Elder Law

The Elder Law Clinic (ELC) docket has revolved around adult guardianship cases under Article 81 of the New York Mental Hygiene Law. These cases arise when a person is alleged to need a guardian to help make decisions about personal needs (where to live, health care decisions, managing property, paying bills and signing leases.) In the ELC practice, people alleged to need a guardian range in age from 18-100, and may be grappling with mental health issues, developmental conditions or age related dementia.

Our primary goal is to keep the person in the community or have them discharged from an institution back into the community. The guardianship cases are usually brought by Adult Protective Services, and also by hospitals, nursing homes, and sometimes family members.

We use the problems we encounter—in the initial pleadings, the work of the lawyers on the case, and the decision of the court—as the basis for critical reflection and analysis of the law, lawyering, and the justice system.

**Practice Highlights**

**Article 81 Court Appointed Evaluator:** The Court Evaluator (CE) serves as the “eyes and ears” of the court. This role gives clinic interns multiple opportunities to conduct fact investigations, interview interested parties, work with professionals from other disciplines, engage in nuanced legal analysis, write a report to the court, and examine witnesses at the hearing.

**Representing Homebound Clients:** Clinic interns work on “planning” cases with homebound clients as part of a project with the Lenox Hill Neighborhood House. This work typically involves interviewing, counseling, and drafting wills, advance directives, and related documents. We often advise clients on government benefit issues, primarily Medicaid, that relate to their estate planning.

**Spotlight**

**Partnership with LaGuardia Community College:** This winter Rolanda Coleman, a paralegal student at LaGuardia Community College, interned in the Elder Law Clinic. This spring Briana Cattenhead is interning with us.

Guadalupe Vidal, a graduate of the LaGuardia program, has been working as a paralegal in the clinic, mostly with the ELC, as well as with the INRC. Guadalupe is playing a key role in our Article 81 Access to Justice Project.

**Alumni Guest Speakers:** Elizabeth Valentin, Partner in the Elder Law firm Litman & Krooks, spoke about her litigation practice in contested adult guardianships and the challenges of developing professional identity and practice skills.

Lian Kuan-Maoga, Associate with the Elder Law firm Ronald Fatoullah Associates, spoke about her fellowship with the Borchard Center on Aging, during which she worked with Chinese elders in New York City and the challenges of developing a professional identity and lawyering expertise.

Kim Tate Brown, Staff Attorney with Mental Hygiene Legal Service, discussed best practices for litigating involuntary commitment and sex offender cases, including strategies for persuading juries and judges.

**Projects and Partners**

**Technology and Access to Justice:** The ELC is developing our Article 81 Pro Se project by transforming our written materials, which are available on the clinic website, into an electronic A2J guided interview. The interview is designed to divert people away from guardianship and, only if there are no other options, guide them through an interview that will populate HotDocs pleadings that they can file in court to initiate a guardianship.

**Community Education:** Clinic interns conducted “know your rights” workshops in community centers on the Lower East Side in Manhattan and in Brooklyn and for staff at the Law School. Topics include planning for incapacity, avoiding guardianships, and Medicaid eligibility.

**Elder Law Clinic Hiatus:** The Elder Law Clinic will be taking a hiatus in its current form during the next academic year.