



## VOLUME 2, ISSUE 4—MAY 1, 2017

### New and Noteworthy

In fall 2017, BLS launches a new Housing Rights Clinic in collaboration with MFY Legal Services. Housing/tenant representation is a new frontier as the City is providing more funding for legal services. Students will work with Adjunct Professors



Justin LaMort and Leah Goodridge and get real world experiences representing tenants at local agencies such as the New York City Housing Authority and Housing Court. Students will develop litigation skills from interviewing clients, drafting motions, legal research, as well as oral advocacy, negotiation, and trial preparation. Back to the future—housing clinics were a staple of early clinical programs!

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### Corporate and Real Estate Clinic

Preserving affordable housing units requires more than one loan closing for many buildings represented by the Corporate and Real Estate Clinic. These low-income cooperatives face constant challenges maintaining their buildings and meeting their financial responsibilities. For example, the clinic began representing one 22-unit Lower East Side building nine years ago because they had not received a real estate tax exemption that is granted to most low-income cooperatives and they were struggling financially. After obtaining the tax exemption, students then worked on refinancing a loan and obtaining a rehabilitation loan simultaneously. Niki Tsismenakis '10 and Zehra Manni '10 completed this rather complicated closing in 2009. Niki has continued doing some low-income cooperative work over the past seven years as an associate with a boutique law firm in the City.



Christina Salerno '17 (left), Beatrice Soberberg '17 (center), Clementina Vasquez, co-op board president (right).

Students then tackled the corporation's structure because residents don't have share certificates and are concerned about protecting their heirs' rights to their units. Several Spanish-speaking students have made presentations about this issue and others over the years because the majority of residents are Spanish speakers. Fall semester 2016 students Sebastian Poplawski '17 and Alissa Cardillo '17 drafted an amendment to the certificate of incorporation for a new ownership entity.

The real estate tax exemption was not a panacea, though. Taxes for the three commercial spaces must still be paid, but the City failed to bill the building. When a large bill finally appeared, the officers had to seek a new loan to pay the charges. Spring semester students Christina Salerno '17 and Beatrice Soderberg '17 have been reviewing loan documents, drafting an opinion letter, reviewing the title report and working with the board of directors to achieve a closing in the next few weeks.

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## LGBT Advocacy Clinic-Off to a Great Start

It's hard to believe the LGBT Advocacy Clinic is only two semesters old! Under the supervision of Prof. Susan Hazeldean, clinic students have been handling an impressive array of cases in a wide ranges of tribunals.

- Spring students Kelly Ferrell '17 and Patricia Vazquez-Rosario LLM '18 represented a gay man from Central America who fled homophobic abuse in his country of origin only to be arrested and detained by border patrol when he finally made it to the U.S. They prepared an asylum application on his behalf that will be filed in immigration court this summer. Kelly and Patricia also filed a second parent adoption petition for a lesbian couple who both want to be legal parents of their baby twins.
- Diandra Hayban '17 and Margiselle Estevez '18 represented an African gay activist who was arrested multiple times by police in his home country for being gay. He was also stripped and beaten in the street by a mob who targeted him on account of his sexual orientation. Diandra and Margiselle helped prepare documents in support of his application for asylum in the United States.
- Rachel Russell '17 and Chiara Apici '18 took over the case of a transgender woman subjected to homophobic abuse and assault by a corrections officer at Rikers Island. They drafted a new federal court complaint on Ms. Cadle's behalf and will file it in April.
- Jake Lavelle '18, Will Stanton '18 (fall) and Christina Rhode '18 and Charles Harris '18 (spring) successfully represented a client at the New York Asylum Office who fled horrific anti-gay persecution in his home country in Africa. "Simon" was sexually assaulted and beaten by a group of men who hurled homophobic slurs at him. His attackers even videotaped themselves assaulting him so that they could extort him for money later. When Simon tried to report the attack to the police, they threatened to arrest him for being gay. Eventually he had no choice but to flee the country. Jake, Will, Christina and Charles all helped Simon apply for asylum and his case was recommended for approval in April. He can now live safely and permanently in the United States.

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## BLIP Innovators Being Innovative

The BLIP Clinic helped to launch the Global Legal Technology Laboratory (LTL). LTL is an effort to join law schools and technologists from around the world to create a cross-disciplinary community to build legal technology apps, services, and ventures. The first LTL project being spearheaded by BLIP focuses on Semantic Systems, Machine Learning, Privacy, and Data Protection Compliance. Using a range of automated techniques, BLIP with its technology partners, is building a system to assess corporate compliance with the EU's new General Data Protection Regulation (GDPR). This project will develop the processes to allow any corporation, large or small, to sort through its documents and database and determine if and where its documents and processes might run afoul of data usage and privacy laws and practices. The processes, techniques, and knowledge developed in this project may then be modified and converted to help with areas beyond privacy and data protection compliance, with the first next project likely to center around corporate copyright and open source license audits. The BLIP student leads on this project are Daniel Kearney '18 and Mark Potkewitz '17.



*Professor Jonathan Askin presenting at Queen Mary University of London, Centre for Commercial Law Studies.*

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## EXI/BLS Innocence Project Secures Release of Client After Years of Struggle

Edward Garry, client of the EXI/BLS Innocence Clinic, was released on bail on March 31 after serving nearly 22 years of a 25-to-life sentence for a Bronx murder he did not commit. On March 22, 2017 - after almost 3 years of litigation, and 7 years of work by EXI attorneys and clinical students - a judge granted Edward's motion to vacate his conviction and ordered a new trial, finding that the Bronx District Attorney's office wrongfully withheld evidence at his original trial which

implicated another suspect. The Bronx District Attorney's Office determined that it would not appeal the judge's decision. The case returns to court in late May to set a retrial date. The case was featured in a lengthy article in [The New Yorker](#).

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## Disability and Civil Rights Clinic-Litigation and Policy Advocacy Projects

- Archana Sundar '18 and Samuel Zaretsky '17 filed an amici brief in the Appellate Division, Second Judicial Department, arguing that the NYC Administration for Children's Services violated Title II of the Americans with Disabilities Act (ADA) by failing to provide ongoing parenting services that accommodate the mother's intellectual disability. Several state and national organizations signed onto the brief, including the Civil Rights Enforcement and Education Center; Disabled Parents' Rights; the National Federation of the Blind; the National Federation of the Blind of New York State; the New York University School of Law Family Defense Clinic; and Sinergia, a NY-based organization that provides services to parents with intellectual and developmental disabilities.

The Director of the Family Defense Practice at the Bronx Defenders, who reached out to the Clinic to write the brief, commented on the students' completed work by emailing, "the brief is FANTASTIC." The Bronx Defenders Appellate Attorney commented, "The brief is great! Just had a chance to read it. Covers exactly the points we were unable to make in appellant's brief."

- Erin McMullan '17 and Victoria Pontecorvo '18 represented twin 32-year-old siblings, John and Nancy D. with intellectual disabilities who lived together for 15 years with their mother until she became ill and moved indefinitely into a nursing home. They also lived with Ms. D's 15-year-old son. The mother was responsible for paying the monthly rent. The case came to the Clinic when a warrant of eviction was already issued. Prior to the Clinic getting the case, Mr. and Ms. D. appeared in Housing Court and were told by the Court clerk that persons with intellectual disabilities cannot live alone or sign a lease. Without a lease with both of their names, the siblings could not qualify for emergency rental assistance or any other housing subsidy and faced imminent homelessness. After intense negotiations between the Landlord and the students, the Landlord agreed to issue a new lease in the siblings' names. The students also assisted in securing over \$15,000 in emergency rental assistance and a housing subsidy that would pay 90% of their clients' monthly rent for a lifetime. The subsidy is transferable and can be used should the siblings choose to live in another apartment. Following the case, Mr. and Ms. D's service provider wrote in an email, "What an amazing service you all provided. You really made a tremendous difference. Erin and Victoria, fantastic job with an extremely difficult attorney."
- Lauren Wechsler, a 30-year-old-woman with severe developmental disabilities, is no longer confined to her home following the year-long advocacy of students in the Disability and Civil Rights Clinic. Lauren, a 30-year-old-woman, is diagnosed with rare developmental disabilities that require her to breathe through a tracheotomy tube, be suctioned every few hours, and constantly monitored so she does not choke or stop breathing. As a result of her disabilities, Lauren requires the assistance of a nurse to monitor her and ensure that she does not stop breathing or choke. Lauren's disability does not stop her from engaging in community activities at the nearby day habilitation program where she can socialize, engage in physical exercise (such as wheelchair Zumba) and be with her friends, but she requires the presence of her nurse.

The insurance companies agreed that Lauren qualified for nursing services, but required that she remain confined to her home in order to receive these services. Kim Kopff '16 and Sam Tarasowsky '16 administratively challenged the discriminatory actions of the two private health insurance companies, exhausting the administrative remedies and paving the way for a federal court challenge.

Camillia Brown '18 and Catie Marie Martin '18 represented Lauren before the Southern District of New York. The federal case asserted disability-based discrimination under the Affordable Care Act and a contract claim. In the midst of discovery, Camillia and Catie Marie put forward a persuasive oral argument in federal court. As a result, the Court ordered the insurance companies to turn over extensive and crucial discovery that otherwise would have been withheld. In the midst of litigation, the insurance companies agreed to resolve the case, allowing Lauren to engage in the community with a private duty nurse.

- Alli Broad '18 and Caroline Roe '17 represented Ms. B. in challenging the determination of the state Office for People with Developmental Disabilities ("OPWDD") that she was not eligible for their services. Although Ms. B. had been diagnosed with a mild intellectual disability on multiple occasions throughout her childhood, OPWDD maintained (1) that her score on a single IQ test, given by a NYC Department of Education employee when Ms. B. was six years old, was too high; and (2) that any limitations in Ms. B.'s daily functioning were the result of mental

illness and not intellectual disability. As a result, Ms. B., who is eager to enter the workforce, could not participate in job training, day habilitation, or any other programs to help her function more independently and integrate into the community.

Alli and Caroline interviewed Ms. B. and her mother, gathered documentary evidence of Ms. B.'s long-standing diagnosis of intellectual disability, and worked with an expert to establish that OPWDD's determination was wrong. As a result of the students' hard work, OPWDD agreed to reverse its decision rather than defend it at an administrative hearing. Ms. B. is now receiving OPWDD services and excitedly planning her future.

- Caroline Roe and Archana Sundar '18 conducted outreach and gave a know-your-rights presentation at the Brooklyn Center for the Independence of the Disabled ("BCID"). After initially visiting BCID to speak with members of a support group for individuals with traumatic brain injuries ("TBI") and conduct individual intake sessions, Caroline and Archana returned a few weeks later to give a presentation and pass out informational materials to the group regarding the most common legal questions raised by its members.
- In collaboration with Brooklyn Defender Services' Family Defense Project, Morgan Mickelsen '17 and Nicole Zolla '17 represented a young mother with an intellectual disability, Ms. P., in a motion alleging disability discrimination under the Americans with Disabilities Act. Although Ms. P. had completed her case plan and established that she could provide appropriate care for her son, the New York City Administration for Children's Services was insisting that, because of her disability, she could not reunify with him until the two were able to secure a placement in supportive housing—a process that could have taken years. As a result of the students' motion, ACS conceded that Ms. P. did not require supportive housing and could reunify with her son in the city shelter system. He was released to her care in January 2017.

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