the lawyer’s role, exercising professional responsibility for clients, integrating personal and professional identities, assuming responsibility for justice and systemic improvement
- Developing a Contextual Understanding of Client’s Legal Problems—understanding the way legal problems arise and are experienced by clients, understanding the client’s context, seeing through other’s eyes
- Developing a Critical Understanding of Legal Process—understanding facts and their uncertainty, understanding law and its ongoing development through lawyering and interpretation, examining law’s role in creating justice and injustice
- Developing Capacity to Think as a Lawyer—narrative thinking, strategic thinking, contextual thinking, critical thinking, building and applying theory, self-awareness
- Developing Capacity to Act as a Lawyer—exercising judgment, problem-solving, using law as an advocacy tool, building advocacy skills, identifying and naming skills, synthesizing and managing information, developing facts, forming client relationships, collaborating and relating to others
- Developing Capacity to Learn as a Lawyer—reflecting on experiences, identifying lessons and meanings of experiences, developing habits of learning, understanding one’s learning process, transferring skills to new contexts

Characteristics

Student experience doing real legal work

- Clinic is a lived experience for the student. The student acts as a lawyer on a legal matter for a client. The student has ownership over and responsibility for the legal work, the relationship with the client, the decision-making with the client, and the results for the client.

Student experience of learning from doing real legal work

- Develop and use conceptual frameworks before, during and after lawyering tasks.
- Develop an ability to anticipate and act in the face of indeterminacy of law and fact.
- Develop transferable knowledge by generalizing from specific experiences to concepts used in lawyering frameworks. In this process, develop good lawyering habits and the stance of a reflective practitioner.
- Through reflection, naming and connecting experience to frameworks of understanding, begin constructing professional identity.

¹ In the process of planning this session, we have grounded our understanding of experiential learning in the two types of offerings that, with much work over many years, have developed clarity around learning goals, pedagogical structures and methods, and the student experience: clinics and externships. This document focuses on in-house clinics but with an awareness both that clinics and externships share many learning goals (even if realized in different ways) and that it is a best practice for law students to participate in both a clinic and an externship during their law school careers. For a wonderful discussion of these issues in the context of externships, see Carolyn Wilkes Kaas with Cynthia Batt, Dena Bauman & Danny Schaffzin, *Delivering Effective Education in Externship Contexts*, in *Building on Best Practices: Transforming Legal Education in a Changing World* (forthcoming).

- Develop critical perspectives on the client's experience, on lawyering and the profession, and on the institutional systems involved in a legal matter.
- Develop understanding of how contexts, such as relationships and community, matter in the lives of clients, and how societal structures such as culture, race, gender, poverty, inequality, exclusion and marginalization operate throughout the legal system.

Faculty role in teaching

- Intentionally chooses learning goals, designs and executes pedagogical structures, and chooses methods most likely to accomplish goals.
- Uses pedagogical structures that enable students to do legal work and to learn from having responsibility.
- Uses supervision frameworks that generate, facilitate, and support student responsibility and learning.
- Teaches a seminar that provides frameworks that draw on and guide student work.
- Leads rounds that facilitate peer learning and focus on reflection, strategic thinking, acting in the face of indeterminacy, transference, and other topics central to learning goals.

Faculty role in choosing legal matters and constructing setting and other environmental factors

- Designs system for selecting cases and/or projects, taking into consideration student capacity and learning goals.
- Teaches (alone or in partnership) all aspects of the clinical course and supervises legal work.
- Chooses, develops, and shapes the setting in which the legal work is done and the supervision framework is implemented.
- Clients “belong” to the clinic at least for the period in which the students represent the client in the legal matter.

Technology and Legal Education

Larry C. Farmer, Karen Swan, Angela K. Upchurch

Online education is an expanding and rapidly evolving method for delivering instruction across the educational spectrum. As this form of instruction evolves, it seems likely that a “new normal” for clinical legal education will include some forms of online learning. With that possibility in mind, this panel explores what form online instruction might take in the clinical setting where face-to-face interactions between professors and students are central to clinical teaching methodology.

The panelists, who have all used online technologies in their teaching, will consider ways in which clinicians can leverage online technologies to optimize their teaching resources and bolster student learning. Specifically, this panel will explore how online learning technologies can be used in clinical legal education to: (1) teach foundational concepts and theories outside of classroom; (2) provide feedback and assessment on written materials; and (3) provide feedback and assessment on recorded performances or simulations.

Larry Farmer, Marion G. Romney Professor of Law at the BYU Law School, will help us consider whether a topic that is central to clinical legal education – client interviewing and counseling – could be introduced to beginning clinical students using online methods. The idea would be to help prepare students for client interactions through the use of online modules that would offload and sequence basic interviewing and counseling instruction and provide students with “just-in-time” training.

Angela Upchurch, Associate Professor of Law at Southern Illinois University School of Law will talk about her use of video technologies to provide feedback and assessment on written work. Using screen capture software, Professor Upchurch provides a dynamic demonstration of feedback by capturing edits to written material that she makes on the screen while providing commentary about why she is making the particular the edits. For example, the student watches as the professor moves paragraphs or sentences in the writing sample or deletes and rewrites words or phrases. The professor can stop and provide commentary while making these edits to explain the rationale for the suggested revisions.

Karen Swan, Stukel Distinguished Professor of Educational Leadership and Faculty Associate, Center for Online Learning, Research and Service, University of Illinois, Springfield, will assess the online methodologies in light of learning theory. Her research focuses on how to build successful online learning communities and the Community of Inquiry framework. She is also researching how teaching and learning is changing in response to the digital revolution.

Exploring New Possibilities through Technology: Preparing Students to Practice in the New Normal

Jonathan Askin, Luz Herrera, Conrad Johnson

Technology is changing every aspect of society, including the practice of law. How does this change our role as clinicians? As lawyers, we must understand how technology is changing our practice in order to be the most effective advocates for our clients. As teachers, we need to prepare our students for the opportunities and challenges that technology brings for them as future practitioners. As leaders in promoting access to justice we must evaluate and foster the use of technology in a way that best serves our communities and society as a whole. During this mini-plenary, our speakers will explore how technology is disrupting legal practice and how clinical and experiential education can not only prepare our students for the new normal but lead in harnessing new innovations in practice to solve issues of access to justice.

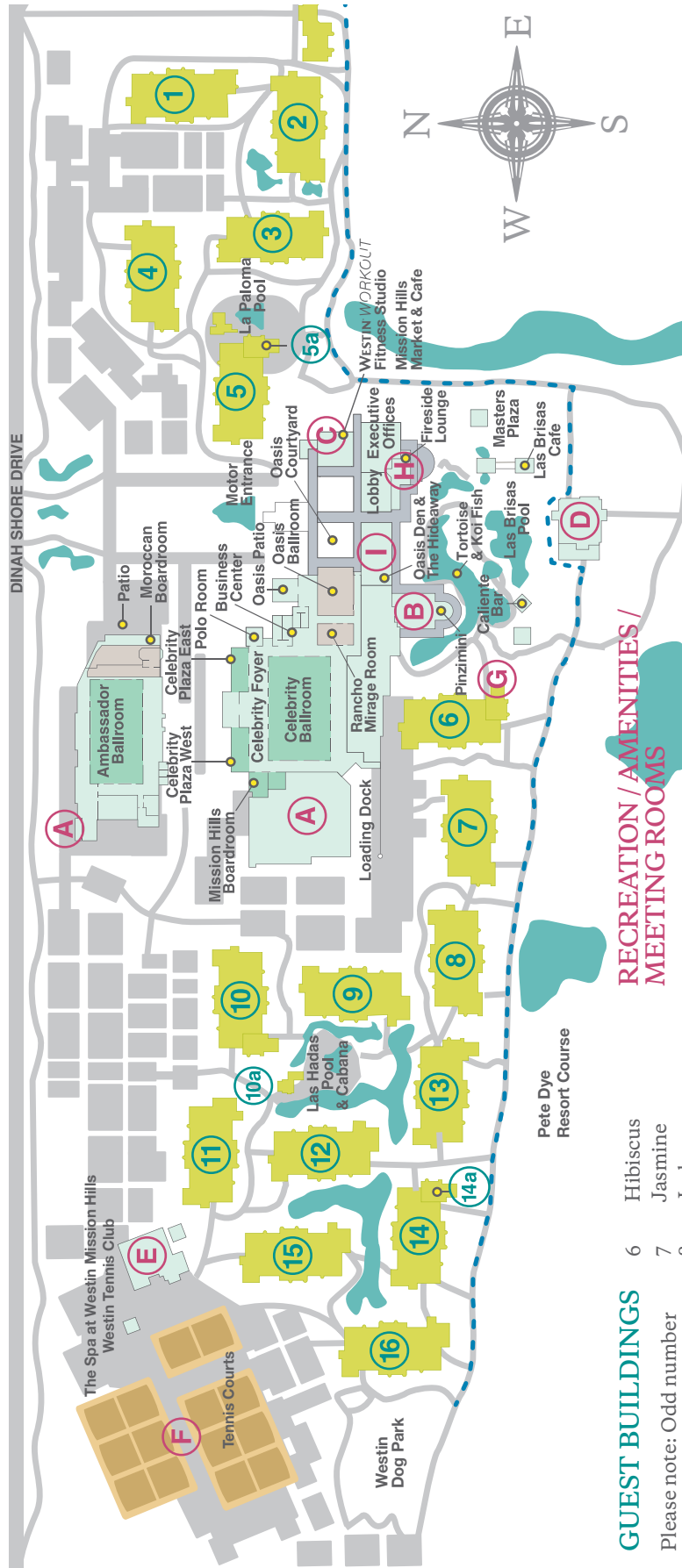
This plenary will also allow audience participants to explore ways technology can be used to improve their own practice and improve justice in the areas and communities in which they work.

Jonathan Askin, founder and director of the Brooklyn Law Incubator & Policy Clinic (BLIP), imbues the “hacker” ethos into his law students by collaborating with technologists. He teaches courage and creativity while his students address problems ranging from revenge porn to the needs of parolees.

Luz Herrera, Assistant Dean of Experiential Learning at UCLA, has a range of experience preparing law students for practice in the new normal, including developing the Small Business Law Center at Thomas Jefferson and The Center for Solo Practitioners, a business incubator program to help graduates understand how to establish and operate their own law firms to serve underserved populations. She views technology as a means for advancing access to justice by allowing lawyers to serve more clients efficiently – and believes law schools have an obligation to prepare students to integrate technology into their practice and to work with technology experts to ensure that lawyers are advancing best practices for legal service delivery.

Conrad Johnson, co-founder and co-director of the Lawyering in the Digital Age Clinic at Columbia Law School, has been teaching his students about the intersection of law practice and technology for the past 15 years. His clinic produces deliverables for public interest legal organizations and the judiciary. Their work demonstrates how access to justice can be achieved by advocating for systemic change through technology integration.

Gary Player
Golf Course



GUEST BUILDINGS

Please note: Odd number guest rooms are located on ground level. Even number rooms are located on second level.

- 1 Acacia
- 2 Agave
- 3 Bougainvillea
- 4 El Pino
- 5 Gardenia
- 5A Hospitality Suite
- 6 Hibiscus
- 7 Jasmine
- 8 Joshua
- 9 Lantana
- 10 Mesquite
- 10A Hospitality Suite
- 11 Ocotillo
- 12 Palmera
- 13 Palo Verde
- 14 Rosa
- 14A Hospitality Suite
- 15 Saguaro
- 16 Tamarisk

RECREATION / AMENITIES / MEETING ROOMS

- A Meeting Rooms
- B Pinzimini Restaurant
- C WESTIN WORKOUT Fitness Studio
- D Mission Hills Market & Cafe
- E Pete Dye Clubhouse
- F The Spa at Westin Mission Hills
- G Westin Tennis Club
- H Tennis Courts
- I Westin Kids Club
- J Fireside Lounge
- K Oasis Den & The Hideaway

THE WESTIN

MISSION HILLS

GOLF RESORT & SPA

AALS Calendar

Workshop for New Law School Teachers with Additional Sessions for New Legal Writing Teachers

Wednesday, June 3 - Friday, June 5, 2015, Washington, DC

Workshop for Pretenured People of Color Law School Teachers

Friday, June 5 - Saturday, June 6, 2015, Washington, DC

Midyear Meeting

Orlando, FL

Workshop on Shifting Foundations in Family Law: Family Law's Response to Changing Families

Monday, June 22 - Wednesday, June 24, 2015

Workshop on Measuring Learning Gains

Monday, June 22 - Wednesday, June 24, 2015

Workshop on Next Generation Issues of Sex, Gender, and the Law

Wednesday, June 24 - Friday, June 26, 2015

Faculty Recruitment Conference

Thursday, October 15 - Saturday, October 17, 2015, Washington, DC

Conference on Clinical Legal Education

Saturday, April 30 - Tuesday, May 3, 2016, Baltimore, MD

Future Annual Meeting Dates and Locations

Wednesday, January 6 - Sunday, January 10, 2016, New York, NY

Wednesday, January 4 - Sunday, January 8, 2017, San Francisco, CA

Wednesday, January 3 - Sunday, January 7, 2018, San Diego, CA

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