

NORTHWESTERN UNIVERSITY LEGAL CLINIC

of the Northwestern University School of Law

339 East Chicago Avenue
Chicago, Illinois 60611
(312) 649-8576

DIRECTOR

Thomas F. Geraghty

ASSISTANT DIRECTOR

John S. Elson

STAFF ATTORNEYS

Mark K. Schoenfield

Steven Lubet

Roslyn C. Lieb

Mary M. McCormick

Robert P. Burns

August, 1980

COORDINATOR

Nancy Ketzenberg

SECRETARIES

Paulette V. Cochran

Larry L. Washington

Laura G. Farley

NEWSLETTER

Course and Curricular News	1
Explanation of Sequence	3
Personnel News	4
Projects	4
Employment Discrimination	5
Legal Writing	5
Seventh Circuit Appointment	5
Legislative	5
Cases	6
Civil Rights	6

Cases (continued)

Criminal	8
Education	8
Employment	8
Juvenile	9
Landlord Tenant	12
Libel-Slander	12
Medical Malpractice	13
Recoupment of Public Defender Fees	13
Social Security	13
Tax	13
Torts	13
Welfare	14
Notice - Guidelines for Out-of-House Clinical Program	15

COURSE AND CURRICULAR NEWS

The following is a description of the sequence of clinic related courses which will be offered during the 1980-1981 academic year. This explanation was made available to all law students during the 1980 spring registration.

The purpose of this explanation is to explain the relationship between the various clinic courses and clinic related courses which will be offered this year. Clinical course offerings at Northwestern are placed in a sequence that is designed to build an experience level that will provide a firm foundation for supervised practice for senior law students in our third year Clinical Practice course.

The sequence is as follows:

COUNSELING, NEGOTIATION, LITIGATION (CNL) (3 hrs.)

Messrs. Schoenfield, Lubet, Elson, Geraghty, Ms. Lieb,
Ms. McCormick, Mr. Burns.

COUNSELING, NEGOTIATION, LITIGATION (CNL) (2 hrs.)

Mr. Cohn.

Training in the techniques, tactics, and strategic considerations involved in the litigation process from the initial client interview through pre-trial discovery. The course will focus on interviewing and counseling of clients, pleadings, pre-trial motions, discovery, negotiations, and the relationship between these aspects. Class sessions will consist of lectures, simulated problems, and discussion of selected problems in cases currently being litigated at the Northwestern University Legal Clinic.

There will be two CNL courses given this fall. The CNL course taught by Clinic faculty will include work in the Clinic on actual cases and will be given for three credit hours. The students in the CNL course taught by Mr. Cohn will not work on actual Clinic cases. Mr. Cohn's course will be given for two credit hours.

CLINICAL TRIAL ADVOCACY*

Course (3 hours)
Second Semester

Messrs. Geraghty, Kenoe, Lubet, Elson, Schoenfield, Ms. Lieb, Ms. McCormick, Mr. Burns, Ms. Williams.

An introduction to trial advocacy and preparation of students for the representation of clients in the Clinic Practice course. Students' skills will be developed and tested by presentation of solutions to trial problems at weekly class sessions. The trial problems will require students to examine witnesses, introduce physical, documentary, and other types of demonstrative evidence, present and challenge the testimony of expert witnesses, present opening and closing arguments, and select a jury. In addition to regular weekly problem preparation and classroom presentations, each student will be responsible for the preparation and trial of a civil or criminal case. These complete mock trials will take place before mock juries. Students' performances will be judged and reviewed by other students, faculty, practicing attorneys and judges. Students will work on actual cases of the Northwestern University Legal Clinic.

*Other trial practice courses which may be offered are also a part of this sequence. Course descriptions for those other trial practice courses are contained in the Law School Bulletin.

CLINICAL PRACTICE

Senior Year
Course (4 hours)

Messrs: Geraghty, Elson, Schoenfield, Lubet, Ms. Lieb,
Ms. McCormick, Mr. Burns.

Open to third-year students who devote 12 hours per week to clinical practice at the Northwestern University Legal Clinic or at outside agencies approved in accordance with the guidelines of the Clinical Education Committee. All students who have an interest in out-of-house clinical programs should familiarize themselves with these guidelines.

Training is given in counseling, interviewing, litigation problems and techniques, and in substantive and procedural law particularly relevant to the clinical program chosen. Students are required to apply for certification under Illinois Supreme Court Rule 711, the Illinois student practice rule. This rule allows third year students, under certain circumstances, to practice in the Illinois State courts. Preference for admission to the Legal Clinic's clinical practice course will be given to students who enroll for both semesters of the senior year and who have successfully completed Interviewing, Counseling, Negotiation and Litigation and a trial practice course. Supervisors in out-of-house programs may have different prerequisites.

EXPLANATION OF SEQUENCE

Although CNL and Clinical Trial Advocacy are not prerequisites for the third year Clinical Practice course, we encourage students to take those courses prior to taking Clinical Practice. The Clinic regularly enrolls seniors in Clinical Practice who have not had CNL or CTA.

All juniors who wish to enroll in this sequence of clinic and clinic related courses should attempt to take Evidence in the first semester of their junior year in preparation for the second semester trial practice course. Students who register for Clinical Trial Advocacy but who are unable to get into Evidence during the first semester should take Evidence while they are enrolled in Clinical Trial Advocacy.

It should also be noted that Counseling, Negotiation, Litigation and Clinical Trial Advocacy will require actual work in the Legal

Clinic as a component of those courses. Thus all students who enroll in CNL and CTA should be aware that they will undertake significant responsibilities in connection with the representation of clients.

Enrollment in Interviewing, Counseling and Negotiation and in Clinical Trial Advocacy will be limited to 40 students in the fall and with preference given to juniors.

● Last year the clinical education committee promulgated guidelines for the participation of seniors in out-of-house clinical program for academic credit. These guidelines were circulated to students last year and are set forth at the end of this newsletter. The purpose of the guidelines is to ensure the educational value of out-of-house programs. Students who have questions about the guidelines should see Professor Eovaldi or Professor Geraghty. The rules are preceded by a notice explaining the procedures to be followed by students who wish to obtain credit for work with out-of-house agencies. (See page 15)

PERSONNEL NEWS

● Robert Burns has joined the Faculty as an Assistant Professor in the Clinical Program. Mr. Burns, formerly of the Legal Assistance Foundation of Chicago, spent last year as counsel to the Governor's Commission to rewrite the Illinois Public Aid Code.

● Mark Schoenfield is on leave from the Clinic during the 1980-81 academic year and will spend the majority of his time on the Evanston campus with the Department of Urban Affairs. Mr. Schoenfield will be involved in a project that will attempt to evaluate the effect of the new Illinois Mental Health Code on the Mental Health courts and upon the delivery of mental health services.

● Professor Nathaniel Nathanson will be supervising students working in the Clinic on cases handled jointly by the Clinic's Businessmen in the Professional Interest and the American Civil Liberties Union.

Born: To Tom and Diane Geraghty, Miriam Barkhausen, February 1, 1980;
To Mark and Barbara Schoenfield, Laura, February 7, 1980;
To Steve Lubet and Linda Lipton, Sarah Nomi, May 17, 1980.

PROJECTS

● Minors in Need of Supervision: In January 1980, the Clinic received a two-year \$90,000 grant from the Chicago Community Trust to represent children who are alleged to be minors in need of supervision in the Juvenile Court. At the present time the vast majority of MINS children do not have lawyers and the Court does not appoint lawyers for them.

The Clinic's MINS project is designed to provide much needed representation for MINS children and to study the processing of MINS children to determine how the system could be improved. The Clinic will publish a lawyer's manual for the representation of MINS children upon completion of the project.

EMPLOYMENT DISCRIMINATION

Last year the Clinic received a grant of \$35,000 from the Department of Education of the Department of Health, Education and Welfare to conduct an employment discrimination project that involves the representation of plaintiffs in employment discrimination projects and the integration of the Law School's course on employment discrimination and clinical practice. The project will continue during the 1980-1981 academic year.

LEGAL WRITING

Two years ago the Law School and the Clinic received a grant of \$73,000 from the Council on Legal Education for Professional Responsibility to increase the number of full time legal writing instructors from one to three and to devise a clinical component for the legal writing program. The grant ended in June of 1980 with the permanent inclusion of three additional legal writing personnel in the permanent Law School budget.

SEVENTH CIRCUIT APPOINTMENTS

The Clinic is regularly appointed by the Seventh Circuit to represent indigent prisoners in civil rights habeas corpus and § 2255 CASES. Students brief the cases and argue in the Seventh Circuit. Last year five students argued in the Seventh Circuit. Three clinic cases are set for argument this fall.

LEGISLATIVE

Illinois Administrative Procedure Act Amendment Project: Legislative Advocacy. Illinois recently enacted a variant of the Model State Administrative Act. It does not, however, have any statutory provision for the judicial review of administrative rules or for informal agency action. Aspects of Illinois statutory provisions for the judicial review of contested cases ("agency adjudication") have been criticized. In general, the common law development in these areas has been fragmentary and conflicting and has not taken full account of the new situation (and opportunities) occasioned by the adoption of the Illinois Administrative Procedure Act and even more recent amendments thereto. The proposed amendment would attempt to bring clarity and predictability where little currently exists. If the amendment is introduced in the Illinois legislature written or oral advocacy before the appropriate committees is contemplated.

CASES

The following are summaries of cases on which students and faculty worked together last year and which are currently pending in the Clinic.

Civil Rights

- 1983 suit alleging false arrest. Our client was arrested walking on the sidewalk near Bug House Square. He was charged with violating park curfew, although he was not in the park.
- The Clinic has appealed the decision of the federal court judge's denial of damages to our Black Muslim client for unlawful placement and confinement in prison segregation for his refusal to handle pork while assigned to the kitchen detail. The District Court ruled that Estelle v. Rummel precludes a finding of cruel and unusual punishment for excessive length of confinement in prison segregation. We prevailed on our First Amendment claims and references to disciplinary action taken against our Muslim client for his refusal to handle pork in the prison kitchen have been ordered expunged from prison records and parole files.
- The Clinic was appointed in the 7th Circuit to represent prisoner challenging Illinois Parole Procedures. The question is whether or not Illinois parole procedures require minimal due process protection after Greenholtz v. Inmates of Nebraska Penal Institution.
- Our client was arrested on the basis of a recalled warrant. She sued through private attorney, arresting officers, police superintendent, City of Chicago, and Circuit Court Clerk Finley. The District Court judge granted Finley's summary judgment motion and other defendants' motions to dismiss. We have appealed the District Judge's decision.
- Our client was arrested for failing to call police to report seeing her son who was wanted on a juvenile warrant. The Clinic filed a federal civil rights action against police officers for illegal arrest.
- The Clinic filed a federal privacy action against FBI for violation of FOIA for its release of documents labeling our client as a potential government informant without excising his name. The Clinic is awaiting court ruling on our motion for partial summary judgment and for discovery sanctions and their motion to dismiss.

- Petition for Certiorari pending. District Court dismissed pro se prisoner civil rights complaint and awarded defendants' attorney's fees. The Seventh Circuit affirmed and denied our petition for rehearing and rehearing en banc, three judges dissenting.
- The Clinic was appointed to represent pro se prisoners in a civil rights case challenging Du Page Jail conditions. We are negotiating settlement of class issues and will probably need to try two individual claims of the plaintiff.
- Police misconduct case in federal court. Our client, a black high school student, was taken into custody for no articulated reason when he chanced to enter an all white suburb. Our client was handcuffed to a bannister in the village Police Department for an hour and was not released for four hours. He was never charged. Students drafted the complaint and discovery. The Clinic negotiated a \$500.00 settlement. The mayor of the village wrote a letter of apology to our client.
- Suit in federal court against police for preventing anti-Nazis from attending Nazi rally in Marquette Park. Students drafted pleadings and extensive discovery. The Clinic negotiated \$4000.00 settlement on behalf of the plaintiffs. The award will be donated to the Simon Wiesenthal Jewish Documentation Center which is the principal private agency engaged in bringing Nazi war criminals to justice.

Consumer

- Our client claims that she rescinded a contract to roof her house. The contractor performed some work after the rescission and has placed a lien against the client's house for the amount of work done. The Clinic will take action to remove the lien.
- Defense of small class action to collect for installation of storm windows in our client's home. Our client claims she rescinded the contract before the windows were installed. A trial is set in September to resolve the rescission issue.
- Our client was high pressured into buying a Corvette laden with extras. She paid \$500 deposit. Her bill of sale said that the sale was contingent upon her receiving suitable financing. She was unable to get financing, but the dealer refused to return \$500. The Clinic sued, claiming violation of contract, failure of consideration, violation of Consumer Fraud Act, and unconscionability. The defendant has filed jury demand.
- A seller is trying to collect on a retail installment sale contract for what our client claims was unsatisfactory merchandise. Notification of nonconformity pursuant to U.C.C. has been sent to the plaintiff. The seller sent our client a letter saying court order had been issued and they would pick up furniture when, in fact, no such order was entered by a court.

Criminal

- The Clinic recently represented a client who was charged with attempted murder for allegedly throwing a 15-year old girl out of an eighth story window. The defendant was acquitted based upon cross-examination of the victim which elicited prior inconsistent statements of the victim regarding the incident and her extensive psychiatric history including stated desires to commit suicide by jumping out a window.
- The criminal court jury recently found a Clinic client guilty of rape and deviate sexual assault. Two senior law students participated in the preparation and trial of the case and the Clinic is representing the defendant on appeal.
- Pending cases include two serious felony cases which will go to trial during the fall.
- The Clinic is awaiting word from the United States Supreme Court on a petition for certiorari filed on behalf of a federal prisoner. Issues raised are (1) whether under Bruton v. U.S. a clear contextual inculcation of a co-defendant violates the Sixth Amendment; (2) whether the fact that our client was once represented by the lawyer who represented a co-defendant at trial is conflict of interest. The Solicitor General requested that the record be filed with the Supreme Court and has filed a brief in opposition to our petition for certiorari.
- Petition for habeas corpus. Our client claims that he was induced to make a statement after he asked for an attorney and that during the jury poll a juror did not assent to the verdict.

Education

- The Clinic recently represented a client who sued in Federal District Court claiming that he was suspended from the Chicago Public Schools in violation of his right to due process of law. The trial of this case was conducted before a federal court jury which found for the plaintiff. Later the judge entered judgment for the defendants notwithstanding the verdict. The Clinic appealed. The case will be argued in the Seventh Circuit in September.

Employment

- Our client, an employee of the Federal Services Administration, is deaf and claims the GSA discriminated against him because of his handicap. The case was prepared for a hearing by students, faculty attorneys, and an interpreter using sign language. A hearing was held before an EEOC hearing officer. We are awaiting the hearing officer's decision.
- The Clinic has represented several clients who allege sexual harrassment. Three of the cases were settled before any hearing was held. One other case, which involves a woman allegedly fired from her executive position for refusing sexual advances, is currently being considered by the EEOC.

- Appeal of CETA termination. Our client was not afforded due process in his dismissal from a CETA job. A hearing was held before an administrative law judge of the Department of Labor. We are awaiting a decision from the Department of Labor's administration law judge.

- Our client is a hemophiliac who alleges that he was discriminated against because of his handicap. Clinic attorneys and two students handled the case through and including a public hearing at the FEPC. A motion to dismiss, filed by the defendants, alleging that the FEPC did not process the complaint within 180 days is currently being considered by the administrative law judge.

- A Title VII sex discrimination suit against the federal government is currently awaiting a trial date before Judge Flaum. The suit alleges failure to promote because of sex discrimination.

Juvenile

- The Clinic, along with the ACLU, is counsel for the parents in the Walter Polovchek case. Walter, a twelve year old boy, came to the United States with his family from the Ukraine in early 1980. His parents subsequently decided to return to the Soviet Union. Walter and his seventeen year old sister, however, refused to return to the Ukraine with their parents, and left the family home to live with a cousin.

Walter's refusal to leave the United States has made him the subject of international attention. The United States Immigration and Naturalization Service has granted him "asylum," and the Juvenile Court has at least temporarily removed custody of both Walter and his sister from their parents.

Mr. and Mrs. Polovchak, who speak no English, have meanwhile persisted in their efforts to return to the Ukraine with their family. It is their position that, absent a showing of abuse or neglect, they have the right to raise their children where and how they see fit. They attended the first juvenile court hearing without either an attorney or interpreter, but have subsequently retained counsel through the American Civil Liberties Union.

The current status of the case in Juvenile Court is that the children have been found to be minors in need of supervision and have been adjudicated wards of the court. They have been placed in a foster home pending a final disposition. The parents have moved to dismiss the proceedings on constitutional grounds, but have not received a ruling. They will attempt to regain custody of their children at a coming dispositional hearing. They have agreed that Natalie, the seventeen year old, is old enough to remain in the United States, but they insist that a twelve year old boy belongs with his family.

● Michael and Anthony C. are alleged by petition to be minors in need of supervision in that they ran from their parents' home in late June. On the date the petition was filed, temporary custody of the minors was placed in the Illinois Commission on Delinquency Prevention (ICDP). Eleven days later, at the next court hearing, the guardian ad litem asked the judge to return the children to the parents and began to enter an admission on behalf of the minor to the MINS charge. The minor, however, told the judge that he refused to go home. The judge then vacated the admission, held the minors in direct criminal contempt for refusing to obey his order sending them home, and sentenced them to serve 10 days in the Cook County Juvenile Detention Center.

The minors requested a Clinic attorney to represent them. The Clinic attorney filed a Notice of Appeal from the contempt finding, and a motion to stay enforcement of the order pending appeal, on the same day. The Illinois Appellate Court granted the stay and ordered the children placed in a foster home supervised by the Illinois Status Offenders Project.

About a week later, at the parents' request, a petition was filed charging the minors with burglary of the parents' home. The children were ordered to be detained in the Detention Center pending an adjudicatory hearing. The following day a Clinic attorney appeared before the judge who was hearing the MINS and delinquency cases, and filed her appearance in all four cases. The guardian ad litem moved to withdraw and the trial judge refused to permit the Clinic attorney to file her appearance in the MINS case unless she also appeared as guardian ad litem. The Clinic Attorney refused to appear as both attorney for the child and as guardian ad litem, contending that appearing in that dual capacity would present a conflict of interest. The trial judge then appointed M. Leonard Goodman as guardian ad litem and as attorney for the minor on the MINS cases, but permitted the Clinic Attorney to appear as counsel for the minors on the delinquency charges.

The Clinic has filed a petition for leave to file a petition for writ of mandamus, prohibition and/or supervision order with the Illinois Supreme Court requiring the trial judge to permit the Clinic Attorney to appear as counsel for the minors in the MINS cases, and to vacate the order appointing M. Leonard Goodman as attorney.

The questions raised by this case include:

a) Whether it is proper for one person to act in a dual capacity as attorney and as guardian ad litem for a minor in a MINS case;

b) Whether it is proper to hold a child in contempt for refusing to go home and to order the child held in secure detention, where the basis of the underlying petition is that the minor refuses to return home, and the minor could not be held in secure detention on the underlying MINS petition;

c) Whether the trial court can refuse to permit an attorney to appear on behalf of a minor alleged to be otherwise in need of supervision, unless the attorney agrees to act in the dual capacity of guardian ad litem.

● Our client is a twelve year old girl who was referred to a psychiatrist when she threw herself in front of a car. As a result of that incident the Department of Children and Family Services investigated and found that our client had been emotionally and physically abused by her parents including being forced to stand on one foot for long periods of time, being awakened during the night to recite school work, and being forced to eat a cockroach when she allegedly failed to clear her parents' apartment to their satisfaction. The Clinic represented the child in the neglect proceedings and argued that temporary custody should be given to an aunt. The child is now in the custody of the aunt.

The parents objected to the introduction at trial of psychiatric testimony pertaining to their daughter on the ground that the Illinois Confidentiality Act prevents the disclosure of such information without the consent of the parents. The trial court judge ruled, on the Clinic's motion, that the Act did not in fact bar disclosure.

● This young client was the subject of a MINS petition after her guardian, who had been caring for our client since she was five years old, alleged that our client had run away. The guardian appeared in court to say that she no longer wanted custody of the child. The Clinic found that the child's uncle wanted custody and expedited the Department of Children and Family Services investigation that recommended placement of the child with the uncle.

● The Clinic's client was found to be a minor in need of supervision by the Juvenile Court pursuant to an admission. The Clinic filed a motion to vacate the admission on the ground that he had not been effectively represented and that he had not been advised of his rights. The trial court denied the petition and the Clinic appealed. The Illinois Appellate Court did not reach the merits and ruled that a constitutional challenge of procedural violations in Juvenile Court cannot be charged after 30 days of adjudication. Thus juveniles in Illinois presently have no post conviction collateral remedies. The Clinic has filed a petition for leave to appeal to the Illinois Supreme Court.

● A sixteen year old girl was induced to turn her newborn child over to another couple in return for which the couple paid her hospital expenses. Our client decided that she wanted her baby and the Clinic filed a petition for habeas corpus which was granted. The Petition for habeas corpus was drafted and argued in Circuit Court by a student.

● The Clinic acted as counsel to a youth services agency on juvenile and not-for-profit corporate matters. Issues include compliance with

the confidentiality provisions of the new mental health code and handling of juvenile clients who are facing court proceedings.

- Juvenile in Northwestern Psychiatric Adolescent Program. The Clinic handled the problems of continuing his public aid funding. The Clinic solved the funding problem which involved negotiations with the Illinois Department of Public Aid.

- The Clinic recently filed a mandamus petition in the Illinois Supreme Court to compel appellate court to issue juvenile opinions without using child's last name. The Supreme Court granted the writ and issued a supervisory order requiring the Illinois Appellate Court to delete the full names of juveniles from its opinions.

LANDLORD TENANT

- An apartment building was condemned and the Clinic's client was given fourteen days to vacate his apartment. Client failed to move, due to the blizzard of 1979, and was held in contempt. No attorney was appointed, but our client was sentenced to ninety days. We appealed, argued that client had a right to appoint counsel and to move rule the circumstances was not willful contempt. Our client's conviction was reversed.

- Appeal of decision declaring Evanston City Retaliatory Eviction Ordinance invalid. The trial court judge ruled that the Evanston ordinance could not give a court the right to order a landlord to renew a lease absent a provision for renewal in the lease, and that the ordinance could not give a tenant the right to counterclaim for damages in a forcible entry and detainer action. The ordinance recently survived an attack on its constitutionality in the Appellate Court in another case.

LIBEL-SLANDER

- Rasky v. CBS, et al. The Clinic represents a state legislator who was sued for defamation for allegedly calling the plaintiff a "slumlord" in comments to a newspaper and letters to constituents. The legislator also filed a complaint with the Department of Registration and Education which led to the revocation of the plaintiff's real estate license. A student successfully argued motion to dismiss based upon innocent construction and privilege. The Plaintiff has appealed.

- Our client is a leader of an Evanston tenant organization who allegedly referred to one of Evanston's landlords as a "criminal" in a public hearing. It appears that the landlord has several building code violation suits pending against his buildings and that some illegal practices were enjoined by the Circuit Court. Our motion to dismiss the complaint will be heard in August.

MEDICAL MALPRACTICE

● The Clinic has filed a Court of Claims action against Illinois Department of Corrections alleging improper medical treatment while our client was a prisoner at Joliet. The Clinic's client is a paraplegic who suffered permanent injuries from bed sores and other injuries as a result of the prison's failure to treat him properly.

● The Clinic represents a private registered psychologist who is being sued for failure to properly supervise his assistant who treated plaintiff after allegedly misrepresenting to her that he was a registered psychologist when in fact he had not been registered because he did not have requisite degrees. He had practiced as psychologist for many years before new registration requirements. A law firm had prepared the case for trial, but withdrew when the client could no longer pay its fees.

RECOUPMENT OF PUBLIC DEFENDER FEES

The Clinic recently represented four clients whose bond money was taken by the courts for payment of fees to the public defender. This procedure was permitted by the Illinois Public Defender Recoupment Act. The Illinois Supreme Court declared the Act unconstitutional and ordered our clients' bond money returned to them.

SOCIAL SECURITY

The Clinic appealed the denial of social security benefits to a client who suffers from polymyositis rheumatica, a debilitating disease of the nervous system. The Clinic argued an appeal that polymyositis rheumatica is a disability within the meaning of the Social Security Act. Students researched the client's medical condition and researched the applicable law and conducted the hearing before the administrative law judge. The Clinic obtained all benefits retroactive to date of initial application for the client, approximately \$12,000.00.

TAX

● Appeal of IRS determination that taxes are owing on a medical resident's trainee stipend. The Clinic filed a petition with United States Tax Court after hearing before a district hearing officer at which a third year student represented our client.

● Indemnification suit against the City for improper tax sale. We represent the incompetent owner who was not able to comprehend Notices of Sale, if any, which were allegedly sent to her.

TORTS

Our client, an unemployed truck driver, was sued for \$50,000.00 for injuries plaintiff sustained when golf cart in which client was

sitting suddenly and unaccountably jerked forward and struck plaintiff in the shins. We are presently in the discovery stage.

WELFARE

● Illinois Health Care Association v. Quern (United States District Court, N.D. Ill.) This is a class action on behalf of all nursing home residents covered, at least in part, by Medicaid, who are party intervenors in a suit originally filed by an Illinois nursing home association against the Illinois Department of Public Aid and the Department of Health, Education and Welfare. The intervening complaint alleges that the Illinois Reimbursement Plan, and HEW approval thereof violate the United States Constitution, the Social Security Act (and regulations duly promulgated pursuant thereto) and the Federal Rehabilitation Act.

In particular, it is alleged that the rates of reimbursement to nursing homes are inadequate to reimburse an efficiently operated facility and, at least as importantly, that the financial incentive structure to nursing homes imbedded to the rate structure encourages patients' increasing physical dependence and discourages their rehabilitation.

● Illinois Welfare Rights Organization Federal Administrative Conformity Petition. This is an administrative complaint to the former Department of Health, Education and Welfare challenging over 60 policies of the Illinois Department of Public Aid as violative of the Social Security Act and Federal Regulations. The claims cover a wide variety of procedural and substantive eligibility policies. The Illinois Department first agreed to change approximately 17 of the policies; HEW then ruled on the disputed issues, in many instances favorably to the petitioners. Further proceedings before the agency or elsewhere are being conducted and/or contemplated.

● Handley v. Illinois Health Care Association (Blue Cross) (United States District Court, N.D. Ill.) This is one of a number of consolidated cases constituting a national class action against Blue Cross for its policy of denying payment on claims for treatment it deems "not medically necessary." It is alleged that such denials take place without the employment of available mechanisms for giving covered individuals adequate notice of the likely denial of a claim. The case poses complex questions of the interrelation of federal statutory and contract law.

● Menconi v. Byrne (United States District Court, N.D. Ill.) This is a challenge on federal constitutional grounds to the administrative procedures employed by the City of Chicago to suspend and revoke occupational licenses. At issue are various aspects of a "two-tiered" hearing procedure, widely used by administrative agencies in licensing matters. After trial, the court found that the City's procedures violated the due process clauses in important respects. Plaintiffs' motion for somewhat expanded relief is pending and appeal on the merits by the City is possible.

IMPORTANT NOTICE

TO ALL STUDENTS WHO ARE CONSIDERING THE POSSIBILITY OF EARNING CLINICAL PRACTICE CREDIT IN AGENCIES, OFFICES, OR PROGRAMS OTHER THAN THE LAW SCHOOL'S LEGAL ASSISTANCE CLINIC.

Students are permitted to earn up to four hours of credit (Clinical Practice Credit) per semester in each semester of the third year through work in the Law School's Legal Assistance Clinic. In addition, under limited circumstances, the Faculty will permit a student to earn Clinical Practice Credit in agencies, offices, or programs other than the Legal Assistance Clinic. All such programs must be approved in advance by the Faculty; before the Faculty will consider whether to approve a program, the proposals for the earning of credit must be submitted to and reviewed by the Clinical Education Committee (hereinafter "CEC"). Recent experience teaches that a favorable review and recommendation of the CEC is vital to Faculty approval of a proposal.

The CEC has promulgated a Statement of Standards and Procedures for the approval of such programs. It is imperative that students carefully read this Statement and comply with its provisions. Even more imperative is an additional rule that should guide any student who is attempting to secure approval of a program:

No student should discuss the possibility of working for credit in any outside agency, program, or office with any representative of that agency, program, or office until authorization to do so has been given by either the Chairperson of the CEC (Professor Thomas L. Eovaldi) or the Associate Dean for Clinical Education (Professor Thomas F. Geraghty).

Students should be forewarned and advised that both the CEC and the Faculty, because of the history as to the quality and educational value of outside programs, are not inclined to look favorably on these proposals, particularly if the student could participate in the Law School's own clinical law office. Faculty members are concerned about the quality and educational value of outside programs and want to be assured that the student will be working with attorneys whose commitment to high quality clinical education of law students is, as far as possible, as great as those Faculty members involved in the Law School's Legal Assistance Clinic. Because of this concern, stringent evaluation of proposals to earn credit in outside programs is undertaken by the CEC and the Faculty. However, this evaluation process raises a risk which is also of concern to the Law School, namely, the possibility that representatives of the external program or agency (many of whom are alumni or friends of the Law School) may be offended by the CEC's or the Faculty's conclusion that the outside office or program is not an appropriate

environment for the earning of credit by Northwestern Law School students. To avoid this risk, many members of the Faculty believe that all negotiations and discussions with representatives of an outside agency or program should be conducted exclusively by the faculty member who would act as the Supervising Professor of the clinical project pursuant to the CEC's Statement.

Students who desire to earn credit in outside agencies, programs, or offices during the next academic year must submit completed proposals to the CEC, no later than Monday, May 18, 1981.* As the CEC's Statement suggests, the process of complying with the guidelines for approval of programs may be arduous and time-consuming; therefore, the process of gathering information should be commenced as soon as possible. However, before investing any time in preparing a proposal, the student should meet with Professor Eovaldi or Professor Geraghty, who will give an informal evaluation of the probability that a particular proposal would be approved by the CEC and by the Faculty and will guide the process of preparing formal proposals when there is any possibility that a proposal would be approved.

Statement of Standards and Procedures for Approval of Programs Outside the Law School for which Clinical Practice Credit May Be Earned.

I. Introduction. The Clinical Education Committee is responsible for reviewing and approving applications for the earning by students of Clinical Practice Credit in programs conducted outside of the Legal Assistance Clinic. This statement explains the criteria and requirements for approval of programs and the procedures through which approval of programs may be sought and granted.

II. Requirements and Criteria for Approval of Programs

A. The Committee believes that the granting of Clinical Practice Credit should be reserved for those programs and experiences which are outstanding in their educational value to students.

B. The Committee will not look favorably on those programs which give the student no more than the student might gain from participation in courses, seminars, and extra-curricular activities available at the Law School. Nor will the Committee favorably view proposals in which the student experience will consist largely of research in traditional library materials and writing of legal memoranda or briefs. Thus, the application should demonstrate that the proposed experience of the student in the program will not duplicate experiences presently available in the Law School.

C. The Committee favors those proposals which will enable the student to be actively involved in one or more of the various aspects of

*Students who wish to participate in out of house clinical programs for credit next summer (spring, 1981) must submit proposals to the CEC no later than October 12, 1980.

the legal process. Thus, the Committee prefers programs which require students to be involved in activities such as: interviewing and counseling of clients; gathering facts; interviewing witnesses; participating in strategic decision making; participating in pre-trial conferences; attending court hearings or depositions; negotiating with opponents; making arguments or examining witnesses in court; and dealing with substantial, significant, or novel legal issues. Programs which are designed to provide students with such real and substantial experiences and which require the student to assume actively the role of a participant in such processes are thought to be more valuable as educational experiences. Proposals which lack these elements and which would require students to do nothing more than conduct library research and prepare memos on the basis of facts provided by superiors accordingly will be viewed with disfavor by the Committee.

D. 1. An element which is critical to the approval of programs relates to the quality of the supervision which the student will receive in the program. In general, the Committee will insist that one attorney and probably no more than three attorneys, assume responsibility for directly supervising the work of the student. The Committee must be assured that the specific attorneys are qualified by way of experience and education to provide high-quality supervision and instruction to students. The Committee also seeks assurance that the supervising attorneys are willing to be educators and not merely work supervisors; attorneys should agree to provide reasonably prompt and detailed feedback to the student as to the student's performance on all assigned tasks. Written work should be edited and critically reviewed with the student. The Committee should be furnished with a written agreement, signed by all supervising attorneys, setting forth in detail the work tasks to which the student will be assigned, and specifying the nature of supervisory and evaluative feedback which the attorneys will undertake to provide.

D. 2. One additional element, although somewhat intangible, which bears on the quality of the direct supervision available to the student is the degree of personal commitment which the supervising lawyer will make to educate the student. Our general experience has been that if a supervising lawyer has some degree of personal commitment to the student, the student will receive a more valuable educational experience than if the supervising lawyer has no prior relationship with or commitment to the student and is merely a participant in a program which supplies students to the lawyer for periodic assignments. While we will not insist that such a personal commitment be demonstrated in every program, we prefer those programs in which such a commitment is shown.

E. The Committee will approve only those programs in which a member of the Law School Faculty is involved as a Supervising Professor. The Professor must be willing to monitor the program and evaluate the extent to which its objectives are being attained. In the event of

perceived shortcomings, the Professor must be willing to meet with the supervising attorney or attorneys and attempt to persuade the attorney or attorneys to comply with the stated objectives of the program. In this role, the Supervising Professor essentially will act as an ombudsman for the program and as a representative of the interests of the school and the student.

F. Supervising Professors also are expected to meet periodically with the student. Where possible, the Professor should review any written work of the student and provide constructive criticism. In advance of each meeting, the student should submit a written statement describing the student's activities during the period and evaluating the experiences in the program. The Professor should discuss these activities and experiences with the student. (The Committee hopes that Supervising Professors can help students gain a larger perspective on the roles they are assuming in the program and will help the student gain a broad understanding of the societal role of the program or office in which they are working. Supervising Professors may provide insights into the substantive law (or evidentiary or procedural law) relating to the students' work and should stimulate the student to undertake additional study which will make the experience more valuable and educational.)

G. Programs must contain an evaluative component. Supervising lawyers will be expected to prepare a written evaluation of the work of students. Students will be expected to evaluate the nature and quality of the supervision provided by the lawyers. Students and Supervising Professors should evaluate the program with respect to its contribution to the student's legal education and should provide the Committee with an overall judgment, supported with reasons, as to whether the program merits approval in the future. Suggestions for improving the program should be included.

III. Procedures for Submission of Proposals

A. Format. Proposals must be typewritten. If the Committee has promulgated application forms, those forms must be completed.

B. Deadlines. The Committee will need time to evaluate any proposal and to make recommendations to the faculty, which has final authority to approve programs. Faculty approval must be given no later than the last faculty meeting prior to the commencement of the semester in which the program will be offered and the student will earn credit. To assure that the Committee has sufficient opportunity to evaluate a proposal and that students have the opportunity to revise proposals in light of any negative preliminary evaluations by the Committee, proposals must be submitted to the Chairperson of the Clinical Education Committee no later than three weeks prior to the last regularly scheduled

faculty meeting before the start of the semester in which credit will be earned. (The dates of regularly scheduled faculty meetings can be ascertained through the Dean's Office).

C. Content of Proposals. Proposals should describe in detail how the program expects to meet the requirements and criteria described in part II above. Proposals should be signed by the student, the supervising professor, and the supervising attorney or attorneys; signatures will certify to the Committee that the proposal has been carefully read and that the respective parties commit themselves to full compliance with the responsibilities and obligations described in the proposal and in these guidelines.

IV. Miscellaneous

A. The School does not permit students to be monetarily compensated for work in a program which is counted towards the earning of credit.

B. Grading of work in outside programs generally should be on a Credit-No Credit basis. However, the Dean of Clinical Education may authorize the use of some other basis for the award of a grade if permission to do so is sought prior to the commencement of the semester and if the supervising professor is solely responsible for providing the grade after consulting with the supervising lawyer.

C. Students can earn Clinical Practice Credit for up to four hours in each semester in the senior year. For each hour of credit earned, students are expected to work three hours per week for each of the fourteen weeks of the semester. Thus, if the student proposes to earn four hours of credit, the student will be required to work 12 hours per week for 14 weeks.

D. Credit for Clinical Practice is available only to third year students. (See description of "Clinical Practice" Course in Northwestern University Bulletin, The School of Law 1979-81, p. 24)

