Are You Taking a Clinic Next Semester?

Professors John Barkai and Calvin Pang, Clinic Co-Directors

Many of your classmates will be taking a clinic, a skills course, or an externship next semester. You should consider joining them. Our school has recently been recognized for what many of us have known for years – namely that we offer more clinical enrollment opportunities than almost all other law schools in the country.

UH was ranked sixth in the nation for clinical opportunities for our students (National Jurist Feb. 2014). The very next month, the same magazine gave our clinical program another top grade. (National Jurist Feb. 2014). The ABA is planning to require some clinical experience as requirement for graduation.

Our school already has a 2-credit clinical graduation requirement, but our average student, recognizing the importance of clinical courses, takes between 7 and 9 clinical credits by the time they graduate. How many clinical credits do you plan to take before you graduate?

What clinical course you take is up to you, but here are some suggested areas: 1) a course about negotiating transactions or resolving conflicts without trial, 2) a course to develop witness examination skills, 3) a clinic where you will learn to represent clients, and 4) an externship where you see how a law office, public agency, or a judge’s office actually functions.

We say aloha to our newsletter guru Andrew Itsuno. Thanks to Andrew, the newsletter grew and improved with each issue. Thanks too to Nara Sitachitta who helped write several articles. Best to both as they graduate.

We hope to see you in a clinical course next semester!
The goal of the Elder Law Clinic course is to expose students to some of the practice areas of law that affect older persons and to some of the ethical and other practical issues involved in providing legal services to older persons and their caregivers.

Directed and closely supervised by Professor James Pietsch, the clinic combines traditional classroom education with the opportunity for students to provide direct legal services to the community. In addition to developing skills in interviewing clients and providing advice and counsel, students gained experience in drafting and executing legal documents for their clients.

This semester, the Elder Law Clinic had a special focus on veteran issues. The elderly veterans and their caregivers comprise a rapidly growing segment of the population with sometimes unique problems and legal needs. One poignant case involved a caregiver who is in the military and who was deployed to Afghanistan. She initially sought our help to provide legal services to her mother. Her mother was homeless for a while and had chronically abused drugs and alcohol. While the service member tried to provide a stable home for her mother, her mother’s mental state was precarious.

The service member requested a power of attorney for her mother so that she could give long distance support to her while in Afghanistan. In addition to her mother, the service member was a single mother who had an autistic child and a former abusive husband from whom she had won sole custody of her child.

Our elder law students interviewed the service member, dissected her myriad of issues concerning her elderly mother and young child, and together with their attorney mentor, they made some recommendations. It turned out that the advice and documentation she had been given previously were not adequate to say the least. The service member was most grateful for the clinic’s services and soon thereafter departed Hawai’i with much less worries on her mind.

Students also had the opportunity to make community presentations on Elder Law topics and the opportunity to participate in court cases involving guardianship or conservatorship. The course exposed students to practical legal issues related to caregiving and the provision of healthcare plus the opportunity to work with other professionals in the aging and veterans network. As a matter of fact one of the students is a Master of Social Work (MSW) candidate.

To help accomplish its goals, the clinic scheduled numerous in-house and several outreaches into the community, including visits to a nursing home, a continuing care facility, senior housing projects, and a veterans health care facility.

The clinic also participated in a “Marigold” seminar in the law school library on April 1st. Inspired by an award-winning film, The Best Exotic Marigold Hotel” the seminar was moderated by Professor Pietsch and arranged by Dr. Lenora Lee. The seminar’s objective was to explore the legal, medical, social work, financial, housing, and practical methodologies to help create an atmosphere where older family members can enjoy the highest possible quality of life and families can deal with caregiving situations without being stressed or laden with guilt and, most importantly, where the lives of older persons are so treasured that “they will simply refuse to die.”

Nationally-recognized elder law attorney and holistic care management expert, Rajiv Nagaich provided the keynote address and led the discussion of a practical case study, which followed three fascinating panel discussions. All three Elder Law Clinic lecturers in law, Scott Suzuki, Kristin Bryant, and Pamela Harms were among the expert panelists.
THE SMALL BUSINESS AND ENTREPRENEURSHIP Clinic, directed by Professor Gregory Kim, a licensed attorney with a specialty in business law, strives to expose students to all sorts of clients, from start up companies and mom and pop businesses, to high growth companies.

In addition to classroom work, where students are introduced to various business models and business law matters through the use of guest speakers and presentations, the small business and entrepreneurship clinic is also comprised of community outreach “mini” sessions and a client assignments.

For the community outreach mini sessions, the public is invited to sign up for 45-minute free legal sessions in which the clinical students are divided into groups of three to four and help answer basic legal questions regarding choice of business entity, start up concerns, formation and governance of limited liability companies & corporations, protection of names and trademarks, and other business law matters under the supervision of Professor Kim.

The mini sessions allow clinical students to think on their toes and apply their business law knowledge and client counseling and interviewing skills to members from the community. This semester, the clinic’s sessions were fully booked and served over 45 small businesses and entrepreneurs from the community.

Students helped a cake decorator and a fashion entrepreneur start a business

For the client assignments, student teams of three to four are assigned to two local business clients in the community and assist them in various matters, such as forming a business entity, drafting documents, and helping clients to identify possible legal issues that may arise.

This semester, the Small Business and Entrepreneurship Clinic had a variety of inspiring small business clients including a start-up cake decorator, two highly driven fashion designers, and individuals or groups with high tech ideas. The latter included a smart phone app developer, a program to train high tech web developers, and a nonprofit robotics group.

For the nonprofit robotics program, students had the opportunity to meet with the client several times and assist the client in becoming a nonprofit organization by explaining the legal procedures and forms needed to become a nonprofit organization, drafting the bylaws and articles of incorporation, and creating and drafting various consent forms. While the clients were able to gain free legal assistance from the Small Business and Entrepreneurship Clinic, students have also benefitted from the hands on experience.

“We have learned so much . . . in regards to seeing how much planning and work is involved”
- Jonathan Spiker, 3L

Clinical student Jonathan Spiker was assigned to work with the nonprofit robotics program. Reflecting on his experiences, he said, “We have learned so much from [the client], especially in regards to seeing how much planning and work is involved . . . . It has been a pleasure to meet the [the nonprofit’s] volunteers and offer as much assistance . . . .” Fellow student Wendy Ching added, “It was great to help [the client] out even if in a small way.”
**Serving the Keiki of Hawaii - the Child Welfare Clinic**

By Nara Sitachitta, 3L
as told to by Professors Jane Dickson and Liam Skilling

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**THE CHILD WELFARE CLINIC BRINGS TOGETHER**

students from a variety of disciplines (Law, Social Work, Nursing, and Education, usually) in order that they can learn with and from one another about child welfare issues.

Co-directed by Professors Liam Skilling and Jane Dickson, the Child Welfare Clinic’s goals are to improve the way in which clinical students understand, support, and serve child welfare services to children and families in our communities and to strengthen our ability to work collaboratively to make a more lasting difference in children’s lives.

In addition to classroom work, the clinical students work in interdisciplinary teams where they pursue projects with community organizations. Clinical students take their cues from the needs of these organizations and strive to create something meaningful and sustainable.

This semester, the clinic’s projects focused on work with the Next Step Shelter, the First Circuit Family Court, and Hawai’i Families As Allies. At the end of the semester, the students presented their projects to invited guests from the partner sites, the University, and the wider Hawai’i community.

During this celebratory evening, students described the semester’s work and invited the audience to share their ideas and suggestions to maintain or expand the projects.

One additional hope we have for the Child Welfare Clinic is that students in the course will become a resource for one another in the future, creating a lasting group of colleagues, allies, and friends who will collaborate to improve the lives of young people in Hawai’i.

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**Defense Clinic: My Memorable Moment**

Jessica Gima, 3L

A BUDDING LITIGATOR NEVER FORFEITS AN opportunity to interact with clients and go to court and that is exactly the experience Defense Clinic gave me.

Before I made any court appearances, I needed to meet with my client and gather the necessary facts. I had previously observed a public defender perform a few intake interviews, and when it came time to talk to my first client, I flew solo. I quickly learned how to interact with a tough client and ask the right questions. My client was charged with being in a public park after hours. She was homeless and had no money.

Finally, I found myself at my client’s hearing in Honolulu District Court. After making our appearances, the prosecution moved for a continuance, their first one in the matter. I decided that instead of simply objecting to the continuance, I would also move for dismissal.

I figured if it doesn’t hurt to try, it’s worth a shot. I argued my heart out for my park closure client. I argued that the case had been on the court’s docket for a long time and taking up judicial resources. I also argued that it imposed an unnecessary burden on my client to show up to court again when she was attempting to get her life back on track. Surprisingly, the Judge dismissed the case! Ultimately, I learned the following from my experience in Defense Clinic: The best way to learn how to be a lawyer is to actually be a lawyer.
The Immigration Law Clinic, instructed by Legal Aid attorneys, Stacia Silva and Daniel Pollard, gives students a small taste of each of the different practice areas that make up the field of Family Law.

Students gain a general understanding of Family Law by attending clinics at Legal Aid’s downtown office. At the clinics, Legal Aid staff members help people establish paternity, prepare custody and visitation orders, or get divorced.

The clinic then turns its focus to trial readiness. The students split into groups and prepare for a mock trial regarding a Temporary Restraining Order, which is based on a real case. The students are able to practice preparing their witnesses, introducing evidence, and conducting direct and cross examinations. This semester, Judge Viola, a Family Court Judge, presided over the mock trial and not only made rulings at the end of each trial but gave students valuable feedback.

Negotiation skills are also emphasized in the clinic. Students are required to participate in a negotiation exercise, based on a real case, where students on opposing sides must come to an agreement on issues of child custody, visitation rights, and child support payments.

In a final culmination of all the skills learned throughout the clinic, the students are required to represent a client in Family Court out in Kapolei. The cases range from Temporary Restraining Orders to child support modification cases. Students interview their clients at Legal Aid’s downtown office before advocating on their behalf in Family Court.

An English-speaking American. Students helped other clients who appeared to be human trafficking victims brought to Hawaii to provide cheap labor. Some of these clients resided on the neighbor islands. Finally, students also assisted clients who needed to renew or replace immigration documents essential to maintain or show their entitlement to remain in the U.S.

This semester, Professor Calvin Pang and Law Librarian Karen Schneiderman provided administrative backup. With Professor Schneiderman’s leadership and expertise, the clinic put into place an quasi-case management system using the Blackboard platform from Lexis-Nexis.
This year, the Public Interest Law Clinic handled two major issues, the first dealing with reestablishing driver licensing tests in languages other than English, and the second addressing the need for more equitable foster care payments.

For the driver’s license issue, students are working on a federal court class action lawsuit filed in September 2013. The issue was identified and developed to a large degree by the students and faculty during the clinic’s inaugural year in 2012-2013.

The suit challenges the Hawaii Department of Transportation’s (HDOT) English-only driver’s exam policy, which prevents LEP persons from passing the driver’s exam and obtaining a driver’s license, which is critical for self-sufficiency, especially on islands other than Oahu where mass transit service is limited.

Translated versions of the exam were previously used, but they were discontinued when a single question was added to the exam. Responding to the lawsuit, the defendants claimed that allowing non-English reader residents to drive would present a safety risk in spite of the fact that non-English readers/speakers visiting Hawaii are permitted to drive.

Students continue to work on the case, assisting with legal research and writing. One of the clinic’s faculty members, Gavin Thornton, reported that the efforts of the students through the lawsuits are having an effect—translations were recently put into place and it was reported that over 100 people have already taken the test in a language other than English. The U.S. Justice Department has submitted a filing with the court expressing its belief that HDOT’s English-only policy constitutes unlawful discrimination.

For the foster care payments case, students are working on legislative and media strategies, in addition to assisting in the workup of a federal court class action filed on December 3, 2013. The suit seeks an increase to the monthly payments made for the care of over 1000 foster children in the state. The monthly amount currently paid—$529—is required by federal law to cover nearly all the costs of caring for a foster child but has not been increased for nearly a quarter of a century. Had the payment been adjusted just for inflation, it would be over $950. Several students have had important personal and work experiences that have allowed them to make some very meaningful contributions to pursuing this issue.

One of those students, Stephen Downes, said, “The foster care case gave us invaluable insights into how class actions work—not only in how complaints are prepared, but also in how government agencies respond to them. And observing how lawyers on both sides work the case as it unfolds can be a lot more interesting and challenging than a typical class.”

I WILL NEVER FORGET MY FIRST TRIAL. It was a speeding ticket assigned to me in Prosecution Clinic.

Traffic Court is fast paced. My pre-trial interview indicated that my officer was well prepared. Combined with the fact that I had spent a lot of time preparing for this case, I was feeling confident.

However, when I asked the officer to identify the defendant, he said he couldn’t remember. This had never happened before. I can’t win a case if I can’t establish the defendant’s identity, so I’m sweating bullets. I had no idea what to do.

Luckily, I vaguely remembered the theory of prior identification from Evidence class. It’s a method of identifying a defendant, based on the fact that an officer was able to identify the defendant at a prior time (when the incident occurred).

I walked the officer through the prior ID questions. The judge ruled in the State’s favor and I won my first trial. More importantly, however, I learned an important lesson. No matter how much you prepare, anything can happen at trial. That’s just the nature of the beast.
Native Hawaiian Rights Clinic
By Professor Malia Akutagawa

The people of Manaʻe are working with large private landowners, the State Department of Land and Natural Resources, and conservation experts to develop a first-of-its-kind ahu`pua`a-based watershed management partnership. Ultimately the watershed management partnership will integrate community access and the development of a Hawaiian traditional resource management plan from mauka a makai (mountain to sea) along with conventional conservation strategies of fencing to keep out ungulates (hoofed animals), removing invasive species, and reforesting with native plants.

Our law students are assisting in this larger effort through providing a legal analysis of the various constitutional and statutory laws that protect Hawaiian traditional and customary rights as they relate to the actual cultural practices of Manaʻe residents. The students are also creating a set of recommendations for cultural access and management that are solutions-based and mitigate potential user conflicts.

At the close of the semester, students conducted four community outreach workshops in Hilo and Waimea on Hawai`i Island to nearly a hundred attendees. Students shared legal primers on traditional and customary Hawaiian rights and state and federal laws on native burials preservation.

These workshops were sponsored by the Office of Hawaiian Affairs in partnership with the Ka Huli Ao Center for Native Hawaiian Law. Community members were very engaged in the presentations and asked our students tough questions on a number of issues affecting them. It was a very positive experience for our students in cultivating their confidence, advocacy skills, and a strong sense of kuleana to serve community.

Students also joined Professor Kamana Beamer’s Aloha `Aina Land Tenure class on hauka`i to Kuamo`o, an important place in Hawai`i’s history. Our students also linked up with the UH College of Anthropology’s O`ahu North Shore Field School and learned about applied archaeological field work as a complement to their acquired legal knowledge of burials and historic preservation laws.
The Clinical Program at The William S. Richardson School of Law provides its students with three ways to gain crucial “real world” experience to supplement their legal education: Live Client Clinics, Simulation Courses, and Externships.

Although completion of the JD program requires only two credits from a designated clinical course, UH Law students average nine clinical credit hours upon graduation. At present, externships do not satisfy the clinical requirements for graduation.

Simulation clinical courses provide students with an opportunity to learn valuable professional skills and values in hypothetical situations developed by their teachers. Because real clients and their cases are not involved in these classes, teachers and students can take risks to achieve articulated educational goals, often to great effect.

Through a loop of feedback, reflection and repeated efforts, students grow in their lawyering skills and professional identity. These courses are largely taught by seasoned attorneys attuned to the everyday realities of law practice.

At the William S. Richardson School of Law, students can choose between three types of clinical courses to supplement their legal education.

- Child Welfare Clinic
- Criminal Defense Clinic
- Elder Law Clinic
- Environmental Law Clinic
- Family Law Clinic
- Hawaii Innocence Project
- Immigration Law Clinic
- Medical Legal Partnership for Children Clinic
- Native Hawaiian Rights Clinic
- Prosecution Clinic
- Entrepreneurship and Small Business Clinic
- Public Interest Lawyering Clinic
- Business of Law Practice
- Environmental Litigation Seminar
- Estate Planning Workshop
- Lawyering Skills Workshop
- Mediation Workshop
- Native Hawaiian Law Litigation Seminar

Outgoing Comments

First and foremost, I would like to thank Professor Calvin Pang, for the opportunity to serve as his research assistant for the past three years. It has been an incredible learning experience working with such a visionary. Thank you for being so patient and for always offering your positive words of encouragement. I will never forget your kindness.

Furthermore, I would like to thank Nara Sitachitta, 3L, for helping organize and write articles for this newsletter, as well as the numerous professors and clinical instructors who took the time to submit articles, or meet with me for interviews, so I would have enough material for this newsletter.

Lastly, I would like to thank my classmates who provided me with their clinical experiences. They helped start up the “Students Speak” and the “My Memorable Moments” sections, injecting student perspectives into this newsletter. They have also made law school such a joy for me.

It has been an honor and a privilege to have been given the opportunity to help put together the newsletter for the Law School’s 40th anniversary.

Mahalo,