

NEW YORK STATE PERMANENT COMMISSION ON ACCESS TO JUSTICE  
REPORT OF THE LAW SCHOOL INVOLVEMENT WORKING GROUP

FOURTH ANNUAL CONFERENCE  
ACCESS TO JUSTICE:  
THE ROLE OF LAW SCHOOLS IN HELPING MEET  
THE ESSENTIAL CIVIL LEGAL NEEDS OF LOW-INCOME NEW YORKERS

BASED ON A CONFERENCE CONVENED BY THE  
TASK FORCE TO EXPAND ACCESS TO CIVIL LEGAL SERVICES IN NEW YORK  
NOW KNOWN AS THE  
NEW YORK STATE PERMANENT COMMISSION ON ACCESS TO JUSTICE  
AT FORDHAM UNIVERSITY SCHOOL OF LAW ON MAY 11, 2015



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**New York State Permanent Commission on Access to Justice**  
**Report of the Law School Involvement Working Group**  
**on the**  
**Fourth Annual Law School Conference**  
**Access to Justice:**  
**The Role of New York's Law Schools**  
**in**  
**Helping Meet the Essential Civil Legal Needs of Low-Income New Yorkers**  
**on**  
**May 11, 2015**

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## **2015 KEY RECOMMENDATIONS TO THE PERMANENT COMMISSION**

### **1. Annual Law School Conference**

The Commission should continue to convene the Annual Law School Conference to encourage and promote communication and collaboration among New York's 15 law schools and legal services providers, law firm pro bono coordinators, bar associations and the courts, on collective efforts to help meet the essential civil legal needs of low income New Yorkers, and to discuss how to instill in law students the value and impact that their pro bono work will have in bridging the justice gap.

### **2. Statewide Law School Access to Justice Council**

The Statewide Law School Access to Justice Council, composed of deans, administrative deans and representatives from all 15 schools, several legal services providers and members of the Commission and court system, should continue its collaborative work on student pro bono activities, including development of an online Handbook of Best Practices for Supervising Law Student Pro Bono Work and a web portal to share educational materials to enhance the access-to-justice curriculum and the Pro Bono Scholars Program, and other matters of mutual interest that promote law school efforts to narrow the justice gap.

### **3. Educating Students to Be Culturally Competent Lawyers**

All New York law schools should establish and publish learning outcomes that, in addition to those required by the ABA, contribute to the development of culturally competent lawyers and incorporate multicultural concepts, skills and values.

### **4. Infusing Access to Justice in the Doctrinal Curriculum**

Integrating access to justice across the curriculum continues to be an important priority for law schools and faculty. Law schools, institutionally, and faculty, in individual courses, should provide opportunities for students to discuss access to justice throughout the traditional doctrinal curriculum beginning in the first year of law school and continuing across a broad range of upper-level electives.

### **5. Best Practices of Supervising Law Student Pro Bono Work: The Handbook of Best Practices for Supervision of Law Student Pro Bono Work Will Be Produced**

Under the auspices of the Statewide Law School Access to Justice Council, the Handbook of Best Practices for Supervision of Law Student Pro Bono

Work will be presented at the Fifth Annual Law School Conference on Access to Justice in 2016 and be published on the web for use as a community resource.

**6. Law Schools Should Be Supportive of Non-Lawyers Working to Help Narrow the Justice Gap**

In keeping with their stated educational missions and institutional values, law schools should consider how to best support non-lawyers with due regard to ABA accreditation standards, New York State licensing issues and the impact on law schools' mission, administration, including career services offices, and J.D. students. Law schools need to consider ways to educate and train law students to engage with non-lawyers to expand access to justice, e.g. discussing this issue in class; training to law students to think about working in conjunction with non-lawyers to better serve clients; including non-lawyers in clinical and other pro bono law school efforts. In addition, law schools need to consider developing courses or other academic offerings for non-lawyers to ensure their understanding of basic legal concepts. The economic costs to both the law schools and prospective non-lawyer participants should be explored.

**7. Law Schools Should Expose Students to Limited-Scope Assistance as a Way to Expand Access to Justice**

Limited-scope assistance has emerged as an established and institutionalized service delivery method for assisting unrepresented litigants in civil legal matters and as a means to narrow the justice gap. Appropriate training for law students engaged in supervised limited-scope assistance is of paramount importance and should cover the key areas of confidentiality, competence, informed consent, cultural competence and disclosure to the tribunal.

**8. Developing Transactional Skills to Serve Low-Income Communities**

In addition to traditional advocacy and litigation-related courses, there should be increased offerings of practical, skills-based transactional classes and clinics in law school, pertaining to, for example, contracts, leases and corporate governance matters, to enable students to provide, and to educate them about the need for, transactional legal services to low-income individuals and communities, as well as the organizations that serve them.

## **OVERVIEW OF THE FOURTH ANNUAL LAW SCHOOL CONFERENCE**

The Law School Conference is convened annually in accordance with a recommendation from the Inaugural Conference, adopted by the Task Force to Expand Access to Civil Legal Services in New York (now known as the New York State Permanent Commission on Access to Justice) in its 2012 Annual Report to the Chief Judge, to encourage and promote communication and collaboration among New York's 15 law schools and legal services providers, law firm pro bono coordinators, bar associations and the courts, on collective efforts to help meet the essential civil legal needs of low income New Yorkers.<sup>1</sup> Based on the significant role New York's 15 law schools play in Chief Judge Jonathan Lippman's efforts to narrow the justice gap, the Annual Conference has become a forum to discuss and consider how law schools can best impart the value of pro bono service for every lawyer's professional development, the continuing duty lawyers have to engage in pro bono work, and how to broaden the impact of our collective pro bono work in narrowing the justice gap. The Annual Law School Conferences have generated recommendations instrumental in advancing how access to justice is integrated into law school, across the curriculum and in clinical and experiential settings.

This year, the Fourth Annual Law School Conference was held on May 11, 2015 at Fordham University School of Law. Task Force Chair Helaine M. Barnett welcomed 206 participants to the May 11 Conference. As in past years, the participants included law school deans and vice deans, professors and administrative representatives and law students from all 15 New York law schools; representatives of the judiciary and Office of Court Administration; representatives of city government; members of the Board of

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<sup>1</sup> Reports from the Annual Law School Conferences are contained in Appendix 15 to the respective Annual Task Force Reports from 2012-2014, available on the Task Force website at <http://www.nycourts.gov/ip/access-civil-legal-services/index.shtml>. The history of the Law School Conference is recounted in Appendix 15 to the 2013 Task Force Report to the Chief Judge, available at <http://www.nycourts.gov/IP/access-civil-legal-services/PDF/2013CLS-Appendices.pdf>. As noted there, the Task Force to Expand Access to Civil Legal Services in New York was appointed by Chief Judge Jonathan Lippman in 2010 to develop a comprehensive approach to the provision of civil legal services to low income New Yorkers. Beginning in 2010, the Chief Judge, assisted by the Task Force, has held annual statewide hearings to assess the level of unmet need for civil legal services in New York. Subsequent to the annual hearings, the Task Force prepares a Report to the Chief Judge for his consideration in advance of his recommendations, as requested by the 2010 joint legislative resolution, to address the documented unmet need for civil legal services in New York. Over the past five years, the Task Force's Reports have detailed the crisis in our legal system resulting from the lack of access to civil legal services for millions of low-income New Yorkers. Due to the contraction of resources in both the public and private sectors, the Task Force has encouraged all the constituent organizations in New York's legal system to work collaboratively to find solutions to this crisis.

Law Examiners; executive directors and attorneys from legal services providers and bar leaders, including law firm pro bono counsel. In addition, this year's Conference included new lawyers from the first class of Pro Bono Scholars and supervisors of Scholars, both from the law schools and providers, as well as Pro Bono Innovators. Ms. Barnett noted that this year there would be two morning plenary sessions, and six afternoon work group sessions.<sup>2</sup> Ms. Barnett acknowledged the significance of the ideas and suggestions of the participants, who each year offer a broad spectrum of perspectives to the discussions, generating recommendations to the Task Force. Ms. Barnett thanked the attendees for their continuing involvement and contributions, which form an important component of the Task Force's Annual Report to the Chief Judge, and then invited Dean Michael Martin to the podium.

Dean Martin remarked that "in service to others" is Fordham's motto, and this Conference embodies that credo. Calling Chief Judge Lippman a pioneer who has reinvigorated the Access-to-Justice movement, Dean Martin hailed the law schools for their contributions through scholarly research, experiential education and pro bono work and encouraged expansion of these endeavors. In closing, Dean Martin extended Fordham's welcome to Dean Matthew Diller, who will succeed Dean Martin in August as Fordham's Dean.

Next, Ms. Barnett introduced Chief Judge Lippman, lauding his leadership and unequivocal commitment to the Access-to-Justice movement. Ms. Barnett stated that Chief Judge Lippman's commitment to access to justice has positioned New York as a national leader and model in broadening the reach of civil legal services. Ms. Barnett's pointed to the \$85 million in state funding the Chief Judge has earmarked for civil legal services, the most of any state in the country, and the myriad initiatives he has spearheaded to expand access to justice, including the 50-hour pro bono bar admission requirement, the Pro Bono Scholars Program, and the use of non-lawyer advocates.

Chief Judge Lippman thanked Ms. Barnett for her inspired leadership of the Task Force. Chief Judge Lippman underscored the importance of the academy to the Access-to-Justice movement and the significance of the partnership with the judiciary, the law schools, the providers and legal practitioners. He explained that the \$85 million in the judiciary budget ensures that equal justice is not tangential but is central to the profession's constitutional mission and we are close to our goal of \$100 million by next year and the extraordinary voluntary efforts of the bar supplement the public funding. He stated that the 50-hour pro bono bar admission rule instills the obligation to help fellow citizens, a core value of the profession, in the DNA of future lawyers; noting that students have embraced this rule and many perform in excess of 50 hours, citing personal and professional development as motivating factors. Chief Judge Lippman noted that other states are considering adoption of this rule and that there is pending legislation in California, a harbinger of a national trend. The Pro Bono Scholars

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<sup>2</sup> The program from the Fourth Annual Law School Conference is attached as Exhibit 1.

Program, he remarked, gives students an opportunity to engage in immersive pro bono work during their last semester, after they take the February bar exam, giving them a jump start on employment. The success of the Pro Bono Scholars Program is already measurable by the 85% bar passage rate achieved by the inaugural 2015 class. The Chief Judge described a collaboration jointly funded by the Robin Hood Foundation and NYCHRA, where selected scholars continue working in their housing placements through a two-year fellowship program, known as Poverty Justice Solutions, established to increase access to representation in housing matters. The Chief Judge described New York's adoption of the Uniform Bar Examination (UBE) as a significant step in the Access-to-Justice movement, giving lawyers a "portable" license, valid in all states that use the UBE. The Chief Judge praised the New York bar for its vigorous pro bono work, noting that the reporting on biennial registrations is the best in the country. He recognized the significant contributions of attorney emeriti and non-lawyers in narrowing the justice gap. With respect to the latter, the Chief Judge declared that a trained non-lawyer is better than no lawyer, and that appropriately supervised and trained non-lawyers provide effective assistance to low-income individuals confronting civil legal challenges. Further, he pointed to the leadership of the academy as integral to all of these advances, which would be impossible without their efforts and partnerships. By being proactive in the Access-to-Justice movement, "we are moving towards a 'Civil Gideon' or at the very least, a policy of effective assistance," the Chief Judge stated, "to ensure that equal justice, a constitutional imperative, is a reality. The roof over one's head is just as important as loss of physical liberty and now, 50 years after *Gideon v. Wainwright*, we continue to strive to provide equal access."

On behalf of New York's 15 law schools, Dean Matthew Diller expressed appreciation to the Chief Judge for his commitment to Access to Justice. Dean Diller acknowledged the prominent role the Chief Judge accords the law schools—to collaborate with the courts, legal services providers and bar in our collective efforts to narrow the justice gap. In recognition of the Chief Judge's support, and his role in the Annual Law School Conference over the last four years, Dean Diller presented a video tribute comprised of clips from each law school that featured students, including members of the inaugural class of Pro Bono Scholars, discussing the impact of their pro bono work on their clients and themselves.

## **Morning Plenary Sessions**

### **Innovations That Expand Opportunities for Access-to-Justice Work**

Funding, from public and private sources, earmarked for civil legal services has markedly increased since the First Annual Law School Conference in 2012. The salutary benefits of this funding extend well beyond the numbers of individuals who now have legal representation in matters involving the essentials of life and the improved circumstances of their lives that derived from effective counsel and assistance. The visible expansion of opportunities for law schools, law students and practitioners to serve people in need and the collaborative spirit that has built enduring public/private

partnerships to maximize the delivery and effectiveness of civil legal services are emblematic of the long-reaching multiplier effect of the increased funding. In recognition of the plethora of new and innovative initiatives and collaborations in the public and private sectors, the two morning plenary sessions were dedicated to exploration of how the law schools can harness the talent of the energetic and enthusiastic law student population to serve the immediate and great need for civil legal assistance in appropriate settings. The Chief Judge's initiatives have underscored the power the law schools' mission and curricula have to shape the profession and values of its practitioners.

## **I. Public/Private Partnerships and Other Collaborative Models for Closing the Justice Gap**

In opening the First Plenary Session, Fordham Law School Professor Jennifer Gordon pointed to the irony that there are innumerable economically disadvantaged people who are in need of civil legal assistance and there are too many law students graduating without jobs. Professor Gordon touched on a recurring theme of the law school conferences: how to align demand for legal services with the supply of newly minted lawyers and what can the law schools do to achieve a balance. The assembled panel, Nisha Agarwal, Commissioner of the New York City Mayor's Office of Immigrant Affairs (MOIA), Keith McCafferty, Managing Attorney of Legal Assistance of Western New York, Inc. (LAWNY), Molly Murphy, Special Counsel to the New York City Human Resources Administration (NYCHRA) Commissioner; and Eric Weingartner, Managing Director at the Robin Hood Foundation, discussed their access-to-justice programs and how the resources of a supervised pool of law students can be integrated to help meet the need.

Commissioner Agarwal stated that New York City's resources must be leveraged to improve access to justice for the immigrant community, which represents 60% of the city's population. Commissioner Agarwal identified access to justice as MOIA's number one priority and it is her mission to promote programs and policies that will enhance access to justice for immigrants. To this end, Commissioner Agarwal emphasized that access to legal services is critical for immigrants to gain legal status which leads to access to health care, education and employment stabilizing tenuous situations.

Mr. Weingartner highlighted the great dividends Robin Hood—and by extension the city itself—has reaped from its multi-million dollar investment in civil legal services. Mr. Weingartner stressed that Robin Hood's goal is to maximize outcomes and that funding for effective legal representation for people in need consistently yields high returns. Mr. Weingartner noted that there are always myriad intertwined issues confronting an individual faced with civil related troubles—requiring assistance from a skilled lawyer -- or well-trained, supervised student -- and resolution of these issues creates a productive New Yorker.

The Poverty Justice Solutions fellowships are an innovative public/private partnership between Robin Hood and NYCHRA, spearheaded by the Chief Judge, which enable Pro Bono Scholars to continue their placements and offer recent law school graduates placements with civil legal services providers to help combat homelessness and poverty in New York City.

Ms. Murphy indicated that NYCHRA assists New York City residents confronting housing issues by offering a medley of legal services, and works with MOIA to assist immigrants. The current NYCHR Commissioner has streamlined civil legal services to broaden the reach of resources and has enlisted civil legal services providers and law schools to maximize the number of individuals served.

Similarly, Mr. McCafferty stated that LAWNY has served more clients, many in remote areas of Western New York, as a result of the infusion of new civil legal services funding. Mr. McCafferty described the successes of the AmeriCorps programs for law school and college graduates, noting the deep imprint access-to-justice work has on recent graduates evidenced by how many AmeriCorps candidates pursue careers in legal services. In fact, Mr. McCafferty pointed to LAWNY's current managing directors who were initially AmeriCorps paralegals who returned to work as lawyers upon graduation.

In concluding the session, Professor Gordon and the panelists underscored the importance of experiential learning for students to ensure an immersive look at access-to-justice work and the impact they can make. This training, under watchful supervision, is key to the law schools' efforts to help narrow the justice gap and to imbue law students with the professional ethic to perform pro bono work.

## **II. Pro Bono Scholars Program and the 50 Hour Pro Bono Bar Admission Rule**

Over the last three years, the Law School Conference has followed an impactful announcement by the Chief Judge in his Law Day speech. In 2013, in accord with the Chief Judge's proposal, the New York Court of Appeals adopted Rule 520.16 mandating every candidate to the New York State Bar perform 50 hours of pro bono work as a prerequisite to bar admission. In 2014, the Chief Judge launched the Pro Bono Scholars Program (PBSP) for sixth-semester law students enabling them to take the February bar exam in exchange for full-time pro bono placements during their final law school semester assisting low-income people to resolve their legal issues. The 106 scholars from the 2015 inaugural class who took the February 2015 bar exam achieved an 85% pass rate. This year, the Chief Judge announced that New York would administer the uniform bar examination beginning in 2016 to maximize the portability of a law license. The Second Morning Plenary Session offered a forum to consider the two student pro bono initiatives from the perspective of the law school, a legal services provider and a pro bono scholar.

Court of Appeals Associate Judge Jenny Rivera opened the session by noting that applicants to the bar in calendar year 2015 will be permitted to submit affidavits for pro bono work completed prior to May 2012. Judge Rivera remarked that the definition of pro bono for purposes of the bar admission rule is broadly construed and the primary objective is to serve individuals in need.

Buffalo Law School Professor Kim Diana Connolly aptly characterized the Chief Judge's pro bono law school initiatives as efforts to increase awareness of the Access-to-Justice Movement and the persistent need for services and resources. Professor Connolly and fellow panelist Hofstra Professor Jennifer Gundlach, remarked that law schools will need additional resources to ensure the longevity of the PBSP, including the involvement of faculty not typically assigned to clinical or public-interest endeavors. Professors Connolly and Gundlach stressed the value of engaging students in pro bono work and that many students perform in excess of the required 50 hours. To this end, formal tracking of the total number of hours of pro bono work performed by law students and assessments/reflections from students about their experiences are encouraged as matters of policy.

Professor Gundlach observed that a notable benefit of the PBSP—and the annual law school conferences—is the increased dialogue between law schools, courts and legal services providers. Professor Connolly announced that she intends to engage in a longitudinal study of how the PBSP impacts students and communities.

Lauren Donnelly, Housing Help Program Supervisor at the Legal Aid Society and an Adjunct Professor at Cardozo Law School, where she instructs students in the PBSP, offered an account of the eviction-prevention efforts undertaken by her student-scholars made possible by the funding from NYCHRA and Robin Hood. Ms. Donnelly read from several journal entries her students recorded to illustrate the impact the work had on the students and the positive results achieved for the clients. Ms. Donnelly noted that the addition of the Scholars and the quality of their work allowed the Legal Aid Society to handle additional cases.

Leigh Ellis, a Pro Bono Scholar from Pace Law School who has been hired by her PBSP placement, Legal Services of the Hudson Valley, lauded the PBSP and expressed her hope that future students will avail themselves of the tremendous opportunity it offers. She emphasized the value of practical skills she learned during her placement which she could not have gained by being in the classroom, and the significance of the community of mentors she cultivated by working in a legal services organization.

The open discussion subsequent to the panel presentations raised the issue of the importance of supervision of all types of law student pro bono work. An online Handbook of Best Practices for Supervising Law Student Pro Bono Work is under development by one of the Conference Work Groups and the Council as a community resource. A note of caution was sounded for measured expansion of the PBSP and

maximizing the diversity of candidates, perhaps broadening the reach of the applicant pool by increasing academic support.

### **Afternoon Work Groups: Report Summaries of the Sessions**

As detailed in the Conference Program annexed to the Report, this year six Work Group sessions ran concurrently during the afternoon. Each of the Work Groups continued the dialogue from the sessions at the prior three Conferences. The Work Group Reports and Recommendations derived from the discussions in the Work Group sessions and summarized below demonstrate how fruitful it is to continue the conversation on the role of law schools in helping meet the essential civil legal needs of low-income New Yorkers.

### **Educating Students to Be Culturally Competent Lawyers**

#### **Overview**

As several previous work groups from this conference have recommended, cultural competency should be considered an important student learning outcome for graduates of New York law schools. The Work Group, led by CUNY Law School Professor Susan Bryant, addressed these issues with presentations and teaching demonstrations at the Conference by Albany Law School Professor Mary Lynch; Lillian Moy, Executive Director of the Legal Aid Society of Northeastern New York; and Aditi Shah, Staff Attorney and Language Access Coordinator for New York Lawyers for the Public Interest.

#### **Recommendations from the Work Group**

1. All New York law schools should establish and publish learning outcomes that contribute to the development of culturally competent lawyers and incorporate multicultural concepts, skills and values.
2. All New York law schools should establish and publish learning outcomes that develop law graduates who can ask and discover their client's goals and, as well, identify, learn and tell persuasively "their client's story."
3. Law schools and the courts should recognize that in-house clinics are most transformative in facilitating cultural competence education in the context of real cases while also developing client-centered lawyers.
4. Providers and law clinics should create standard office procedures for providing interpretation, translation, and other communication accommodations.
5. All New York law schools should establish and publish learning outcomes that include acquiring knowledge, skills and values to provide competent, ethical representation of clients needing communication accommodations.

## **Synopsis of Discussion**

For those concerned with both access to justice and educating culturally competent lawyers, the new requirements imposed upon law schools by the American Bar Association (ABA) can be viewed as an opportunity to create more space for and more conversation about the development of culturally competent lawyers within law schools. Recently, the ABA created standards requiring law schools to establish and publish learning outcomes that prepare students for “effective, ethical, and responsible participation as members of the legal profession.”<sup>3</sup> In addition, law schools now are required to develop processes “to measure the degree to which students have attained competency in the school’s student learning outcomes.”<sup>4</sup>

### **1. Learning to Be Culturally and Linguistically Competent**

Learning to be culturally competent includes knowledge, skill and attitudinal/value components. The knowledge component includes understanding similarities and differences between client and lawyer, awareness generally of cultural nuances as well as the need to learn about a client’s specific culture, and sensitivity to the differences in values between individual versus collective cultures. The knowledge component also includes understanding of implicit bias and how privilege surfaces and achieves dominance through our legal systems. In developing cross-cultural skills, law students need to develop the ability to navigate similarities and differences, exercise parallel universe thinking and critically evaluate laws, culture and societal systems from a variety of cultural perspectives and lenses. Finally, law students need to absorb professional values and attitudes such as openness, curiosity, and respect for differences in cultures and beliefs, as well as commitment to developing habits that improve cultural sensibility.

To build cultural competence, lawyers should understand both how their implicit biases can affect their decisions and how unconscious bias can affect the decision-makers before whom they appear. Unconscious biases can operate to distort accuracy and, at times, to thwart justice. Developing awareness of unconscious mental processing is essential to becoming a more culturally competent law student, law graduate and lawyer. Awareness alone is not enough; lawyers need to know how to decrease their own biased thinking and how to challenge it in others.

### **2. Developing Vocabulary for a New Paradigm**

Defining culturally competent practice involves defining and learning ideas. There is a new vocabulary for this paradigm—the critical component is to raise

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<sup>3</sup> 2014-2015 Standards and Rules of Procedure for Approval of Law Schools, Standard 301 [http://www.americanbar.org/groups/legal\\_education/resources/standards.html](http://www.americanbar.org/groups/legal_education/resources/standards.html).

<sup>4</sup> *Id.*, Standard 315.

awareness and increase understanding. As lawyers, we should develop cultural humility and cultural competence in order to be better lawyers. One way lawyers can accomplish this is through “parallel universe thinking”: suspending conclusions and judgments and generating multiple possible explanations to explain what may initially seem inexplicable. Parallel universe thinking helps lawyers avoid judging the actions of clients, and promotes greater understanding of clients’ actions. This requires that cross-cultural communication skills, including deep listening focused on content, not style. Similarly, creating awareness of the importance of non-verbal behavior, as well as the ability to adapt conversation management behaviors and style to an individual client are critical components of this paradigm. In addition, the lawyers’ capacity to consistently use a trust-promoting method of inquiry, advice and counsel with diverse clients should be encouraged.

It is imperative that professors, practitioners and law students understand the role of “cultural guides” in this setting.

### **3. Teaching Cultural Competence**

To teach law students and lawyers how to be culturally competent lawyers, we must increase awareness of their roles as cultural beings. The aim is to assess through a clear lens, free of implicit biases, value judgments and mental shortcuts, to reveal how ethnocentrism casts shadows on, even obstructs, impartiality.

Recently, this learning has been connected to our justice system,<sup>5</sup> especially with respect to policing. In both the criminal justice and education system, implicit bias affects sentencing and school discipline outcomes for African-Americans and Latinos. In the employment setting, it often affects job interviews and call-backs. Culturally competent lawyers must strive to stop implicit biases from obstructing justice.

The Work Group engaged in a short experiential exercise designed to teach students how our world-view shapes how we fill-in details to explain and attribute meaning to behavior. The group used this exercise as a simple illustration of how our own cultural lens shapes our judgments, assumptions and thoughts about a complicated world and how such biases may lead to misinterpretation, inaccurate conclusions and injustice.<sup>6</sup> Following the presentation and discussion, the group

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<sup>5</sup> Seeing Black: Race, Crime and Visual Processing, Eberhardt, Goff, and Purdie & Davies. <http://fairandimpartialpolicing.com/docs/pob5.pdf>.

<sup>6</sup> One way to raise awareness of implicit biases is to introduce students to the implicit association test, <https://implicit.harvard.edu/implicit/takeatest.html>. The work group suggests that law students take the race test and a number of other that look for different biases. In teaching about biased thinking generally, law schools should introduce the concept of confirmation bias, a process that causes us to note and remember the facts and observations that confirm our prior understandings.

identified in-house clinics as uniquely suited to teach cultural competence. In the faculty-supervised learning that students receive in these settings, students are assisted in learning from experience to build cultural competence, to develop cultural humility and to challenge bias and injustice in the justice system.

#### **4. Connecting Language Access and Cultural Competency**

Legal services providers face increasing diversity in their client populations. Law students should expect that they will work with clients who are limited English proficient (LEP) or who present other communication differences based on deafness or disability. Law students should recognize their legal and ethical obligations to accommodate client communication needs. As with other processes that providers and clinics maintain to establish and conduct client representation, providers and clinics should proactively create standard office procedures for providing interpretation, translation, and other accommodations. Law students should recognize that communication accommodations should be a basic aspect of case planning, not a challenge to be dealt with on an *ad hoc* basis.

### **Infusing Access to Justice in the Doctrinal Curriculum**

#### **Overview**

This year's Work Group featured examples of how access to justice is integrated into core curricular offerings. Fordham Law School Professor Nestor A. Davidson highlighted how he integrates access-to-justice issues into his property class; New York University Law School Professor Helen Hershkoff discussed how she infuses access to justice into the civil procedure syllabus; and Touro Law Center's Professor Deseriee Kennedy described how she integrates access-to-justice issues into family law courses.

#### **Recommendations from the Work Group**

1. Faculty, in individual courses, and law schools, institutionally, should provide opportunities for students to engage with questions of access to justice throughout the traditional doctrinal curriculum—in the first year, but also across a broad range of upper-level electives.
2. Faculty should consider creative pedagogical techniques beyond Socratic dialogue to bring access-to-justice issues to life, including court visits, student reflections, and engagement with litigation materials.
3. Faculty should understand that they do not need to be expert in questions of access to justice to frame a constructive conversation about how these issues relate to their own areas of expertise.
4. Recognizing the vital need to respect individual faculty pedagogical autonomy, law schools can take steps to foster a discourse across their

faculty about how access-to-justice questions might be addressed. These steps can include charges to faculty committees responsible for curriculum and teaching, school-support colloquia or “themes” that can cross topical areas, and outside speakers who can bridge sections, among other supports.

### **Synopsis of Discussion**

The Work Group began with a panel that offered three perspectives on experiences with access to justice in traditional doctrinal courses. Professor Davidson began with first-year Property, where he addresses access-to-justice questions at several points. Landlord-tenant law provides a fertile field for engaging with these issues, and Professor Davidson gave the example of the implied warranty of habitability, a doctrine that appears to provide robust protection for tenants from substandard housing conditions. There is a literature—which is referenced in the casebook Professor Davidson uses—that illustrates the many ways in which this right can be illusory absent adequate representation, and the representational disparities that exist in many housing courts. To grapple with this material, students have to shift from doctrine to social context, but in his experience, most students can do so.

Next, Professor Hershkoff discussed access to justice in first-year Civil Procedure, which she argued should be the easiest of the courses in which these issues can be raised. Professor Hershkoff tied access to justice with the teaching goal of getting her students to understand—and be involved in—the democratic process. A challenge Professor Hershkoff noted for civil procedure is that professors want students to think about procedure as separate from substance, while students often come in thinking that procedure is neutral and litigants all get the same treatment. Access to justice helps lay a conceptual foundation for students to understand that there is nothing natural or universal about procedure. Part of Professor Hershkoff’s aim, then, is to show students that the substantive implications of rules are highly contingent, and part of their job as lawyers is to use those rules on their client’s behalf in a way that will also inform their role as democratic participants. Professor Hershkoff illustrates this through one or two contemporary issues where poverty and procedure are particularly salient.

Finally, Professor Kennedy shifted the focus from staples of the first-year curriculum to the particular challenges of engaging upper-level students in questions of access to justice. In her Family Law course, Professor Kennedy requires students to attend child support proceedings, exposing them first to the underlying child-support doctrine. Students are often struck by the informality of the small room in which the hearings take place, and students are sensitized to the fact that about 90% of the litigants in this setting are not represented. Professor Kennedy strives to have students grapple with the tensions that child support raises—what happens when people don’t pay; for those who can pay, *should* they pay; what are the practicalities of how to pay and how much to pay? What should the state do in these situations? What penalties

are appropriate? Professor Kennedy finds that student reflections about how representational absences influence outcomes can be quite effective.

After these opening observations, the Work Group collectively discussed several themes. One member observed that students often organically bring up questions of representation and can be guided to think more deeply about doctrines that impact access, such as the ability to obtain attorneys' fees in some contexts. Another member offered ideas for bringing trial-level access issues into the classroom, such as reviewing real litigation documents and working through the lawyering decisions that framed them. And one member reflected that regular faculty should not feel intimidated about bringing up questions of access to justice—that even taking a few minutes to talk about these or related issues involving poverty, race, and power and reacting as a person, even if not an expert, can be powerful for students.

One challenge that was noted is that the doctrines introduced in the classroom are complex enough without further confusing students with the added dimension of whether litigants have access to counsel. One suggested answer to this dilemma is that students should be guided to understand that they have some responsibility of their own to face the uncertainty of decisional rules by influencing the outcome. This prompting to individual agency can illustrate how much harder navigating litigation contexts are without adequate representation.

The Work Group discussion then shifted from individual faculty efforts to broader questions of institutional responsibility for infusing access to justice across the curriculum. One work group member suggested that law school administration or faculty as a whole can develop school-wide projects to foster a dialogue about access to justice across courses. These can include "themes" that can involve the entire law school, reading groups or seminars, and one member noted that her law school has a "slow" colloquium, that unfolds over time, with faculty involved, for which students can earn credit. The group also discussed the potential value of signaling the importance of these issues in institutional structures, such as teaching evaluations.

The Work Group discussed some challenges and important caveats in an active administration effort to direct this from the top down. As one member noted, there are widely varying views amongst faculty and students, and another member raised the fact that law schools operate with legitimate and deeply held norms of faculty autonomy that must be considered.

In response, it was noted that one of the ways that law schools can accomplish these goals without mandatory structures that infringe on faculty autonomy might involve bringing speakers to the law school and mandating student attendance. One Work Group member noted that her law school has 1L convocations that all students are required to attend, and these sometimes have a specific topical theme. While this is a role law schools can play, it also requires that students reflect and really think about how they can make a difference.

## **Best Practices of Supervising Law Student Pro Bono Work: Workshop on Developing the Handbook of Best Practices for Supervision of Law Student Pro Bono Work**

### **Overview**

The Best Practices for Supervising Law Student Pro Bono Work Group builds on work previously done toward the creation of a new guidebook for supervisors of law student pro bono service that will support the 50-hour bar admission rule, Pro Bono Scholars Program and other pro bono structures and initiatives in New York State, at the 2014 Law School Conference and in the period between the Conferences. As conceived by Ellen Chapnick, Dean for Social Justice Initiatives at Columbia Law School, the session began with a plenary meeting to orient and educate the participants about how to draft a web-based publication and the technology that will be used throughout the creative process. Mike Grunenwald of Pro Bono Net gave a presentation on best practices for writing content designed for web publication, and Laren Spierer, Director of Pro Bono Programs at Columbia Law School and a Work Group Chair, gave a short tutorial on Google Docs, which the chapter teams will utilize for cloud-based collaboration. The Work Group participants included Conference registrants who selected the Work Group, as well as individuals who had been recruited previously.

### **Recommendation from the Work Group**

Under the auspices of the Statewide Law School Access to Justice Council, the Handbook of Best Practices for Supervision of Law Student Pro Bono Work will be published on the web and “unveiled” at the Fifth Annual Law School Conference on Access to Justice in 2016.

### **Synopsis of Work Group Session**

The 2014 Law School Conference provided a unique opportunity for meaningful discussion about the supervision of law student pro bono during which multiple stakeholders in the law student pro bono service matrix (law schools, not-for profit organizations, courts, law firms, bar associations, etc.) met in person and were able to brainstorm about various aspects of supervision of law student pro bono:

1. What are best practices for developing an access-to-justice pro bono project for law students that has significant impact?
2. What are best practices for providing orientation and training to a student about the project at its outset?
3. What best practices are most suited for assuring competent performance, responding to questions, giving feedback, and evaluating the student during the project?

4. What are best practices for informing law students about professional responsibility and ethics relevant to their pro bono project?
5. What are best practices for supervising students in the Pro Bono Scholars Program, including each of the above topics?
6. What are best practices for the division of responsibility among law school professors and host organizations (not for profits, courts, law firms, etc.)?

After the 2014 Conference, the Chairs of the Work Group analyzed the information collected at the Conference and distilled it into a detailed outline that will serve as the foundation for a Handbook of Best Practices for Supervision of Law Student Pro Bono. They also recruited lawyers at law schools, public interest and government organizations, judicial bodies and law firms to lead and serve on work groups that would be responsible for the individual Handbook chapters. A "Chapter Chair" has been selected for each chapter; s/he is responsible for ensuring that each group produces their portion of the Handbook according to the production timeline outlined by the Work Group Chairs. The Work Group chairs also decided that the Handbook will be published on the web, rather than in hard copy, to facilitate widespread distribution and updates. It is projected that the handbook for supervisors will ultimately be part of a larger body of work that includes a handbook on best practices for students engaging in pro bono work and one for law school faculty and administrators involved in managing law student pro bono programs.

The majority of the 2015 Work Group session was a working meeting. The participants were divided into subgroups according to the chapters they had been assigned. Discussions relevant to their drafting sections of the Handbook of Best Practices for Supervision of Law Student Pro Bono Work ensued, building on the themes raised at last year's conference and the outline formulated thereafter. The subgroups brainstormed on content and a plan for producing content going forward.

The Work Group Chairs have posted relevant materials online for the Chapter Chairs to share with their individual groups and will hold monthly calls to keep the drafting process moving forward. The drafts will be read and edited by an additional panel of experts and the Chairs will work with them to compile the chapters into the final, web-based product.

## **Role of Law Schools in Training Non-Lawyer Advocates to Help Narrow the Justice Gap**

### **Overview**

The Work Group panel was assembled to reflect on the advances in using non-lawyers as a resource to improve access to justice since last year's Conference, with particular attention to the Navigator Program in Brooklyn Civil Court's Housing Parts and Bronx Civil Court's Consumer Credit Parts, Washington State's Limited License Legal

Technician (LLLT) program and the implications for New York law schools. Thomas Maligno, Executive Director of the Public Advocacy Center and Public Interest at Touro Law Center, led the discussion with panel members Katherine Chang, Program Coordinator of the Navigator Pilot in Brooklyn Housing Court from University Settlement; Patricia Kuszler, Vice Dean of the University of Washington School of Law (via Skype); Paula Littlewood, Executive Director of the Washington State Bar Association (via Skype); Patricia Salkin, Dean and Professor of Law, Touro Law Center (via telephone); Fern Schair, Co-Chair of the Committee on Non-Lawyers and the Justice Gap and Chair of the Feerick Center for Social Justice at Fordham University School of Law; and David Udell, Executive Director of the National Center for Access to Justice and Visiting Professor from Practice at Benjamin N. Cardozo School of Law.

### **Consensus of the Work Group**

Law schools should be supportive of non-lawyers working to help close the justice gap. Law schools should consider how to best support non-lawyers with due regard to ABA accreditation standards, New York State licensing issues and the impact on law schools' mission, administration, including career services offices, and J.D. students. There also needs to be consideration given to the financial aspects of a law school offering this support. Consideration of the costs to both the law school and the prospective non-lawyer participant needs to be explored. Law schools need to also consider the ways to train law students to engage with non-lawyers to help diminish the justice gap.

### **Synopsis of Discussion**

In 2014, Chief Judge Lippman created the Court Navigator Program, noting that an unrepresented litigant stands to benefit from the assistance of an appropriately trained and supervised non-lawyer when faced with a housing matter or consumer credit issue that ultimately can impact that individual's -- and family's—civil liberties and due process rights. The practice of law is regulated to protect individuals from fraud, and the use of non-lawyers—their education, field training and supervision—must similarly be regulated to guard against the unauthorized practice of law. Presently, Navigators work closely with lawyers from non-profits already assisting people in need by, e.g., aiding in filling out forms or answering factual questions posed by the court, but Navigators are prohibited from advocating for litigants. A legislative proposal is under consideration to “carve out” an exception to the unauthorized practice of law statute for proscribed activities by non-lawyers that would give legal services organizations increased discretion to send an approved person to court with a client.

By contrast, a Limited License Legal Technician in Washington State is licensed to practice law albeit of limited scope, presently “siloeed” family law, and is subject to the Rules of Professional Conduct for LLLTs. On the day of the conference, May 11, 2015, the first class of 15 LLLT candidates was taking the initial practice exam. The interest in -- and demand for -- LLLTs has increased dramatically—the current class has

78 students, and there are over 100 students enrolled in the core education classes for the LLLT program. Generally, the students have strong ideas about their career paths and are seeking an affordable, accessible education. The core curriculum is offered by a community college, and the practice area curriculum, which must be designed by a law school, is offered by the University Of Washington School Of Law. There is a synchronized online component to ensure accessibility for students outside of Seattle. In addition to exams, candidates must perform 3000 hours of work supervised by a lawyer. The candidate can be compensated for this work experience, and the cost of the LLLT program is less than half of the cost of the average New York law school.

Interestingly, the Washington State panelists remarked that lawyers are recognizing that LLLTs are not competition but a business opportunity. Apart from cultivating a new client base, LLLTs can handle parts of a case for a lower rate and then refer the matter to a lawyer when it exceeds the scope of the LLLTs' practice area.

The Washington State experience is instructive for New York. It was encouraging to hear of the support from the law school and bar. The positive impact in New York of navigators for litigants, even before entering the courtroom and in the courtroom, indicates that there is a role for non-lawyers in improving access to justice and the law schools should develop policies with regard to non-lawyers.

## **Limited-Scope Legal Assistance as a Means to Narrow the Justice Gap**

### **Overview**

Limited-scope assistance has emerged as an established and institutionalized service delivery method for assisting unrepresented litigants in civil legal matters and addressing the access-to-justice crisis. In the 2014 Annual Report to the Chief Judge, the Task Force recognized the importance of limited-scope assistance as a way to address the continuing need for civil legal assistance. This year's adoption of the resolution by the New York State Legislature supporting the need for effective legal assistance for New Yorkers living at or under 200 percent of poverty underscores the imperative role of law schools in continuing to educate and engage students in limited-scope representation.

Dora Galacatos, Executive Director of the Feerick Center for Social Justice at Fordham Law School, led a discussion with the Work Group Panel, which included Carolyn E. Coffey, Supervising Attorney at MFY Legal Services, Inc. and Adjunct Professor at N. Cardozo Law School; Laurie Milder, Special Counsel to the New York State Courts Access to Justice Programs; Christopher Schwartz, Deputy Director of the Legal Hotline & Legal Assistance for the Self-Represented at the City Bar Justice Center; and Marcella Silverman, Clinical Associate Professor of Law at Fordham Law School and the Supervising Attorney for Lincoln Square Legal Services, Inc., that explored how law schools can further engage in limited-scope assistance to expand access to justice for low-and moderate-income people in clinical and other experiential learning settings.

The Work Group identified best practices for limited-scope assistance in these settings as a way to close the justice gap and focused, in particular, on training and supervision.

### **Recommendations of the Work Group**

1. Clinical seminars and seminars in connection with other experiential learning courses, such as externships, should include discussion of access to justice and should cover limited-scope legal services.
2. Clinical and other experiential learning courses should include observation of court proceedings in which significant numbers of litigants are unrepresented.
3. Training for law students engaged in supervised limited-scope assistance is of paramount importance and should cover the key areas of confidentiality, competence, informed consent, cultural competence, and disclosure to the tribunal. Specific suggestions include:
  - Training law students to be aware of clients with potential issues of limited English capacity and limited literacy, and the need for plain language in describing the scope of representation.
  - Training law students to handle confidentiality issues in settings with limited space or privacy.
  - Training law students to assess when cases are too complex for limited-scope representation.
4. Additional research and evaluation regarding limited-scope assistance and its efficacy would be helpful to identify best practices and evidence-based policies and procedures for those providing such services.

### **Synopsis of Discussion**

The session began with the sharing of information from two surveys distributed in advance of the conference to New York State law school faculty and administrators, which asked questions about involvement with limited-scope assistance.<sup>7</sup> The survey results suggest that limited-scope assistance is being included in both doctrinal and experiential courses by clinical faculty and administrators. For example, over 60% of respondents who have a seminar component for externships cover access-to-justice

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<sup>7</sup> Two surveys were distributed prior to the Conference. One survey targeted faculty and administrators involved with externships, Pro Bono Scholars programs, and law student pro bono placements; 43 respondents completed part or all of this survey. A second survey targeted clinical faculty; 16 respondents completed part or all of that survey.

issues and, of those, 45% also cover limited-scope legal services. Fifty percent of respondents reported that externship placements routinely involve students in limited-scope assistance. With regard to clinical programs, which involved a smaller group of respondents, nearly 70% include access-to-justice issues in the seminar component of the course (but only 29% also cover limited-scope assistance). Notably, six out of fifteen respondents (or 40%) taught a clinic that provided some limited-scope assistance, mostly as part of intake, but also in connection with clinics.

Given the prevalence of limited-legal services—in the nonprofit legal services sector and as a pro bono opportunity in the courts and through bar associations—students benefit from exposure to and experience with this modality while in law school. The survey results show that law school faculty and administrators already include access-to-justice issues in seminars, but more of them could include discussion of unbundled legal services as well. Clinical and experiential learning and supervised pro bono programs can provide a structured setting for students to engage in high-quality, limited-scope services; notably, clinics can do this while primarily focusing on full-scope representation, as this form of holistic lawyering is fundamental to clinical pedagogy. In this way, faculty and administrators can follow best practices for unbundled services and explore with law students the policy issues and challenges presented by this service modality. Some of the concerns raised included the inability of students to serve clients holistically—particularly the limitations presented both with regard to the nature and scope of learning by the students, as well as the depth of assistance and engagement in the legal issues presented by clients—and the time and effort that limited-scope assistance may take away from other important efforts, such as law reform work, appeals, and late intervention cases. Another concern voiced related to the challenge in assessing cases to ensure that they are appropriate for limited-scope assistance. These concerns were countered by the imperative to provide assistance to unrepresented litigants in cases amenable to brief advice. A number of participants mentioned evaluation and research of limited-scope programs to improve the knowledge in the field and to identify best practices.

The Work Group recognizes that many states have adopted professional responsibility rules to enable pro bono and other programs to engage in limited-scope assistance;<sup>8</sup> that bar associations operate clinics and hotlines (some staffed with pro bono lawyers); that funders routinely fund nonprofit legal services providers to

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<sup>8</sup> See, e.g., N.Y. Rule of Professional Conduct 6.5; Rochelle Klempner, *Unbundled Legal Services in New York State Litigated Matters: A Proposal to Test the Efficacy Through Law School Clinics*, 30 N.Y.U. Rev. L. & Soc. Change 653 (2006). See also ABA Standing Committee on the Delivery of Legal Services, *Pro Se Unbundling Resource Center*.

expressly provide such services;<sup>9</sup> that courts throughout the country have integrated limited-scope programs in an array of practice areas; and, that the use of limited-scope representation is a viable and effective means to improve access to justice.

The Work Group discussed a number of key topics related to best practices for delivery of unbundled services.

Informed Consent: Work Group participants discussed retainer agreements for limited-scope services and guidelines as to what should be in a retainer agreement. The persons who access limited-scope services may be non-English speakers, have literacy issues, and need plain-language documents. As a general practice, the importance of explaining or reading the document out loud to the client was emphasized.

Confidentiality: The Work Group spoke at some length about the need to ensure confidentiality for limited-scope clients because of the less-than-optimal settings where client engagement often takes place. For example, advocates conduct interviews in crowded courtrooms, clinics, hallways, side rooms, and stairwells. Some programs, like the New York State Unified Court System's Volunteer Lawyer for the Day Program, have offices in the courts to meet with clients with appointments, but even then, some clients are met for the first time in the courtroom after the calendar is called.

Competency, Training and Supervision: The discussion on competency focused on the critical need for law students to be closely supervised by faculty and other experienced attorneys. For limited-scope representation engagements, law students need legal and courtroom skills training and the supervisor should be closely involved with and available in every aspect of the representation. Work Group participants stressed that "supervision is key." Additionally, diverse training for law students involved in unbundled legal services is also important, such as simulations, role playing, and extensive skills-based instruction. The Work Group also discussed the fact that not all cases are appropriate for limited-scope services and those involved need to exercise as much care as possible in screening and triaging of cases.

Disclosure to Tribunal: The Work Group concluded that, although not required, the better practice is to disclose that court documents have been prepared with assistance of counsel.

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<sup>9</sup> According to the Interest on Lawyer Account Fund of the State of New York (IOLA), in Fiscal Year 2013-2014, IOLA grantees provided "pro se assistance" to 37,154 individuals through clinics and to 30,056 individuals in court.

## **Developing Transactional Skills to Serve Low-Income Communities**

### **Overview**

Marcia Levy, Executive Director of Pro Bono Partnership, moderated the Work Group panel discussion, featuring Erin Correale, Vice President and Compliance Director at JPMorgan Chase; Sean Delany, Executive Director of the Lawyers Alliance for NY and NYU Adjunct Professor; Brian Glick, Clinical Associate Professor of Law at Fordham; Alison King, Pro Bono Counsel at Kaye Scholer LLP; and Barbara Schatz, Columbia Law School Professor. The Work Group explored current law school training in transactional law and legal skills, including, e.g., efforts to expand clinical and externship opportunities focused on transactional practice, and the significant impact of the service of pro bono lawyers to non-profit organizations based in underserved communities. The group discussed whether law schools prepare students to be transactional lawyers and how law schools can motivate students to seek out or experience a transactional practice or skill-set.

### **Conclusions of the Work Group**

1. Access to transactional legal services fundamentally transforms communities and lives and is an access-to-justice issue.

Without access to pro bono or low-cost legal representation, many non-profits providing critical services to underserved communities and many community-based small businesses and social enterprises would fail or fail to thrive. The benefit of legal services to non-profits, social enterprises, and community-based small businesses has a broad and positive community-wide impact, multiplied through the efficient and increased delivery of their services and the strengthening of local economies and communities.

2. There should be an increased offering of practical, skills-based transactional classes in law school and a connection to pro bono experiential learning.

Students are not “practice ready” from a transactional perspective if they are not exposed to the discipline in the classroom or experiential learning during law school. Much of this training falls to the law firms to provide “on the job.” The work group observed that the transactional curriculum offering has increased over the past decade, with clinical offerings leading the way. However, clinical and classroom teaching focused on transactional skills and practices is still not widespread. Law school faculty teaching through the lens of litigation and the case method misses an opportunity to highlight the transactional nature of subjects like intellectual property, real estate transactions, contracts, governance and labor and employment. Similarly, opportunities to learn through clinical and pro bono legal work for non-profit organizations, which have the same

transactional legal needs as commercial companies, should be augmented and highlighted. Faculty and advisers should have a heightened awareness of transactional practice and communicate with students early and often through the curriculum and in the advisory process about opportunities to engage in pro bono transactional legal work.

3. Transactional legal concepts should be incorporated into the New York bar examination.

Many students treat law school as a three-year bar preparation course, and law schools feel the pressure of student bar passage rates. Adding transactional subjects to the bar examination would encourage a reprioritization of the required course of study and augmentation of a transactional skills-and practice-based law school curriculum. The promulgation of the 50-hour rule and the advent of the Pro Bono Scholars program have highlighted and prioritized the commitment to pro bono service by law students and candidates for the New York State Bar. The obligation to complete pro bono legal services as a qualification for eligibility to the New York State Bar must include a broad range of practice disciplines and corresponding pro bono opportunities, including transactional legal services.

4. Collaborations among law students, law firms and corporations for capacity-building with respect to transactional pro bono legal service delivery should be encouraged.

Partnerships between law schools and law students on the one hand, and law firms and corporations regularly engaged in transactional legal practices on the other, can build needed capacity for underserved groups like micro-entrepreneurs and nonprofit organizations.

5. The Pro Bono Scholars Program should include transactional opportunities.

The Pro Bono Scholars Program offers an opportunity for law students to develop public-service lawyering skills before graduating from law school, while providing meaningful work on behalf of low-income communities. The Program should be expanded to encompass transactional representation of non-profit organizations based in low-income communities.

### **Synopsis of Discussion**

The Work Group recognized that there is tremendous need in the low-income community for assistance by transactional lawyers. Whether it is from a nonprofit representing the disadvantaged, a small business that is helping to revitalize a community or a social entrepreneur who is making an impact in areas such as the environment, there is a critical need for pro bono transactional lawyers who can draft

contracts and advise on incorporation or corporate governance, labor and employment, real estate and tax issues.

The current law school curriculum often does not foster the development of transactional skills, and if it does teach those skills, there are limited opportunities to experience the link between those skills and public service. The curriculum is litigation-focused in everything from the way doctrinal courses are taught to the number of transactional versus litigation clinical offerings. It was noted that at one school there are over 15 clinics, but only one has a transactional focus. Most skills courses are trial advocacy oriented, and even externships tend to be in the litigation, individual representation realm.

Students who are interested in transactional work often do not have an opportunity to engage in skills-based transactional work while in law school. There are few to no opportunities for them to learn that as transactional lawyers they can use those skills to help low-income communities, particularly through representation of organizations or small businesses. As a result, students interested in transactional work who plan to go to firms and, eventually, in-house, are not given opportunities to experience public service and will not see the value of transactional practice in that context or generally may not view public service as important. Similarly, very few public-service-oriented students will choose a transactional practice, as they do not realize that one can serve the community through nonprofit or social impact lawyering.

The group agreed that it is critical to provide opportunities for students to experience transactional practice that serves low-income communities by work with nonprofits, small businesses and social impact programs. The exposure can be through clinics, externships, practical skills courses and doctrinal courses that give some practical skills exercises.

### **Closing Plenary Session**

Dean Diller welcomed the participants back for the concluding session, highlighting the recurrent themes from the annual conferences. Law school education shapes students and ultimately, the profession, so it is incumbent upon law schools to impart that law is about justice. The present-day irony, as pointed out by Professor Gordon during the morning plenary session, is the imbalance in the demand for civil legal services by persons in need and the supply of energetic but unskilled law students. Harnessing the talent and tremendous resources of law students requires a balance of appropriate training, education and supervision. Over the past four years, tremendous resources have been deployed to help respond to the persistent need for civil-need legal services—millions of dollars in state and city funding, public/private collaborations and related funding initiatives, the pro bono bar admission rule, the Pro Bono Scholars Program – which collectively expand access to justice. The discussions and recommendations generated from this conference and the six afternoon work

groups will continue to advance the law schools' efforts and partnerships to narrow the justice gap.

Following brief reports from the facilitators of the afternoon work groups, Ms. Barnett closed the Conference with words of appreciation to all the participants and the request for suggestions for next year's Conference.

## EXHIBIT 1

FOURTH ANNUAL LAW SCHOOL CONFERENCE ON  
**ACCESS TO JUSTICE**

THE ROLE OF NEW YORK'S LAW SCHOOLS  
IN HELPING MEET THE ESSENTIAL  
CIVIL LEGAL NEEDS OF  
LOW-INCOME NEW YORKERS



CONVENED BY THE  
**TASK FORCE TO EXPAND  
ACCESS TO CIVIL LEGAL SERVICES IN NEW YORK**

FORDHAM UNIVERSITY SCHOOL OF LAW, NEW YORK

May 11, 2015



## FOURTH ANNUAL LAW SCHOOL CONFERENCE ON ACCESS TO JUSTICE

### THE ROLE OF NEW YORK'S LAW SCHOOLS IN HELPING MEET THE ESSENTIAL CIVIL LEGAL NEEDS OF LOW-INCOME NEW YORKERS

**MAY 11, 2015 • FORDHAM UNIVERSITY SCHOOL OF LAW, NEW YORK**

**9:00–9:30 A.M. REGISTRATION AND CHECK IN - LIGHT REFRESHMENTS SODEN LOUNGE - SECOND FLOOR**

**9:30–10:00 A.M. WELCOME AND INTRODUCTION COSTANTINO ROOM**

**HELAINÉ M. BARNETT** CHAIR, TASK FORCE TO EXPAND ACCESS TO CIVIL LEGAL SERVICES IN NEW YORK

**MICHAEL M. MARTIN** DEAN AND DISTINGUISHED PROFESSOR OF LAW, FORDHAM UNIVERSITY SCHOOL OF LAW

#### OPENING REMARKS

**HON. JONATHAN LIPPMAN** CHIEF JUDGE OF THE STATE OF NEW YORK

**10:00 A.M.–12:00 P.M. MORNING PLENARY SESSIONS COSTANTINO ROOM**

#### INNOVATIONS THAT EXPAND OPPORTUNITIES FOR ACCESS-TO-JUSTICE WORK

**10:00–11:00 A.M. PUBLIC/PRIVATE PARTNERSHIPS AND OTHER COLLABORATIVE MODELS FOR CLOSING THE JUSTICE GAP**

**MODERATOR:** **JENNIFER GORDON** PROFESSOR OF LAW, FORDHAM UNIVERSITY SCHOOL OF LAW

**PANELISTS:** **NISHA AGARWAL** COMMISSIONER, NEW YORK CITY MAYOR'S OFFICE OF IMMIGRANT AFFAIRS

**STEVEN BANKS** COMMISSIONER, NEW YORK CITY HUMAN RESOURCES ADMINISTRATION

**C. KENNETH PERRI** EXECUTIVE DIRECTOR, LEGAL ASSISTANCE OF WESTERN NEW YORK, INC.

**ERIC WEINGARTNER** MANAGING DIRECTOR, ROBIN HOOD FOUNDATION

**11:00 A.M.–12:00 P.M. PRO BONO SCHOLARS PROGRAM AND THE 50 HOUR PRO BONO BAR ADMISSION RULE**

**MODERATOR:** **HON. JENNY RIVERA** ASSOCIATE JUDGE, NEW YORK STATE COURT OF APPEALS

**PANELISTS:** **KIM DIANA CONNOLLY** PROFESSOR OF LAW; VICE DEAN FOR LEGAL SKILLS; DIRECTOR, CLINICAL LEGAL EDUCATION, SUNY BUFFALO LAW SCHOOL

**LAUREN DONNELLY** SUPERVISING ATTORNEY, HOUSING HELP PROGRAM, THE LEGAL AID SOCIETY;  
ADJUNCT PROFESSOR, PRO BONO SCHOLARS PROGRAM, BENJAMIN N. CARDOZO SCHOOL OF LAW

**LEIGH ELLIS** PRO BONO SCHOLAR, LEGAL SERVICES OF THE HUDSON VALLEY; PACE LAW SCHOOL, J.D. CANDIDATE 2015

**JENNIFER A. GUNDLACH** SENIOR ASSOCIATE DEAN FOR EXPERIENTIAL EDUCATION & CLINICAL PROFESSOR OF LAW,  
MAURICE A. DEANE SCHOOL OF LAW, HOFSTRA UNIVERSITY

**12:00–12:40 P.M. BOX LUNCH COSTANTINO HALLWAY**

**1:00–2:30 P.M. AFTERNOON WORK GROUP SESSIONS SIX CONCURRENT SESSIONS**

**EDUCATING STUDENTS TO BE CULTURALLY COMPETENT LAWYERS ROOM 4-07**

**FACILITATOR:** **SUSAN BRYANT** PROFESSOR OF LAW, CUNY SCHOOL OF LAW

**PANELISTS:** **MARY A. LYNCH** PROFESSOR OF LAW; DIRECTOR, CENTER FOR EXCELLENCE IN LAW TEACHING;  
DIRECTOR, DOMESTIC VIOLENCE PROSECUTION HYBRID CLINIC  
ALBANY LAW SCHOOL

**LILLIAN M. MOY** EXECUTIVE DIRECTOR, LEGAL AID SOCIETY OF NORTHEASTERN NEW YORK

**ADITI K. SHAH** STAFF ATTORNEY AND LANGUAGE ACCESS COORDINATOR, NEW YORK LAWYERS FOR THE PUBLIC INTEREST

#### The Work Group will:

1. Identify learning outcomes: what should law students know and what skills should graduates possess to serve as culturally competent lawyers?
2. Discuss how to teach cultural competence and impart skills and values to law students and graduates.
3. Examine models of collaborative learning: how law school faculty and students can learn from legal services providers, e.g. disability justice and advocacy, language access, managing diverse legal aid offices, serving the rural poor.

## INFUSING ACCESS TO JUSTICE IN THE DOCTRINAL CURRICULUM

ROOM 3-09

- FACILITATOR:** NESTOR A. DAVIDSON *ASSOCIATE DEAN FOR ACADEMIC AFFAIRS; PROFESSOR OF LAW; DIRECTOR, FORDHAM URBAN LAW CENTER, FORDHAM UNIVERSITY SCHOOL OF LAW*
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- DESERIEE KENNEDY *KERMIT GITENSTEIN DISTINGUISHED PROFESSOR OF HEALTH LAW & POLICY TOURO COLLEGE, JACOB D. FUCHSBERG LAW CENTER*

The Work Group panel will discuss the experience and challenges of infusing questions of access to justice into doctrinal courses. The panel will present examples from civil procedure, family law and property as models that can be replicated to offer students an understanding of how access-to-justice concerns are important across the curriculum. Work Group participants will be invited to offer ideas and models to expand such curricular offerings.

## BEST PRACTICES FOR SUPERVISING LAW STUDENT PRO BONO WORK: WORKSHOP ON DEVELOPING THE HANDBOOK OF BEST PRACTICES FOR SUPERVISING LAW STUDENT PRO BONO WORK

ROOM 7-119

- FACILITATOR:** ELLEN P. CHAPNICK *DEAN FOR SOCIAL JUSTICE INITIATIVES, COLUMBIA LAW SCHOOL*
- PANELISTS:** LAREN E. SPIRER *DIRECTOR OF PRO BONO PROGRAMS, COLUMBIA LAW SCHOOL*
- MIKE GRUNENWALD *PROGRAM COORDINATOR, PRO BONO NET*

The brief plenary session will include a presentation about a web platform for the Handbook of Best Practices for Supervising Law Student Pro Bono Work, as well as a discussion of its goals and general contents. After the plenary session, the captains for each chapter will work with their teams on a production plan. The working titles of the Handbook chapters are:

**Chapter 1:** Introduction

**Chapter 2:** Translating An Access-To-Justice Organization's Need For Help Into A Pro Bono Project For Law Students and Deciding What Form The Project Should Take

**Chapter 3:** Providing Orientation and Training

**Chapter 4:** Assuring Competent Performance By and Meaningful Experience for Students

**Chapter 5:** Evaluating the Project: Lessons for the Future

**Chapter 6:** Providing a Nondiscriminatory, Accessible and Safe Workplace

**Chapter 7:** Identifying Relationships and Contacts: Law School Faculty and Administrators

**Chapter 8:** Special Issues of Pro Bono Scholars Program Field Components

## ROLE OF LAW SCHOOLS IN TRAINING NON-LAWYER ADVOCATES TO HELP NARROW THE JUSTICE GAP

TRIAL COURTROOM 1-03

- FACILITATOR:** THOMAS MALIGNO *EXECUTIVE DIRECTOR, PUBLIC ADVOCACY CENTER; DIRECTOR OF PUBLIC INTEREST; TOURO COLLEGE, JACOB D. FUCHSBERG LAW CENTER*
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- FERN SCHAIR *CO-CHAIR, COMMITTEE ON NON-LAWYERS AND THE JUSTICE GAP; CHAIR, FEERICK CENTER FOR SOCIAL JUSTICE, FORDHAM UNIVERSITY SCHOOL OF LAW*
- DAVID UDELL *EXECUTIVE DIRECTOR, NATIONAL CENTER FOR ACCESS TO JUSTICE; VISITING PROFESSOR FROM PRACTICE, BENJAMIN N. CARDOZO SCHOOL OF LAW*

**The panel will initiate the Work Group discussion by addressing:**

1. The Experience in Washington State
  - A. Limited License Legal Technicians: year one reflections
  - B. University of Washington School of Law: academic standards
2. The Experience in New York
  - A. Navigator Model
    - i. Non-Lawyers in Housing and Consumer Debt Court Parts
    - ii. A Navigator's Perspective: Housing Court in Brooklyn

- B. Court Advocates: A Legislative Proposal
  - i. Impact on the practice of law
- 3. Role of Law Schools
  - A. Non-Lawyer Programs in Connecticut, Massachusetts and Pennsylvania
  - B. Perspectives from a New York Law School Dean

### LIMITED-SCOPE LEGAL ASSISTANCE AS A MEANS TO NARROW THE JUSTICE GAP COSTANTINO ROOM

**FACILITATOR:** DORA GALACATOS *EXECUTIVE DIRECTOR, FEERICK CENTER FOR SOCIAL JUSTICE, FORDHAM UNIVERSITY SCHOOL OF LAW*

**PANELISTS:** CAROLYN E. COFFEY *SUPERVISING ATTORNEY, MFY LEGAL SERVICES, INC.; ADJUNCT PROFESSOR, BENJAMIN N. CARDOZO SCHOOL OF LAW*

LAURIE MILDER *SPECIAL COUNSEL, NEW YORK STATE COURTS ACCESS TO JUSTICE PROGRAMS*

CHRISTOPHER SCHWARTZ *DEPUTY DIRECTOR, LEGAL HOTLINE & LEGAL ASSISTANCE FOR THE SELF-REPRESENTED, CITY BAR JUSTICE CENTER*

MARCELLA SILVERMAN *CLINICAL ASSOCIATE PROFESSOR OF LAW, FORDHAM UNIVERSITY SCHOOL OF LAW; SUPERVISING ATTORNEY, LINCOLN SQUARE LEGAL SERVICES, INC.*

#### The Work Group will:

1. Highlight and examine models of how law schools engage in limited-scope assistance to expand access to justice for low-and moderate-income people:
  - A. In clinical, in-classroom seminars and field practice components; and
  - B. In other experiential learning settings, such as externships, pro bono scholar placements and supervised pro bono work, including court-based programs;
2. Identify best practices, including training and supervision, for the integration of limited-scope assistance in clinical education, other experiential learning settings, and pro bono programs, as a way to help close the justice gap.

### DEVELOPING TRANSACTIONAL SKILLS TO SERVE LOW-INCOME COMMUNITIES ROOM 4-09

**FACILITATOR:** MARCIA LEVY *EXECUTIVE DIRECTOR, PRO BONO PARTNERSHIP*

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ALISON KING *PRO BONO COUNSEL, KAYE SCHOLER LLP*

BARBARA SCHATZ *CLINICAL PROFESSOR OF LAW, COLUMBIA LAW SCHOOL*

#### The Work Group panel will consider the following questions:

1. How can law schools help students develop transactional skills to serve low income communities in
  - A. doctrinal classes
  - B. clinics
  - C. externships
  - D. Pro Bono Scholars Program.
2. How can law schools work with organizations, law firms and in-house lawyers to develop a culture of pro bono transactional oriented work for law students and newly admitted lawyers to serve low-income communities?
3. What opportunities currently exist for recent law graduates to use transactional skills to serve low-income communities and how can these opportunities be expanded?
4. Have law students had opportunities to perform transactional work for low-income communities in satisfaction of the 50 hour pro bono bar admission rule?

### 2:30–3:30 P.M. CLOSING PLENARY SESSION COSTANTINO ROOM

MATTHEW DILLER *DEAN AND PROFESSOR OF LAW, BENJAMIN N. CARDOZO SCHOOL OF LAW;  
CHAIR, LAW SCHOOL INVOLVEMENT WORKING GROUP,  
TASK FORCE TO EXPAND ACCESS TO CIVIL LEGAL SERVICES IN NEW YORK*

#### Reports from Work Group Sessions and Conference Recap

#### CONCLUDING REMARKS

HELAINÉ M. BARNETT *CHAIR, TASK FORCE TO EXPAND ACCESS TO CIVIL LEGAL SERVICES IN NEW YORK*

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# THE TASK FORCE TO EXPAND ACCESS TO CIVIL LEGAL SERVICES IN NEW YORK

## ACKNOWLEDGMENTS

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