CIVIL PRACTICE CLINIC
Professor Deborah J. Cantrell
M 12-12:50, Th 1-3

FALL 2007

Course Materials:

- You will find most of our course materials posted on TWEN. When I assign an article, the entire article will be posted on TWEN, but make sure and check the syllabus to see if I note whether you should focus on a particular section. If I ask you to focus on a section, I will not expect you to be fluent with other parts of the article, but I include the entire work for those who are particularly engaged with the piece.

- One of the goals of this Clinic is to give you opportunities to “be a lawyer.” For lawyers who spend a good deal of time in court, you will find that most of them carry to court some softbound compilation of court rules. Our clinic will carry:

  Colorado Court Rules (State)(2007), published by Thomson West, ISBN 978-0-314-96834-0. (West also publishes a combined State-Federal set of Colorado Rules which you may choose to purchase instead for a slightly higher price.)


Evaluation/Critiquing:

I have posted on TWEN a separate sheet that discusses the measures that I will use to evaluate, critique and grade you.

Week 1: Introduction & Goal Setting

Aug. 27th: Joint orientation session for all clinic students. Wittemyer Courtroom. You will be sworn in as a law student intern by Judge Carol Glowinsky so please be on time.

Assignment (due by e-mail to Deborah before class starts on August 27th):
- Write a short narrative that answers the questions below. Your paper should be double-spaced, with a suggested length of 3-5 pages. Please do not exceed 5 pages.
  - In general terms, why are you taking this clinic?
• What are the top three goals you wish to achieve by the end of your time in the clinic?
• What are your top three concerns about taking the clinic?
• Briefly describe any experiences you have had working with someone as a “client.” You need not limit your description to legal settings.

Aug. 30th:
- Setting goals for the semester.
- Setting expectations for the semester.
- Some guidance on assessment and evaluation.
- Some thoughts on working with clients.
- Case assignments.

Readings:
David F. Chavkin, Clinical Legal Education, chs. 1-2.
Jane H. Aiken, Provocateurs for Justice, 7 Clinical L. Rev. 287 (2001)

**Week 2: Communicating – Interviewing, Corresponding, and Advising**

Sept. 3rd: No Class, Labor Day

Sept. 6th:
First hour: Introduction to basic concepts in family law.
Reading:
- The Colorado Judicial Branch website has posted the forms that we will be using in our family law cases. Before class you should go to the website and review a good portion of the forms. The website is at [http://www.courts.state.co.us/chs/court/forms/domestic/domestic.html](http://www.courts.state.co.us/chs/court/forms/domestic/domestic.html). You should bookmark the page as you will use it regularly during the semester.
- You may find it helpful to look at the FAQs about domestic relations at [http://www.courts.state.co.us/chs/court/forms/faq.htm](http://www.courts.state.co.us/chs/court/forms/faq.htm). Remember that the website is designed for non-lawyers.
- When you look at a form, consider in what kind of case would you be using the form?
- Some questions to think about: Do the forms help you discern whether there are there different kinds of divorces? Are there forms to be used if parents are not married, but they are no longer living together as a family?

Second hour: Some starting thoughts on communication
- Is your clinic case like any other interpersonal interaction?
- Is your clinic case different?
  - Interpersonal dynamics
  - Confidentiality: Rule 1.6
  - Attorney-Client privilege
  - Engagement letters: Rule 1.5
Readings:
- CO Rules of Professional Conduct: Rule 1.6, 1.5, available online at http://www.cobar.org/group/index.cfm?category=384&EntityID=CETH.
- Master Engagement Letter

Special Class – Friday, Sept. 8th: Visit to Boulder County Court

**Week 3: Communicating – Interviewing, Corresponding, and Advising (Part II)**

Sept. 10th: Introduction to basic concepts in Social Security disability law.

Readings:
- Excerpts from Social Security Administration regulations (20 CFR Subpt. P, App. 1 & 2). Skim the excerpts, with the goal of becoming familiar with terminology. You do not need to try and memorize any content.
- SSA maintains a very helpful website which you should browse before class. You should also bookmark the website as you are likely to find it a useful research tool during the semester. The website includes links to:
  - The CFR for Social Security;
  - The SSA’s “Program Operations Manual System” (POMS) which is the manual used by SSA personnel to process SSDI and SSI claims;
  - The SSA’s “Hearings, Appeals and Litigation Law Manual” (HALLEX) which covers procedures used at ALJ hearings.
- Sample SSA administrative law judge decision, posted on TWEN. Pay particular attention to the “Applicable Law” section as it nicely lays out the 5-step process an ALJ goes through to determine whether a claimant is entitled to benefits.

Sept. 13th:

**Assignment before Class:**
- **Before** you do any of the assigned reading for class, meet with a law school classmate (not someone also taking this clinic), and interview her/him about the first day of law school. Find out as much information as you can about what the student remembers about the first day of law school. Type up your interview notes.
- **After** you do the assigned reading for class, meet with a different law school classmate and interview her/him about the first day of law school. Compare your interview notes from this interview with your notes from your earlier interview. Consider the following:
  - Did any of your interviewing techniques change between the two interviews?
• Did you consider adjusting your interviewing style because of the readings? Because of who you were interviewing? If yes, why? If no, why not?

At the start of class you will need to turn in a copy of your interview notes from both interviews and your answers to the above questions.

Readings:

Film Clip: Anatomy of a Murder
  ▪ Practice interviews

You and your teammates should have had at least one substantive communication with each of your clients by September 17th.

Week 4: Case Analysis and Strategic Planning

Sept. 17th:
Readings:

Sept. 20th:
Assignment (to be circulated by e-mail to all classmates and Deborah by 5pm on September 19th):
  ▪ For each case, the student team must prepare a case analysis and strategic plan.
  ▪ The Case Analysis and Strategic Plan should include:
    • A paragraph briefly outlining the facts of the case as you know them at this point. In the alternative, if it is more useful, a brief timeline of relevant events.
    • A list of the client’s objectives (legal and non-legal).
    • A list of the legal questions the team believes to be at issue in the case, and whether the question is answerable now, or not until further research is completed.
    • A list of factual information that needs to be gathered and the team’s best assessment of how such gathering will be accomplished.
    • A short narrative statement describing how the team believes it will be able to (or not be able to) meet the client’s objectives.
  ▪ In class, we will review a selection of the Case Analyses/Plans. All teams should be prepared to discuss their own plans.
Week 5: Starting an Action

Sept. 24th: Setting the stage.
- Consider the strategic choices in picking a fight: How does one “start” an action?
- Technical issues: who, where, how, when?

Sept. 27th:
Assignment (to be circulated by e-mail to all classmates and Deborah by 5pm on September 26th)
- You should draft one demand letter and one complaint.

Week 6: Case Rounds

Oct 1st & Oct. 4th: During this week each team will give an update on the status of its case. We will set up a reporting schedule before the week begins. In advance of its report, each team will circulate a case status memo to the rest of the class.
- The case status report should include:
  - A brief paragraph describing the most relevant facts of the case
  - A brief paragraph setting forth the procedural posture of the case.
  - A description of the primary legal issues at play, noting any issues on which the team would like some class discussion.
  - A description of what information/evidence has been collected and what information/evidence is outstanding.
  - A brief description by each team member of the most challenging/rewarding moment of the case thus far, explaining why the moment was challenging/rewarding.
- The case status report should be double-spaced and should not exceed 5 pages.

Week 7: Finding Information

Oct. 8th: Some methods of gathering information.
- Informal
- Formal
- Ethical considerations

Oct: 11th:
- Draft interrogatories
- Draft request for production of documents
**Week 8: Reflections on Community and Social Change: The Parameters of Strategic Advocacy**

One of the goals of this clinic is to give you an opportunity to learn more about public interest advocacy, especially here in Colorado. For the next two weeks, we will examine the ways in which public interest advocacy has developed and has changed over time. We will consider the way in which our clinic advocates, focusing on individual client representation, consider in what ways we are “effective” and in what ways we are not, and contrast individual client representation with other advocacy methods.

Each of you will be responsible for learning about another public interest advocacy group working in the state (and it cannot be another law clinic). You may pick a legal advocacy group, but you do not have to. If you pick a non-legal advocacy organization, it must focus on some kind of social change work. For example, you could consider a grassroots organizing group (like Colorado ACORN), or a public interest lobbying group (like the Colorado Center on Law & Policy which also does litigation), but you could not pick a 4-H Club.

During the first week, we will think about the manner and methods of social change and the role that lawyers and the law play in such change. In the second week, each of you will report about the advocacy group you studied.

**Oct. 15th:** Some Historical Background

Assignment (to be circulated by e-mail to all classmates and Deborah by 5pm on October 14th):

Prior to October 14th, you should have caucused with your classmates to make sure that each of you has selected a different public interest advocacy organization to review. By October 14th, e-mail everyone with the name of your organization.

Readings:


**Oct. 18th:**

Readings:

Week 9:
Assignment (to be circulated by e-mail to all classmates and Deborah by 5pm on October 21st):
Report on public interest advocacy organization. Your report should include the following information:

- Name of the organization and a brief paragraph describing its mission.
- A discussion of the advocacy methods the group uses to achieve its mission, and the reasons it chooses to use such methods.
- Your assessment of whether the group is effective and why.
- Your recommendation for ways in which the group might become more effective in achieving its mission.

Your report should be double-spaced and should be in the range of 5-7 pages.

Oct. 22nd & 25th: Each student will orally report on their public interest advocacy organization.

Week 10: Practice Depositions

Oct. 29th: Setting the Stage
Readings:


Nov. 1st: Practice depositions

Week 11: Case Rounds

Nov. 5th & Nov. 8th: We will follow the same process as we did with case rounds earlier in the semester (including case status memos).

Week 12: Negotiation

Nov. 12th: An Introduction
Because the reading load is heavy for this week, we will not meet for class on Monday, giving you some extra time to complete the reading. However, by Thursday's class you MUST have read all of Fisher & Ury's book, as well as Grillo's article. I will expect each of you to demonstrate your knowledge of the readings in our Thursday discussion session, and in your response papers described below.

Readings:


Nov. 15th: A Discussion of the Readings
Assignment (circulated by e-mail to all classmates and Deborah Wednesday, November 14th at 5pm.)

Draft a response paper to the readings in which you consider the following questions:

- From a positional bargaining point of view, what kind of bargainer do you think you are and did you know that about yourself before the reading?
- Are you persuaded by Fisher & Ury? Why or why not?
- Are you persuaded by Trina Grillo? Why or why not?
- Think about any of your cases and consider an example of a negotiation. Briefly describe what happened in the negotiation, whether you would change your approach after the readings. If you would change your approach, in what way? If you would not, why not?

Your response should be double-spaced, and each question should take no more than 1 page. Your total response should not exceed 5 pages (to give you room for headings and identifying information).

**Week 13: Negotiation**

Nov. 26th: Practice negotiations.

Nov. 29th: Practice negotiations and feedback.

**Week 14: End of Semester Reflections**

Dec. 3rd & Dec. 6th: We will use this class time to reflect on the work we accomplished during the semester and to evaluate our clinic experiences thus far.