A Ground Floor View of the Economic Recovery

If you read the news’ stories, trying to figure out whether or not we are in an economic recovery or a continued period of decline is harder than trying to figure out whether eating (eggs/butter/fish) is good or bad for your health. A scan of today’s headlines reveals the country has, thousands of new jobs... but fewer new jobs than expected/needed. Unemployment rates going down... but the unemployment rate is likely inaccurate because so many no longer qualify for unemployment. Housing prices are up seven percent, so the housing market is recovering!... but seven million people are already spending more than 50% of their income on housing.

How has the so-called economic recovery been reflected in the types and numbers of cases we see at the Neighborhood Law Clinic? Throughout the last several years, a steady tide of individuals has come to the clinic seeking help with rental housing issues. However, in recent months we have seen an uptick in employment cases. Many of these are unpaid wage and unpaid contract claims. Is this a sign of economic recovery? One idea is that in when the economy is at its worst, workers were content to have any work, even if the pay was not always coming in, so they did not seek us out as often.

Many of the law students were fired up the first time they encounter an unpaid wage case. How dare that employer not pay a hard worker his or her earnings! Now, we do see a few cases where the employer simply short changes employees to pad his pockets and/or coerce his staff. But more often we see employers who are squeezed for resources. For example, fact investigation on a recent case for a construction laborer who was not paid about $2,000 in wages revealed that his mid-size employer already had a case filed against a larger business for more than $60,000 in unpaid invoices. The mid-size company was not getting rich off the backs of its workers. Rather, it simply could not pay its employees because it had not been paid. If a rising tide raises all boats, the reverse is also sadly true.

The state of the economy has challenged us to reconsider who can be a client. The clinic—which normally represents tenants in rental housing matters—is currently representing a landlord. The landlord is an older gentleman who lost his job of nearly 20 years, then lived off of credit and his meager life-savings, and is now having troubles with the one apartment he rents out. He cannot afford to hire an attorney and is considering filing bankruptcy. Students working on his case are getting the valuable experience and perspective that can only come from working on both sides of housing laws and regulations.

Yes the swings in the national economy have provided some changes in the types of cases and clients we see. Nevertheless, one constant throughout a changing economy is that the Economic Justice Institute clinics are still here, providing expert serving to vulnerable clients in

EJI Director’s Welcome

As I write this column I am engaged in an effort to reinstate funding for civil legal services in the next biennial budget. As you may know, funding for civil legal services was completely eliminated in the last budget cycle. As a member of Wisconsin’s Access to Justice Commission, I am working with others to persuade the legislature to reinstate $3 million dollars to fund much needed civil legal services for our state. Access to justice is the most important underpinning of our justice system and requires our continued attention as members of the legal community.

As you know, our legal clinics were developed with a social justice mission. Our work on behalf of the underserved in our community instills in our students a deeper understanding of the needs of underserved populations and provides them with the tools to successfully advance their clients’ interests, whether in the court room or in the legislature. Our (continued on page 4)
Ann has been the Law School's pro bono program director since April 2011. Among her first projects was to create a Pro Bono Society where students who perform a prescribed number of hours of law-related, volunteer service are inducted prior to graduating with pro bono honors. Upon graduation they are given a purple pro bono award cord and they receive special recognition.

Ann also has spear-headed the development of a variety of pro bono projects and student participation is increasing every year. This past year, the Veterans Law Center opened in conjunction with forming a Veteran Law Society at the law school. More than 50 lawyers received training and regularly volunteer at the clinic. Another recent accomplishment was the Indian Wills Caravan Alternative Winter Break project. Students and attorneys prepared 250 wills and other estate-planning documents in just a few days for members of Native American communities. Ann's latest accomplishment is developing an online ethics course that students will take prior to engaging in a pro bono project. This project, developed with Professors Marsha Mansfield and Ben Kempinen, is one of the first in the country. Ann will be introducing the course to other law school pro bono coordinators at a session of the Equal Justice Conference in May.

Looking ahead, Ann notes, "My goal is to reach all students so I keep trying to come up with different ideas that will appeal to different groups. When you watch the students graduate and get their purple cord, it's a great moment. But it's also a small victory, because the real hope is that the students keep going and pay it forward." We are proud of Ann's accomplishments and congratulate her on receiving this award.

A Day in the Life of a FCC Student

Students in the Family Court Clinic encounter a wide range of issues, some of which can be quite challenging. Self-represented litigants often present difficult questions involving parties that have disappeared and cases that were initiated in another state. The students have to figure out the complex laws applying to these interstate (or international) matters in order to provide adequate guidance and advice.

One such case involved Mario (a fictitious name) who lived in Wisconsin with his three children, all of whom were born in California. The mother had left the family and returned to Mexico while the family was still living in California. Mario moved to Wisconsin to be closer to his family. Recently the mother of Mario's children threatened that she was coming to Wisconsin to take the children back with her to Mexico. There were no orders entered, either in California or Wisconsin, and Mario was afraid that she would make good on her threats.

When Derek Daron, a 2L interviewed Mario, he decided that Mario needed more than the information and assistance with forms that the students provide in the outreach clinic. We decided to represent Mario and Derek began researching the laws applicable to initiating an action in Wisconsin.

The Uniform Child Custody and Jurisdiction Enforcement Act (UCCJEA) is a model act that has been adopted in Wisconsin. This statute allows Wisconsin courts to take jurisdiction of matters where children or parents may be living somewhere other than Wisconsin. Although Mario had signed Acknowledgments of Paternity for each child in California, there had not been any legal award of custody. This meant that, if this case satisfied the requirements for jurisdiction under the UCCJEA, a Wisconsin court could make the orders that Mario sought.

After his research, Derek concluded that Mario could proceed under the UCCJEA but that the mother of the children required notice of the proceeding. We struggled with that requirement. Derek investigated the cost of serving the mother, but it was prohibitive. Since she lived in a small town in Mexico it also was not feasible to publish in a local paper. After reading more about the UCCJEA's notice requirement, we decided that it was a lower threshold to meet than personal service under Wisconsin's rules of civil procedure.

Arrangements were made to have the paperwork delivered by UPS as well as by regular mail and we obtained the tracking receipt from UPS confirming delivery. Mario subsequently received a text message from the mother that acknowledged receipt. Armed with this information and his legal arguments, Derek and Marsha Mansfield went to court.

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Rosa Frazier Says Good Bye

May of 2013 marks my fourth year as Director of the Domestic Violence Immigration Clinic (DVIC). During those four years we've helped over one hundred victims of violence apply for immigration relief. Upon its inception the clinic collaborated with RISE Law Group, now part of the Wisconsin Coalition Against Domestic Violence (WCADV). We also collaborated with Domestic Abuse Intervention Services, UNIDOS Against Domestic Violence, Centro Hispano, and self-referrals that came to us from "word of mouth". We've seen much success over that time with approvals for U Visas, VAWA, Special Immigrant Juvenile Status, and Deferred Action Childhood Arrivals.

I've had the opportunity to work with 26 dedicated students who have spent countless hours interviewing, managing their cases, researching and writing, translating, and investigating their cases. DVIC collaborated with the Family Court Clinic to staff the Restraining Order Clinic at the Dane County Courthouse. Some students experienced going to Chicago's Immigration Court and seeing the federal court process in action. The students have worked with local, state, and federal law enforcement seeking needed police reports, prosecutorial complaints, and signatures from law enforcement. They have proceeded with the utmost professionalism as they advocated for their clients.

It is with a heavy heart that after so many personal and professional accomplishments during my time with DVIC, I am ending my work at the close of the Spring 2013 academic year. I will always think of my time here fondly. I have learned so much professionally and personally, and I hope that I've served the University of Wisconsin Law School, DVIC, and EJI well during my time here. I'd like to thank Dean Raymond, Marsha Mansfield, Meredith Ross, Walter Dickey, former Dean Ken Davis, and all my students for this very rewarding experience. As far as what the future holds for me, I am not sure. But I can guarantee that I will find myself at the local hardware store seeking items for my next home renovation project or at the municipal golf course teaching my eleven-year-old daughter how to manage the greens. Thank you.
A Day in Immigration Court

The day certainly starts on an off-note. Huge drops of rain and tiny balls of hail pelt the windshield of our car so hard that we can barely talk over the resulting din. We are more than thirty miles from downtown Chicago, with less than ten feet of visibility, and the hearing starts in less than an hour. I guess the only good news is that the storm is distracting me sufficiently so that I forget how nervous I am about my first time speaking in Immigration Court. Instead, I am nervous about us and our witnesses (who are travelling separately) not making the hearing on time. But make it we do, with just about five minutes to spare.

Our witnesses, the wife, brother, and goddaughter of our client, are visibly relieved when they see us stumble into the United States Citizenship and Immigration Services building from the other side of the security checkpoint. We rush through security and down to the basement, finding the tiny room where our client’s hearing will take place just a minute or so before the Judge enters. The venue is tiny, rectangular, with church pew-style public seating sprinkled around the oversized air conditioner that dominates the room. The Chief Counsel (the immigration law equivalent of a District Attorney) is already waiting for us at her desk.

A guard leads our client, shackled at the wrists and wearing prison garb, into the courtroom. Despite his burly build, graying hair, and tattoos, his face looks almost childlike. He also looks afraid. He is facing deportation for taking some of his wife’s prescription pain medication, which he maintains was an accident. If he is deported, his wife and seven year old daughter will lose someone they love, and their primary financial support. I need to convince the judge that he is a good person, that his family will struggle without him, and that this mistake is out of character. I have already met his wife and been to his house to practice testimony with his family. The night before the trial, I lay in bed thinking about them.

The hearing starts badly. We filed supplemental exhibits a few days before the hearing, but for some reason the judge and chief counsel have not received them. I flip furiously through my file for the original versions. I am also admonished by the judge for translating documents from Spanish—apparently, someone else besides counsel for the respondent needs to translate. After I start my direct examination of my client, however, I slide into the rhythm. I work through my client’s testimony, and also that of his wife. Their testimony is good; detailed, and convincing. A few hours have passed. The room is humid and my throat is dry.

After the wife’s testimony, the Judge suddenly turns to Chief Counsel: “In light of the testimony given, does the government oppose the grant of Cancellation of Removal?” “No, your honor,” she responds. My supervising attorney nudges me. “We just won!” she says in a stage whisper. All of a sudden, I am outside the courtroom shaking the hands of my client’s family members. I feel lightheaded, like I am dreaming. I am going home tonight. So is my client. Incredible.

-Kevin Layde

Welcome (continued from page 1)

programs are limited, however, because of their size and the number of cases or projects that we can handle. That is why our community partners play such a vital role in the work that we do. Our clinics work closely with so many agencies, such as the Worker’s Rights Center, Domestic Abuse Intervention Service, Community Justice, Inc., the Foreclosure Task Force, and the National Immigrant Justice Center. These collaborations expose our students to different types of lawyering skills and strategies that enhance their abilities to represent particular populations that we all serve.

We are grateful for the support of our community partners, for our committed Board members, for the lawyers and law firms that support our work, and for the continued support of the Law School. We also appreciate your financial support. Although our programs are funded by the University and Law School, in this time of economic challenges we are always cognizant of the uncertain future. We hear from so many of our alumni how valuable the clinical experience was to their professional identity formation. Please show your appreciation by providing financial support. This support allows us to experiment with new programs or projects, and provides a foundation of demonstrated support for our programs. Please go to our website (law.wisc. edu/eji) and donate to support the EJI programs. Thank you.

-Marsha Mansfield
Director, Economic Justice Institute

Kevin Layde (2L)
Immigrant Justice Clinic

View of the Dane County Courthouse façade.
Mediation Clinic bring Child Permanency Mediation to Wisconsin

Family Law is no stranger to alternative dispute resolution techniques. But in a far cry from who gets the frequent flyer miles, EJI Professor Donna Erez-Navot and Attorney Perri Mayes are using their combined 31 years of mediation experience to heal Waukesha families in the foster care system.

This semester, Professor Erez-Navot’s Mediation Clinic started a new venture: the Waukesha County Child Permanency Mediation Program (CPM). Through CPM, Waukesha judges can refer Termination of Parental Rights (TPR) or Child in Need of Protection (CHIPS) cases for non-adversarial resolution. Referred parents then have an opportunity to participate in an all-day multi-party mediation that includes the parents and their attorneys, the child, and several stakeholders such as corporation counsel, guardians ad litem, and social workers. At CPM, all parties have an opportunity to speak and be heard in a safe and confidential environment, free from the evidentiary constraints of the courtroom and its closed system of solutions.

At CPM, parties are included in their problem-solving process: the goal is to find a safe resolution for the child that also addresses everyone’s interests and concerns in the matter. Staying true to EJI’s signature model of representation, Erez-Navot and Mayes take a holistic approach to this process. These attorneys tackle not only the underlying petition, but also the universe of foreseeable consequences: striving for durable agreements on the terms of foster care placement, visitation, relationships, communications, and even adoption.

“CPM is an opportunity to empower parties in the legal process, including both the professional stakeholders and family members. Very often people come out of a mediation session saying that this was the first time that they felt heard.” says Erez-Navot, after her second successful mediation session.

As our legislature tightens judicial belts, CPM ensures the family unit and most importantly the child are not clipped out of the process. Its model of proactive conflict resolution furthers the efficient administration of justice while sparing families from the substantial time, money, and emotional costs inherent in protracted and uncertain formal CHIPS and TPR proceedings. For this reason, other Wisconsin counties are now considering replicating Waukesha’s CPM model.

CPM currently holds sessions twice a month in Waukesha County. The third CPM session will be held on April 17th. For more information on CPM, please contact Donna Erez-Navot at erez@wisc.edu.

-Jennifer Cunha (3L)

Day in the Life of FCC Student (Continued from page 2)

Derek’s argument to the family court commissioner noted the difference in proceedings under the UCCJEA (they are in rem) which do not require personal service. He argued that the notice provisions themselves supported a more relaxed standard of service and made an offer of proof as to the efforts Mario made to serve the papers as well as the text message he received in response. The commissioner found that the mother had received sufficient actual notice and proceeded to award Mario sole legal custody. Mario left the courthouse feeling more secure and grateful for the steps Derek had taken to protect his children. Derek left, having “won” his first case after making a persuasive legal argument that was not at all clear on its face. These are the kinds of cases that are so rewarding for the students, as well as the clients we serve.

- Marsha Mansfield
Reflections on Consumer Law Class of 2012-13

April is a very busy month as the students wrap up their clinic assignments, ready their cases for transferring to new students in May and start preparing for final exams. But before they depart the CLC in a cloud of dust, the students reflect upon their year through writing and other creative methods. I, too, pause to think about my time with Andy Christopherson, Ben Clarke, Jon Fischer, Kelsey Doven, Laura Miles and Nora Leerhsen, and all they have done for the CLC and our clients.

The students have done a remarkable job. They provided brief advice to many people with consumer questions. They developed trusting relationships with their clients; drafted pleadings, affidavits, briefs; developed discovery plans and case strategies; and continued the fight against mandatory arbitration clauses, predatory lending and scam operations that defrauded their client and, undoubtedly, many other Wisconsin consumers. One client can remain in her home with an affordable mortgage payment because the plaintiff in the foreclosure action dismissed its case after the CLC challenged its legal right to bring the lawsuit.

In addition to representing their individual clients with skill and compassion, Andy, Ben, Jon, Kelsey, Laura and Nora also logged almost 200 hours and helped well over 100 homeowners at the CLC’s drop-in Foreclosure Assistance Clinic (FAC). As I reflect upon these achievements, I’m once again reminded that even the briefest of clinic experiences with people can be the most meaningful.

Richard’s case seemed suitable for an aggressive foreclosure defense because the mortgage trust that filed the lawsuit did not appear to own both the loan note and mortgage. But Richard knew he couldn’t afford even a modified payment without Mary. As we finished our session, Richard shook our hands and said quietly, “all I wanted was time, and you gave me that. Thank you.” According to online court records, Richard filed his pro se response in the court within a few days of coming to the FAC. We hope he can remain comfortable in his home in the time he has left. Although Ben and I spent only about 30 minutes with Richard, neither of us will soon forget him.

-Rachel Orr

Richard explained that he and his longtime partner “Mary” (not her real name) purchased the home together with a loan from a now-defunct national mortgage company. The couple had fallen behind on their payments because he had lost his job, and a health crisis forced Mary to leave hers. Richard told us that the previous month, he and Mary had figured out a way to pay the loan arrearage in hopes of getting an affordable loan modification. Then Mary died. Within days of Mary’s death, Richard was diagnosed with a third form of cancer. Soon after, he was served with the foreclosure lawsuit. He was frightened that he would have to move out before Christmas; he had nowhere to go. The social worker had helped Richard get to the FAC directly from a cancer treatment. We helped Richard prepare a response to the lawsuit telling the judge why he missed the 20-day deadline and explained that the foreclosure process will take 12 – 18 months to complete.

-A Ground Floor View (cont. from page 1)

need. But, should you ask is the nation on the verge of an economic turnaround? How about we talk about something we know with more certainty, like, whether eggs or butter are healthy (this week).

-Mitch
EJI In The News

Neighborhood Law Clinic Director Mitch and Consumer Law Clinic Director Sarah Orr were among several U.W. Law School clinical faculty who presented at the Midwest Clinical Conference held at St. Louis University Law School in November 2012. Mitch served as a panel member on the topic of “resilience” in clinical legal education, at which in both civil and criminal law clinics shared ideas about how to incorporate resilience into their programs. Sarah presented a workshop about the value of re-shaping the Consumer Law Clinic to address the foreclosure crisis and broaden students’ experiences.

EJI Director Marsha Mansfield presented at the 6th Annual Midwest Family Law Consortium Workshop, “Making and Teaching Real Family Law.” The workshop was held in April 2013 to honor the work of Professor Emerita Margo Melli, and drew participants from all over the country to share their work. Marsha joined a panel about “Domestic Abuse: A Critical Issue of Family Law Education and Practice” and presented with Professor Elizabeth Mertz regarding a model for an interdisciplinary family law class they jointly taught at the Law School.

Pro Bono Program Director, Ann Zimmerman and EJI Director Marsha Mansfield will present two workshops at the 2013 Equal Justice Conference regarding the on-line pro bono ethics training that they developed and produced with the assistance of the Jonathan Seek, AmeriCorps VISTA Coordinator for the Pro Bono Program and Professor Ben Kempinen.

NLC Director, Mitch, trained volunteers for the DCBA Small Claims Assistance Center (SCAP) in December, 2012, providing an overview of the recent changes to the landlord-tenant law in Wisconsin and offering tips to volunteers.

EJI Director Marsha Mansfield trained volunteers for the DCBA Family Law Assistance Center (FLAC) in November, 2012, providing an overview of the FLAC process and teaching the ethics portion of the course. She also organized, with Judge Rebecca St. John and DAIS Legal Advocate, Peter Bennett, a Domestic Violence Summit in March, 2013, where representatives of the court system, the social service community, the law school, private practitioners, and law enforcement came together to discuss ways to improve the court system and processes for those families experiencing domestic violence.

As a member of the Access to Justice Commission, Marsha Mansfield testified before the Joint Finance Committee at one of their regional hearings in support of reinstating funding for civil legal services in the next biennial budget. A link to Marsha’s testimony is here: http://www.wiseye.org/video-player/vp.html?bmid=139864890

For the third year, Consumer Law Clinic Director Sarah Orr and Neighborhood Law Clinic Director Mitch taught a “Law in Action” class to undergraduate students at the University of Wisconsin. This class focuses on the civil justice system and its impact on low income people while providing the students with opportunities to further explore specific issues that affect low income people attempting to navigate the justice system without a lawyer.

In May, NLC Director Mitch will present a training about landlord-tenant law to attorneys volunteering with Judicare in Wausau, Wisconsin.