



# Clinic Highlights

March 2014

Legislation

Community Development

HIV/AIDS

Low-Income Taxpayer

Government Accountability

Housing and Consumer

Special Education and Juvenile Justice

Immigration and Human Rights



# 1. Legislation Clinic – Spring 2014

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**Professor Robert Burgdorf** is on sabbatical and Professors **Charlotte Brookins-Hudson** and **Diane Glauber** (Lawyers' Committee for Civil Rights Under Law) are supervising students in the Legislation Clinic.

During the 2014 Spring semester students in the UDC-DCSL Legislation Clinic are working at a variety of locations on project assignments for the District of Columbia Council, the National Aids Housing Coalition, the Alexandria Virginia City Council, and on State projects with the Lawyers' Committee for Civil Rights Under Law in New Orleans, Louisiana and Baltimore, Maryland. Their assignments involve information gathering, drafting public policy, research and writing on novel and complex legal issues. A small sampling of their work includes the following:



**Jeff Black** (at left) is interning at the Council of the District of Columbia in the with Councilmember Marion Barry where he is drafting legislation, preparing opening remarks and comments on legislation, and responding to constituent inquiries on a variety of subject matters. In particular, he has prepared remarks for the Councilmember in support of Bill 20-528, the D.C. Promise Establishment Act of 2013 and prepared ceremonial resolutions honoring special persons and events. The D.C. Promise Establishment Act of 2013 will provide grants to institutions of higher education for eligible students to help subsidize the college education of qualifying District residents.

**Daniel Blackburn** (right) and **David Bilodeau** are working with the Lawyers' Committee on a New Orleans, Louisiana housing code enforcement project. Using

recommendations developed with local partners in New Orleans, Dan and David are drafting proposed language for the Minimum Property Maintenance Code to require the Office of Code Enforcement to provide periodic inspections of all rental units. The desired end of the project is to have a rental housing inspection program that entails periodic inspections of rental homes to ensure compliance with the New Orleans Maintenance Code in order to ensure landlords maintain their rental properties in a safe, habitable condition and are held accountable when they fail to do so.



**Jamaal Castang** is interning with the Alexandria City Council in the Commonwealth of Virginia with the Office of Council Member John Taylor Chapman.

**Punitha Cloud** (at right) is interning with the District of Columbia Council Committee on Health which is chaired by Councilmember Yvette Alexandria. Punitha has been extremely busy working on multiple projects and preparing questions for budget performance and oversight hearings for the many agencies under the jurisdiction of the Health Committee. Thus far she has reviewed and analyzed material and prepared questions for oversight hearings of the Office of Aging, the DC Health Benefit Exchanges, the Community Health Administration, the Department of Behavioral Health, Department of Health Care Finance, the Department of Health, and several professional health licensing boards. In addition, she has attended several meetings, including Mayor Vincent Gray's announcement proposing inclusive health insurance benefits for the LGBT community. She is also working on an issue involving developing public breast milk banks.





**Chrysanthe "CC" Courniotes** and **Michael Gray, M.D.** (at left) are working on a New Orleans landlord voluntary abatement project to assist landlords of small properties with the costs of repairs. CC and Michael are conducting a comparison analysis of programs in other cities that provide low-cost loans and grants to landlords to help bring their properties up to code. Based on the best practices, CC and Michael are drafting language for a local ordinance, possibly the New Orleans Minimum Property Maintenance Code.

**Steven Davis** works on a New Orleans inclusionary zoning project. Using recommendations submitted to the New Orleans City Planning Commission and existing language in the Draft Comprehensive Zoning Ordinance, Steven is drafting language for a more detailed and effective voluntary "inclusionary zoning" policy which, if adopted, would give developers a density bonus for setting aside a certain percentage of new

rental units as affordable to low- and moderate-income households.

**Amanda Fox, Chrysanthe "CC" Courniotes,** and **Michael Gray, M.D.** are working on a New Orleans landlord-tenant project. Using recommendations developed with partners in Louisiana, Amanda, CC, and Michael are drafting proposed language for revisions to various sections of the State of Louisiana's landlord-tenant statutes, focusing on notice of eviction, "right to cure," rent increase, "repair-and-deduct," and retaliation.

**Alfredo Luxardo** (right) interns with the DC Council Committee on Finance and Revenue, chaired by Jack Evans. Alfredo is spending the majority of his time researching tax issues and preparing Committee reports on revenue bond projects, including the report on PR 20-687, the Ingleside Presbyterian Retirement Community, Inc., Revenue Bonds Project Approval Resolution of 2014. Ingleside is seeking up to \$30 million in District of Columbia revenue bonds to assist it in financing a project at its properties located on Military Road, N.W. in the Ward 4 section of the District.



**Anna Massoglia** is interning with the DC Council Committee on Government Operations, chaired by Kenyon McDuffie. She is researching issues and preparing questions for the Councilmember to ask at agency budget performance and oversight hearings. In addition, she has been researching and writing memoranda and committee reports on a variety of subjects including government employee appeals of adverse actions, workers compensation, environmental issues, and federal tax revisions. She is also drafting amendments to Bill 20-418, the Renewable Energy Portfolio Standards Amendment Act of 2013. Anna recently had an article published on the Strength and Weakness of the Voting Rights Amendments Act of 2014.



**Tiffany Mouzon,** (at left) is interning with the National AIDS Housing Coalition, working primarily with the Housing is Healthcare Medicaid Coalition to promote nationwide advocacy for a Medicaid waiver to help provide stable housing for persons with HIV/AIDS. Tiffany has been analyzing the Social Security Act (SSA) and its regulations to determine: (1) whether "room and board" as defined by CMS may be reimbursed under Medicaid, when Medicaid explicitly prohibits "room and board" for home and community based services; and (2) whether under the SSA provision for Demonstration Waivers, a program may be proposed to include "room and board" in a residential setting, when the target population requires an institutional or facilitative level of care and where none of the state plans approved provide housing as healthcare for "Medicaid" high end users who are also chronically homeless.

### **UDC-DCSL Legislation Clinic – Fall 2013**

During the 2013 Fall semester most of the students in the UDC-DCSL Legislation Clinic worked at the District of Columbia Council on significant, novel and complex legal issues, which required them to

conduct research and draft legal memoranda. Many drafted bills that were introduced and some are well on the way to becoming law. A small sampling of their work includes the following:



**Pegah Afshar** (left) interned with the Office of Congressman Sam Farr (California). Pegah researched and wrote several memorandums and numerous constituent letters that required extensive research. The letters responded to constituent concerns about different bills and issues, requesting to know Congressman Farr's position on the issues. Some of the constituent issues included: the topic of freedom of speech, concerns about the increase in college tuitions, concern about preserving the ecology from being negatively impacted in the Pagan Island from the proposed building of a US Marine Corps bombing range on the island, concerns about potential funding cuts for NASA and science programs, the need to raise the minimum wage, concerns about genetically engineered foods ("GMO"), and the growth and spread of gang violence. In addition Pegah conducted research on the non-federally recognized Native American tribes in the 20th District of California to ascertain those who had recently petitioned to be federally recognized. This work required her interactions with

the Bureau of Indian Affairs. She also attended informational briefings with Congressional leaders and staff and other government employees and interested parties on a variety of issues including immigration reform and the recent crisis in Syria.

**Brian Alexander** interned with the Council Committee on Economic Development, chaired by Councilmember Muriel Bowser. His major project included compiling information on the District real property inventory (how much office space and how it is utilized), and researching ways to stimulate business by offering surplus District office space in ways that will address unemployment in the District. He prepared several committee reports on surplus property dispositions including reports on PR 20-98, PR 20-496, and PR 20-476, and prepared a memorandum on the possible options to dispose and develop the site of the Hine Junior High School building.

**Kim Cope** (at right) interned with the Council Committee on the Whole chaired by Council Chairman Phil Mendelson where she was involved in many projects that directly impacted residents of the District of Columbia. Her assignments included information gathering, drafting public policy, research, and writing. One of her major assignments involved drafting a memorandum about the District's Inclusionary Zoning program which is intended to provide housing opportunities for low- and medium-income persons. In her memorandum, Ms. Cope identified several problems or obstacles in the program including "severe understaffing, rigid administrative regulations, rising condo fees, resale restrictions and a lack of disclosure" that have limited the pool of persons who may qualify for or benefit from the program. Further, Ms. Cope articulated recommendations that, if adopted, would expand the pool of eligible persons for the program. In addition, Ms. Cope drafted several memoranda on timely subjects including school truancy programs, charter school programs, and the implications of raising the minimum wage in the District.



**Ashley Cook** interned with the Council Office of the General Counsel. Her work included the preparation of memoranda examining the guidance issued by the Board of Ethics and Government Accountability ("BEGA") on constituent services offered by District elected officials, memoranda analyzing whether the Committee Report on D.C. Law 15-352, the First Amendment Rights and Police Standards Act of 2004, supports an intent to create a private right of action for protesters arrested by the police, and legal sufficiency memoranda on three school surplus property disposition resolutions.



**Natasha Hudgins** (left) interned with the Council Committee on Health, chaired Yvette Alexander. Natasha drafted Bill 20-559, the Comprehensive Pediatric Dental Screening and Education Act of 2013 which was introduced at the Council on December 3, 2013. That bill, if adopted, establishes a process for regular dental health care screenings for children in the D.C. Public School system. She also drafted the Behavioral Health Access Project Act of 2013 (renamed the Behavioral Health System of Care Act of 2013 when introduced on February 4, 2014) which proposes the establishment of a resource network for health care practitioners to provide referrals, when necessary, and behavioral health maintenance training for physicians to treat children and adolescents with minor mental health disorders. In addition to drafting legislation and conducting research and writing memoranda, Natasha prepared questions for the Councilmember to ask at oversight hearings held on the Medical Marijuana Program, Bill 20-227, the Children's Oral Health Care Amendment Act of 2013, and on Bill 20-111, the Nurse Safe

Staffing Act of 2013.

**Jason Facci** (at right) interned with the Council Economic Development Committee chaired by Kwame Brown. One of his assignments involved drafting a bill, the "Health Care Fraud Prevention Act of 2013." His draft would require DC to create an "electronic system to verify that Medicaid and Medicare beneficiaries receive the services that health care providers bill them for." To ensure that the services are being provided to the authorized recipients, the system would consist of "a portable electronic



Medicaid eligibility device (MED)," and "a Medicaid or Medicare identification card that contains a magnetic strip electronically encoded with that person's Medicaid or Medicare information." In addition, Mr. Facci drafted several memorandums on complex subjects including government sponsored private-sector pension programs, funding for health professionals recruitment fund, and on health care fraud.



**Ryan Jones** (at left) interned with the Council Committee on Finance and Revenue chaired by Councilmember Jack Evans. Ryan reviewed and researched the comparative analysis study of the District's tax incentive policies with other states prepared by the Pew Research Center, researched how to make it easier for District residents to opt out of the mortgage escrow account requirements, and reviewed and made recommendations on the Tax Transparency and Effectiveness Act of 2013. He also prepared opening remarks for the Councilmember upon the introduction of bills. He attended weekly meetings of the Tax Revision Commission.

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**Dominick Mecca** (left) interned with the Council Committee on Government Operations chaired by Councilmember Kenyon McDuffie. Dominick spent the majority of his internship examining and drafting legislation that would strengthen the campaign finance laws for contributions from LLCs and corporations, with a focus on independent expenditures. He prepared a memorandum about increasing fines for "bad actors" and on Advisory Opinions and Penalties. He prepared an opening statement on PR 20-182 Vera Abbott OEA Reappointment Resolution of 2013 and the committee report on Bill 20-117, the Prohibition on Government Employee Engagement in Political Activity Amendment Act of 2013.

**Umar Khan** (at right) interned with the Council Committee on Human Services chaired by Councilmember Jim Graham. In addition to attending meetings with members of the Executive Branch and Council hearings, Umar Khan prepared an extensive memorandum on the constitutionality and policy

issues surrounding real property tax lien sales which were the subject of several Washington Post articles; a memorandum providing a historical perspective on TANF benefits, and examining the findings of Casey Trees on the status of tree canopies in the District. In addition, Umar prepared constituent letters on matters including regulations on scooter parking, the new bicycle laws, on keeping poultry in the District, and on the new Taxicab Commission regulations. He reviewed and made recommendations on bills and policies including on deficiencies in the Office of Tax and Revenue notice of property tax relief program, on the Urban Forest Preservation Amendment Act of 2013, and on Bill 20-324, the Traffic Adjudication Amendment Act of 2013. He also prepared a committee report on Bill 20-414, the Temporary Assistance to Needy Families Cost-of-Living Adjustment Amendment Act of 2013.



**Jon Steingart** (left) interned with the Council Committee on Workforce Development and Community Affairs, then chaired by Councilmember Marion Barry and he interned with the Council Committee on the Judiciary and Public Safety, chaired by Councilmember Tommy Wells. As part of his committee assignments, Jon did extensive research and wrote the introductory remarks for Councilmember Marion Barry which were used during the introduction of Bill 20-480, the Earned Sick and Safe Leave Amendment Act of 2013, which proposes to extend sick leave benefits and job protection to restaurant waiters and bartenders. He prepared memoranda on a variety of subject matters including state laws decriminalizing marijuana, District law and regulations about the production of identification by civil fine violators, and analyzing real property tax liens in the District and constituent's concerns. To assist the Committee on the Judiciary and Public Safety with the oversight of Office of Human Rights and Commission on Human Rights, Jon prepared an extensive memorandum of the scope and jurisdiction of

these offices.

## 2. Community Development Legal Clinic (CDLC)

For the Spring 2014 semester, evening division students are applying transactional law to assist clients who are seeking to better their lives and the lives of those in their D.C. communities.

**CDLC 's work with the Lawyers Committee for Civil Rights Under Law on law reform in Louisiana** Congratulations are in order for third year law students, **Leslie West** and **Colleen Krisulevicz** (at right.) Working with David Zisser of the Lawyers Committee for Civil Rights under Law and with Professor Louise Howells, the law students researched and prepared a white paper that recommended significant reform of the landlord-tenant law in Louisiana. The report's recommendations, which were vetted by local counsel, were based on extensive research of landlord-tenant law in states across the county and on in-depth conversations with housing advocates in Louisiana. The students' recommendations were presented to the Louisiana Senate Judiciary Committee in January, along with input from other organizations. In a short turn-around, the Committee produced Senate Bill No. 298, incorporating all but one of Colleen and Leslie's recommendations.



The bill info: <http://www.legis.la.gov/legis/BillInfo.aspx?i=224443>

The bill: <http://www.legis.la.gov/legis/ViewDocument.aspx?d=878071&n=SB298>

**Intellectual Property Protection:** Several clients have sought our help in preserving clients' intellectual property rights in trademarks, which are important to their outreach, fundraising and entrepreneurial efforts. **Kazia Feinberg** and **Brooke McHugh** are helping a nonprofit – whose goals are to provide job training for unemployed men and women, fight poverty, hunger, and poor health – by defending its application to register a trademark before the U.S. Patent and Trademark Office. **Joe Shryer** and **Suzanne DeFelice** also are assisting a local entrepreneur who teaches yoga to an under-served community in D.C. with her trademark application. Both teams have had to learn the trademark process, federal law and regulation requirements for registration of a trademark, and strategies for overcoming issues that may otherwise bar registration. Joshua Ayers and Samantha Ayers are



**Housing Development and Preservation.** CDLC student advocates are also engaged in housing development and preservation efforts. **Samantha Jachion** and **Joshua Ayers** are helping a client to preserve affordable housing units in a rapidly gentrifying neighborhood by renegotiating loan terms and making the financing affordable for the low-income homeowners.

**Affordable Housing for Artists!** Law students **Sonja Manly** and **Kevin Fortkiewicz** are collaborating with the Housing Clinic in representing a group of D.C. artists. The artists want to form a limited cooperative association with the primary goal of purchasing a home, which the artists will live in and maintain as affordable housing for future artist residents. The joint effort is more fully described under Housing and Consumer Law Clinic.

**Exemption and Compliance:** CDLC is often called upon to assist non profits with tax exempt status and compliance matters. This semester, student advocates **Candace Paul** and **Carol Chadsey** are helping a group to incorporate and obtain federal tax exempt status as a charitable organization. The group's goal is to empower and reintegrate formerly incarcerated individuals as a meaningful way of reducing recidivism and changing societal stigmas associated with ex-convicts.

**IRS Comments on Constraints to Voter Education Initiatives:** Also this semester, **Carol Chadsey** wrote and submitted comments to the IRS on proposed regulations that, if enacted, would impose significant constraints on nonpartisan voter education initiatives. Her comments were submitted on behalf of the clinic's client base in general, many of whom engage in voter education efforts.



### 3. HIV/AIDS Legal Clinic

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**TANF Fact Finding Mission:** Over the past several years, the poorest residents of the District of Columbia have been squeezed by ever-diminishing public assistance ("Temporary Assistance to Needy Families," or TANF) benefits, including significant reductions to families who have received benefits for more than 60 months. Children and families who have received public assistance for longer than 60 months will lose all support altogether in October 2015. At the same time, the District's stock of subsidized and affordable housing has plummeted. As a result of over-stretched pocketbooks and diminished housing availability, the District experienced a widely-publicized, unprecedented, skyrocketing number of homeless families this winter. The District's emergency family homeless shelter, the old D.C. General Hospital, filled rapidly with families unable to afford housing.



Professors Matt Fraidin and LaShanda Adams

The HIV/AIDS Legal Clinic has been asked by the Chairman of the D.C. Council Committee on Human Services, Councilmember Jim Graham, to conduct a fact-finding mission at the D.C. General emergency shelter. Clinic students currently are interviewing D.C. General residents about their experiences with the

Temporary Assistance to Needy Families Programs . To assist the Committee's oversight of the D.C. Department of Human Services (DHS), students will present their findings in a written report and oral testimony during the Committee's April 30, 2014 Department of Human Services annual budget hearing.

Students are seeking to assist the Committee by learning whether TANF recipients are receiving the support and services that might help them find a way onto their feet and out of homelessness and D.C. General. Are TANF recipients being prepared to survive on their own, without government support? Are the District's "welfare-to-work" programs operating effectively? Or, as TANF recipients' benefits continue to be reduced, will the D.C. General emergency homeless shelter overflow even more? Mr. Graham is committed to protecting D.C.'s residents, and announced publicly in a Council hearing February 3 that he is working with UDC law students on these issues.

**\$15K Win for SSI Client!** Recently, the Clinic successfully appealed a denial of social security income (SSI) benefits for a HIV+ client. In addition to her HIV diagnosis, the client also suffers from bipolar disorder, a degenerative knee condition and pinched nerve in the spine. Students submitted a 20-page legal brief detailing the client's impairments and resulting inability to work. In his oral findings the administrative law judge applauded the thoroughness of the legal brief. The client submitted her initial application in 2012, so the favorable decision means an award of retroactive SSI benefits totaling (approximately) \$15,000. This is a fantastic result for a client very much in financial need. When the students called the client to tell her about the win, she cried and was very thankful of the students' hard work.

**Three Trials Coming Up:** Students in the HIV/AIDS Legal Clinic have three upcoming trials before the District of Columbia Superior Court's Family Court. Each of the trials will give the student attorneys the opportunity to present an opening statement, examine and cross-examine witnesses, introduce exhibits, and make a closing argument.

In the first trial, which will take place in late April, the student attorneys will litigate a third party complaint for custody on behalf of a maternal grandmother. The grandmother is seeking custody of two grandchildren who began living with her shortly before their mother died. The children's father is currently incarcerated and has no relationship with them; however, he is contesting the complaint. In addition to the trial work, the student attorneys are helping the client to obtain public benefits (TANF, SSI and public housing), which will assist her in caring for the children.

In the second trial, scheduled for one week after the first, the Court will determine whether to approve a maternal grandmother's standby guardianship designations. The maternal grandmother, who suffers from a chronic illness, wishes to ensure that the children have a caregiver when she is no longer able to provide care. In preparation for the trial, the students are conducting legal research and fact investigation.

Lastly, in early May, student attorneys will litigate a petition for annulment. In that case, the "husband" resides in El Salvador and the Clinic's client, the "wife", speaks Spanish. While working on this case, student attorneys have visited the Consulate of El Salvador, researched domestic and international law, and employed the services of an interpreter. At trial, the student attorneys will prove that the marriage is void and that "marital" property should not be divided.

## 4. Low Income Taxpayer Clinic

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**\$4K + Driver's License:** One of the LITC's clients had a tax hold placed on their driver's license for failure to pay outstanding state tax liabilities. The client's license was set to expire in two weeks and without paying the tax liability, the client would not be able to renew the license. The client was unemployed, and concerned that an expired driver's license would make it difficult to find a job. **3L Clayton Fox** (left) acted quickly to advocate on behalf of the client. Clayton ultimately submitted an Offer in Compromise to the state, and negotiated so the state would remove the hold and allow the client to renew the license while the Offer in Compromise was under consideration. The client was grateful for Clayton's fast work and was able to renew the driver's license before it expired. The Offer in Compromise was later accepted, reducing the client's state tax liability by about \$4,000.

**\$10K Savings for Client!** Student advocate **Prashant Dubey, 3L**, continued the work of former student advocates **Brion Ovuworie** and **Bob Newman** (right) and successfully settled a client's outstanding tax liability of approximately \$10,500 for \$160 through an Offer in Compromise. An Offer in Compromise is an accommodation offered by the IRS in circumstances where paying the tax debt creates a true financial hardship. In this case, the client had made efforts to pay off the tax liability, and much of the remaining balance consisted of penalties and interest.



**Contractor or Employee?** Student advocate **Kevin Regan, 3L**, (left) settled a case in the U.S. Tax Court for a client who succeeded with her SS-8 "Worker Status Determination." The Form SS-8 is used to request a determination from the IRS on the status of whether a worker is an employee or independent contractor. The client's job classified her as an independent contractor, but ultimately, the IRS agreed with the Clinic's position that the client was an employee for a portion of the year. The determination reduced the client's tax liability by almost \$4,000, and the IRS also waived an accuracy-related penalty. This reduction in liability was a big relief to the client.

## 5. Government Accountability Project Clinic (Whistleblower Protection)

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UDC Law students play an important role in GAP's work representing whistleblowers and developing the campaigns for the issues they raise. Below are some highlights of the client and issue work UDC students have contributed to over the last 18 months. Because of the sensitive nature of many of the cases, identifying information concerning those cases has been removed.

**(i.) Franz Gayl:** A senior civilian science advisor to the U.S. Marines Corps (USMC) stationed at the Pentagon, GAP client Franz Gayl was deployed to Iraq in 2005 to provide technology and other support to the commanding General in Anbar province. Mr. Gayl witnessed the consequences of the USMC's failure to respond to urgent need requests submitted by officers on Mine Resistant Ambush Protected vehicles (MRAPs). After his return from Iraq, Mr. Gayl worked with GAP to raise these issues with Congress and the media, helping to initiate an incredible turnaround in the awareness of them. The lack of MRAPs resulted in an unacceptable 25% to 33% increase in casualties, during the period while U.S. troops waited for their delivery. In February 2008 the Associated Press and USA Today published an explosive series of articles on Gayl's allegations. Tasked by his superiors with preparing a study on acquisition issues, Gayl was exceedingly critical of the slow response of the military in producing MRAPs and definitively disputed many of the Pentagon's excuses for not doing so. The study resulted in a 3-star general instructing the DoD-IG to review the issue. The USMC attempted to silence and discipline Gayl when he refused to stay quiet. Mr. Gayl inexcusably received a 10-day suspension for communicating with Congress, a violation of the federal employee Whistleblower Protection Act and the anti-gag statute.

UDC students have assisted with GAP's efforts to vindicate Mr. Gayl and protect his career. Their work has involved assisting with advocacy on the Hill and helping to develop the case presented to the U.S. Office of Special Counsel (OSC). The case is currently pending before the OSC.

**(ii.) Transportation Whistleblower:** students assisted with all phases of a whistleblower retaliation case involving a transportation engineer. The engineer reported unsafe structural conditions to the transportation authority for whom he worked. As a result, the engineer suffered harassment, retaliation, and other forms of abuse. Students over several semesters participated in written discovery, depositions, evidence review, motions practice, and trial preparation. Due in no small part to their efforts, the case was resolved before trial.

**(iii.) AG-Gag & the Criminalization of Whistleblowing:** Lobbyists for various elements of the food industry have been pressuring state legislatures to criminalize activities by employees and the public to document via audio or video recordings animal abuses and other wrongdoing at their facilities. Over the last few years, a wave of Ag-Gag/Anti-whistleblower bills have been promoted across the country. UDC students have assisted GAP in researching and developing responses to some of these bills.

**(iv.) Failure of Federal Agency IG to prosecute mortgage fraud:** UDC students have been evaluating allegations raised by employees from a federal agency's Office of Inspector General alleging that the agency has failed to effectively prosecute issues of mortgage/financial fraud. Students have also been aiding GAP in assessing the harassment and retaliation experienced by these whistleblowers to determine legal remedies and will be involved in working on those cases when complaints are filed.

**(v.) Major Bank Whistleblower #1:** A former executive of a major bank in charge of evaluating the quality of mortgages that the bank was buying annually from other lenders came to GAP seeking assistance. The whistleblower identified that a high percentage of the loans reviewed were defective and reported these findings to top officials at the bank and was fired. Students have assisted with research and analysis of the whistleblower's case and laws that may apply. They have summarized the whistleblower's disclosures and helped GAP determine potential remedies and strategies to employ.

**(vi.) William Cohan:** In recent months, freelance journalist William Cohan has investigated the SEC's actions, or lack thereof, on evidence presented to the agency related to mortgage and other financial frauds. On behalf of Mr. Cohan, UDC students have researched whether the SEC must release

information that it received several years ago pursuant to FOIA. GAP filed FOIA requests and appeals for Mr. Cohan and UDC students are now assessing whether we should take the SEC to court.

**(vii.) Major Bank Whistleblower #2:** An executive for a major bank who was charged with monitoring internal compliance with bank controls and conducting bank fraud investigations across the country was fired after reporting various violations. UDC students assisted GAP in most facets of the litigation of the case, including research and analyses on whether the whistleblower could shield sources relied upon while s/he was employed from the bank during discovery. The case was resolved.

**(viii.) Major Bank Whistleblower #3:** UDC students also played a critical role in assisting GAP during the investigative stage of another financial whistleblower's case. Without their help with research, legal analysis, and fact checking, GAP would not have been able to bring this case to resolution without litigation.

**(ix.) Corporate Bankruptcy Whistleblower:** UDC students assisted GAP in the representation of a high level official who blew the whistle on the mismanagement of a bankruptcy trust for a major corporation. The trust was developed to address environmental contamination and the sale of properties that would help promote economic rejuvenation in more than a dozen communities across the country. Students helped develop the case and strategies for obtaining needed information pre-discovery. They also assisted with the drafting of a complaint, which was never filed because the case was resolved.

**(x.) Real Estate Securities Whistleblower:** GAP represents a whistleblower who was terminated after s/he raised concerns that his/her employer might be engaging in an illegal practice known as "forecasting" by providing information, through employees who were not properly licensed, to prospective condominium buyers on projected occupancy rates and rental income from the future rental of the condo units being marketed. In September 2013, an OSHA whistleblower investigation our client and awarded her preliminary reinstatement and significant damages. The company has appealed the investigative ruling and is seeking a full hearing. UDC students are involved in assisting GAP and co-counsel with litigation of all phases of the case.

**(xi.) Community Bank Whistleblower:** UDC students have been assisting GAP in the development of this banking whistleblower case. Our client was terminated from her/his position when s/he blew the whistle internally and to a federal agency alleging that the bank engaged in investment activities that meet the definition of 'unsafe and unsound' banking activities; that the bank knowingly filed false reports with federal agencies. Students have reviewed evidence and developed two complaints for different causes of action. At least one of the complaints will be filed shortly, and students will participate in the litigation of that complaint.

**(xii.) Major Bank Whistleblower #4:** Several employees from a major bank came forward to expose the failure of the bank to institute corrective actions mandated by the National Mortgage Fraud settlement and Office of the Comptroller of the Currency Consent Decrees. UDC students have assisted GAP in reviewing the facts and developing the case. The allegations raised by these employees will be filed with the appropriate federal agencies in the near future seeking enforcement action against the bank.

**(xiii.) Unlawful Restrictions Placed on Employees by Major Health Care Corp.:** UDC students have assisted GAP in the development of a strategy to challenge post-employment restrictions being placed on employees of a major health care corporation. These restrictions were brought to GAP's attention by a major Union. Students have worked with GAP to research the legality of the restrictions and have helped develop a legal challenge to those restrictions.

**(xiv.) Communications Whistleblower.** UDC students are assisting GAP in its representation of a whistleblower who has exposed significant wrongdoing involving the Federal Communications Commission and a corporation subject to the agency's oversight. The nature of the whistleblowing concerns approval of rates for providing services to disabled customers. The rates approved were unjustified and were likely unlawful resulting in millions of dollars in overpayments by ratepayers. After raising these concerns, the whistleblower was terminated. Students have assisted in the legal research for and development of the client's complaint and are assisting in the litigation. As part of the effort to publically expose the issues raised by the whistleblower, students have developed FOIA requests and are litigating the FCC's refusal to comply with those requests.

## 6. Housing and Consumer Law Clinic

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### Spring 2014 Highlights

**Ct. of Appeals Argument:** **Robert Newman** will be arguing before the DC Court of Appeals in late March on behalf of a client who won major awards based on rodent infestation and lack of security in his home after three days of administrative hearings and again at the administrative appellate level. After every decision in the tenant's favor, the clinic has been awarded attorneys' fees and hopes to receive an additional award of attorneys' fees after the DC Court of Appeals rules. Both the tenant's award and the awards for attorneys' fees rank among the largest awards for an individual tenant.

**Defending against Insurance Company:** **Alex Reed** (right) and **Savas George** are defending a fast-food worker and her sister against claims by a large insurance company involving an automobile accident. They have already filed a motion for failure to state a claim upon which relief can be granted based on recent US Supreme Court precedent for one of the clients. They intend to depose two witnesses in the next month, and expect to file a motion for summary judgment on behalf of the second client before the end of the semester. If the motions are denied, they will defend their clients in a jury trial sometime this summer or early next fall.



**Bedbugs!** **Alex** and **Savas** are also representing a client in a case involving a severe infestation of bedbugs. The tenant filed a complaint against her landlord in the Civil Division of the DC Superior Court for the damage to her personal property, but then asked for our help when the court hearings and procedures proved more daunting than she anticipated. Alex and Savas are preparing an amended complaint to add tort claims and a request for punitive damages.

**Rent Increases & Reduction in Services:** **Alex** and **Savas** are also picking up a long pending case concerning illegal rent increases and unauthorized reductions in service for tenant whose landlord illegally transferred responsibility for paying electric costs to the tenants of a 50+ unit apartment building. They will be filing the necessary documents with the DC Superior Court so that the tenant can collect the damages awarded by the Office of Administrative Hearings and affirmed by the Rental Housing Commission, and will be filing a new tenant petition with the OAH to pursue additional claims that have arisen during the pendency of the initial case.



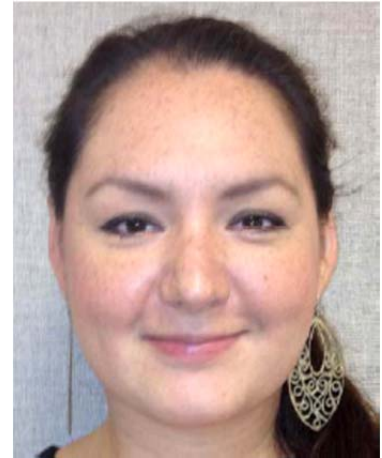
**In Defense of Affordable Housing:** **Mythala Castillo** and **Jason John** (left) have taken on an ongoing case regarding a hardship petition involving an apartment building with more than 25 units. This building is in one of DC's hottest real estate markets already experiencing gentrification and the loss of affordable housing for people like our clients who are mostly immigrants. Last fall, students in the clinic successfully argued before an Administrative Law Judge in the Office of Administrative Hearings that the rent increase granted by the Rent Administrator should be vacated due to both procedural and substantive due process errors, and that the petition should be remanded to the Rent Administrator for additional hearings on the merits. This first decision saved the tenants in the building approximately \$80,000. Armed with financial information and inconsistencies discovered by prior clinicians, Mythala and Jason may be able to defeat the entire hardship petition at the remand hearing.



**Illegal Rent Increase Rollbacks! Myrthala Castillo** (left) is also pursuing summary judgment for the sole remaining client in a case that has been pending at the Office of Administrative Hearings since 2008 and initially involved more than 20 tenants seeking rent refunds and rollbacks for illegal rent increases and reductions in services.

**“Flushable” Damage: Jason and Myrthala** are also representing an elderly couple with their negligence claims against a nursing care provider for damage to the plumbing and sewer systems from “flushable” wipes. The couple had to cash in their life insurance policy to pay the cost of having a professional plumber dig up the basement and replace the broken and clogged pipes.

**Fighting Against “Hardship” and a Death Trap: Issa Al-Alweel and Cristina Calderon** (right) are seeking to have another hardship petition vacated for procedural and substantive errors that will rollback a 78% rent increase for approximately 20 tenants in an apartment building in the Brightwood Park section of DC. They are also representing a tenant in both the Landlord-Tenant Court and the Housing Conditions Calendar court who has been living in conditions that a DC housing inspector called “a death trap.”



**Holistic Approach in Defense of Artists:** One other case deserves special mention because it illustrates how what appears from the outside to be eight separate clinics is, in reality, one program. Prior Clinic students defended an artists’ collective in a civil action where the house in which they lived was owned by a trust and the trustees wanted to evict the collective so that they could sell the house and distribute the proceeds to the beneficiaries. Although the membership has changed over the years, the collective has occupied this space on the edge of the Mt. Pleasant neighborhood for over 40 years and is one of the neighborhood’s treasures, hosting legendary annual Halloween parties, art exhibits, and “salons.” In one form or another, and in various forums, this case has been pending for 14 years. The posture of the case changed dramatically due to information our students elicited during depositions, causing one of the parties to propose a settlement offer. The case moved from litigation to negotiation, and involved complex community development issues. Evening students **Sonya Manly** and **Kevin Fortkiewicz** (left) of the Community Development Law Clinic are now helping the collective formally organize and put together a proposal whereby they can purchase the house from the trust and continue to provide low cost housing to artists and other creative people. The judge hearing the case expressed her appreciation for the way the two clinics stepped up to work together to facilitate a settlement of this long pending case.



## 7. Juvenile and Special Education Law Clinic

Law students in the Juvenile and Special Education Law Clinic represent parents of children with disabilities (and majority-age special education students) who are not receiving appropriate specialized instruction and related services from D.C. Public Schools (DCPS) or from D.C. public charter schools. To affect positive outcomes for their clients, law students work individually and in pairs to ensure that students with disabilities have appropriate individualized education programs (IEPs); the law students advocate for appropriate school placements and, when necessary, file due process complaints against DCPS and charter schools. Clinic students are getting real world experience in developing and executing case plans and preparing litigation strategies.

The Clinic's caseload is primarily students with disabilities who also are facing delinquency or criminal charges and sanctions. Essentially, the Clinic's work is to help extricate individual students from the delinquency system or criminal system by enforcing the educational rights of those students.



A case example: In spring of 2013, **Bethany Shechtel** (right) and **Arturo Bohorquez** (left) won an administrative hearing for a twenty-two year-old student with disabilities who was in the D.C. Jail. The hearing officer's order extended the student's eligibility for special education services, required placement of the student in a private school program that provides appropriate educational services, an apartment, regular supervision and support, as well as meaningful vocational training. Armed with this excellent placement order, the law



students were able to help the client's criminal defense attorney obtain, in the pending criminal case, a sentence of probation (with a condition that the client participate in the private school program). The judge called the school placement order a "miracle" and said that allowing the client to go to the program was better for the client *and better for the community*. Subsequent law students assigned to the case -- Jeff Black in fall 2013 and Jenn Laskin in spring 2014 -- have ensured that the client is prospering in the private school program.

In addition, the Clinic's work is to develop and implement systems change projects aimed at reversing and closing down the school-to-prison pipeline. Here are examples of the systems change projects that the Clinic's faculty members and law students are implementing.

**The Suspending Suspensions ([www.StudentRightsAlliance.org](http://www.StudentRightsAlliance.org)) Project:** A current project, in conjunction with other law schools, the ACLU-NCA, and members of the Every Student Every Day Coalition, to train law students and others to defend children in long-term suspension matters. Project organizers have developed a website explaining students' and parents' rights in school discipline matters. Students from targeted DCPS high schools (schools with lowest academic performance and highest push-out rate) are invited to request representation in long-term suspension or expulsion cases.

**The Matrix Project:** A current project to develop a comprehensive listing of reasonable accommodations for court psychologists to use in writing evaluations of, and developing recommendations for, court-involved youth. Pursuant to the Americans with Disabilities Act and Section 504 of the Rehabilitation Act, psychologists and other court personnel, as well as executive branch personnel, must provide reasonable accommodations for children with disabilities in court proceedings, in probation and parole and other government programs, services, and activities, and in identifying and providing least restrictive placement options.



**The Intake Project:** A current project to require school personnel to comply with the requirement to transfer disciplinary and special education records to authorities when referring a child for arrest and prosecution and to train court personnel to screen out non-serious and non-violent delinquency and status offense (including truancy) cases in which school personnel have failed to provide appropriate education and special education services.

**The Burlington/Transition Services Project:** A current project to engage young people with disabilities in meaningful work opportunities by enforcing their rights to private services when school system personnel fail to provide individualized, results-oriented work training.

# 8. Immigration & Human Rights Clinic

## Highlights – Spring 2014

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**Busy Semester!** It has been a very busy semester for the UDC Immigration and Human Rights Clinic! Since we returned to school in January, the ten students enrolled in the Clinic seminar and the six students enrolled in Extended Clinic have been working on two cases that are set for trial this semester in the Arlington Immigration Court; one case that is currently pending before the Board of Immigration Appeals (BIA); and an additional case that is before the United States Court of Appeals for the Fourth Circuit.

**Termination of Proceedings** In February, two of our students currently enrolled in the Clinic seminar were successful in persuading the government to terminate proceedings initiated against our client seeking to remove him to El Salvador. The client, who arrived in the United States as a Lawful Permanent Resident (LPR) at the age of 13, was put in removal proceedings after a short trip abroad with his family in 2010. The client, a small business owner who is currently in his mid-30s, has no other removable criminal convictions and is the father of a young United States Citizen daughter.



The Clinic argued that the basis for our client's removal – an alleged conviction for possession of marijuana in 1998 – could not be proven by the government, as the criminal records had been destroyed and the Border Patrol agent who interrogated our client about his alleged conviction did not follow proper procedures, rendering our client's statements about the alleged conviction inadmissible. The Clinic filed several Motions to Terminate our client's removal proceedings, and on the day of trial, the government attorney stipulated to termination of the case. The client is now home with his family, and is seeking to become a United States Citizen at the earliest possible opportunity. UDC students who worked on this case are **Anton Wells, '13, Jessica Niesen, '13, Pesach Klein, '14 (above right), Steven Williams '14, Jeremy Ridgeway, '14, Jamila Lenard Shand, '14, and Anna Oguntimein, '15 (left)**



**Petition for Review** Additionally, the Immigration and Human Rights Clinic is currently litigating a Petition for Review filed in the United States Court of Appeals for the Fourth Circuit on behalf of a client who was ordered removed from the United States in Fall 2013. The client, who was a Lawful Permanent Resident (LPR), arrived in the United States in 1989 after fleeing the civil war in El Salvador. At the client's trial in Spring 2013 - which was conducted by UDC students Carolina Ramallo ('14) and Kevin Regan ('14) – the Immigration Judge ruled that although he determined that our client merited a favorable exercise of discretion, she is statutorily ineligible to receive Cancellation of Removal for Certain Permanent Residents. This is because, despite her residence of long duration in the United States, the Immigration Judge held that she had not accrued sufficient "continuous residence" under the statute. The Board of Immigration Appeals (BIA) affirmed the Immigration Judge's ruling, and the Clinic filed the Petition for Review on behalf of the client with the Fourth Circuit in Fall 2013. **Carolina Ramallo** continued to work on the case before the BIA and the Fourth Circuit, along with former UDC Clinic students **Myrthallo Castillo, '14** and **Felista Njuguna, '14 (right)** A decision in the case is expected later this year.



The University of the District of Columbia David A. Clarke School of Law is ranked #7 in Clinical Training in the 2014 US News and World Report!

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- #2 Most Diverse Faculty
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- #8 Most Liberal Students





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