The City University of New York

CUNY SCHOOL OF LAW

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To: Second Year Students
From: Allie Robbins, Assistant Dean for Academic Affairs
Subject: Choosing a Lawyering Seminar III
Date: October 6, 2016

The Spring 2017 registration process includes the selection of your Lawyering Seminar III. Lawyering Seminar III is the bridge between your first-year Lawyering Seminars (which focused on the acquisition of basic lawyering skills) and the Clinics you will take in your third year (which require you to use your lawyering skills to represent clients in a supervised setting or to work in law offices under supervision). This packet contains descriptions of the seminars that will be offered this spring.

Information Session

To assist you in selecting a lawyering seminar we are holding an information session on Thursday, October 13th in the Auditorium (2/301) from 9:00-9:45am. Faculty members from the seminar offerings will be present to provide additional information and answer questions. You are also encouraged to contact the seminar faculty individually if you have questions that are not answered during the information session.

Selection Process

The seminar selection process contains two parts. First, you will need to fill out a survey to select your top three choices. The survey can be found at: https://www.surveymonkey.com/r/LawSemIII-FT2017. Second, if you are applying for the Defenders Lawyering Seminar or the Economic Justice Project, you must also complete separate applications. Those applications are attached. Both parts of the process must be completed by Friday, October 21 at 4:00pm.

If a seminar is over-enrolled based on the first choices of all students, enrollment decisions will be made through a modified lottery designed to give as many students as possible their first or second choices. Students who submit preference forms late will be assigned to under-enrolled seminars.

Defenders’ Seminar and Economic Justice Project

All Lawyering Seminar III’s are 4 credits. However enrollment in the Economic Justice Project Seminar requires students to simultaneously register for the 3 credit Public Benefits course.

The Defender Lawyering Seminar is the prerequisite for the Defender Clinic. All students who successfully complete the Defenders Lawyering Seminar are automatically enrolled in the

Law in the Service of Human Needs
Defenders Clinic next fall. **Unlike other seminars, enrollment in the Defender seminar is by application.** Defender applications are attached and must be returned **on or before Friday, October 21, in A. Yasmin’s office, Room 5/205E.**

**Connection to Clinics**

Only the Defenders Seminar is directly linked to a third year clinic though other seminars give students preference in clinic registration. When determining enrollment for the Community Economic Development Clinic (CED), preference will be given to students who have taken Community Economic Development or Representing Non-Profit Organizations as their lawyering seminar. The Mediation Training for Law Practice is recommended but not required for admission into the Mediation Clinic. However, please note that students who take the Community Economic Development, Representing Non-Profit Organizations, or the Mediation Lawyering Seminar are not automatically enrolled in the CED or Mediation clinic and may choose a different clinic next year.

All Seminars except the Economic Justice Project meet Mondays and Wednesdays from 9:30am to 11:30am. The Economic Justice Project meets Mondays and Wednesdays from 9:30am to 12:30pm.

The applications for the Defenders and Economic Justice Project Seminars are enclosed, as are course descriptions for all seminars. If you have any questions, please do not hesitate to contact the Academic Affairs Office.

**Evening Lawyering Seminars**

We are offering two Lawyering Seminar III courses in the evening this spring – Defenders Seminar and Writing from a Judicial Perspective. Part-Time students have priority registration for the evening seminars. However, if space permits, we will allow full-time students to register. There is a place in the online survey to indicate if you would like to be considered for an evening seminar.
SPRING 2017
ECONOMIC JUSTICE PROJECT: PREFERENCE FORM

Student’s Name  CUNY Email

For students interested in the Economic Justice Project:

Please answer the following questions for the purposes of clarifying your interest and determining whether there may be an actual or apparent conflict with your work in the Economic Justice Project:

1. Have you interned with an agency of the City or State of New York while in law school? If so, where?

_____________________________________________________________________________________________

_____________________________________________________________________________________________

2. Are you currently engaged in active pursuit of employment with an agency of the City or State of New York? If so, please name the governmental entity.

_____________________________________________________________________________________________

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3. Briefly describe your interest in EJP and any experience you may have in the areas of education, social welfare benefits and/or workers’ rights.

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Please return this form to the Academic Affairs Office (4-106) by 4pm on October 21, 2016.
Instructions

Your Defender Seminar and Clinic Application is due on or before 4:00 p.m. on **Friday, October 21, 2016**, in A. Yasmin’s office, located in **Room 5-205E** of Main Street Legal Services.

A complete application packet includes the following documents: (1) the application form; (2) a current resume; and (3) a writing sample. Place these documents in a sealed manila folder with your name on the outside.

Remember to ALSO submit the online preference form via Survey Monkey on or before 4:00 p.m. on **Friday, October 21, 2016**.
DEFENDER CLINIC DETAILS

PREREQUISITE: Defender Lawyering Seminar

Overview

The Defender Clinic is preceded by the Defender Lawyering Seminar. The Seminar is a four-credit class offered during the fourth semester. The Defender Lawyering Seminar emphasizes the NY Penal Law, the NY Criminal Procedure Law, practice in the New York City Criminal Courts, and representation of clients in a variety of social justice contexts. Upon successful completion of the Seminar, students will be enrolled in the Clinic. The Defender Clinic is a ten or twelve-credit class offered during the fifth semester. The Clinic provides legal representation to indigent teenagers and adults through relationships with the Criminal Defense Practice divisions of the Legal Aid Society and Prisoners’ Legal Services of New York State. Practice areas may include:

* representing clients charged with misdemeanor offenses in the New York City Criminal Court,
* representing clients on appeal of their criminal convictions,
* representing clients placed in solitary confinement for long periods of time as a result of alleged prison disciplinary infractions,
* representing and assisting clients at parole proceedings,
* representing clients seeking clemency or a pardon,
* representing clients at school suspension hearings, and
* representing clients at civil forfeiture hearings

Student Defenders in the Clinic are supervised by Law School faculty who are assisted by the support staff of Main Street Legal Services (the law school’s Clinical program). Student Defenders represent clients pursuant to the Student Practice Order authorized by the Supreme Court, Appellate Division for the Second Department, in effect for both Main Street Legal Services and for the Legal Aid Society. In addition to direct client representation, students will be assigned to work with a community-based organization on a policy or practice issue relevant to the criminal justice system, or may work with outside organizations and practitioners on a trial, a direct appeal or a post-conviction matter. Students are also expected to research and write on an issue of significance to criminal defense practice. Field visits and presentations by guest speakers comprise part of the Clinic.

Objectives and Structure

The specific goals of the Clinic are to provide students with opportunities for: (1) applying and expanding, in a live-client context, skills acquired through prior simulation and in-class learning, especially interviewing and counseling, drafting of motions and memoranda of law, fact investigation, theory development, legal analysis, direct and cross examination and other oral advocacy skills; (2) examining the public interest policy issues raised by the provision of criminal defense services to the poor in an urban criminal justice system; and (3) focusing on the special professional responsibility issues arising in the criminal defense role. In order to accomplish these goals, the students will engage in the following activities:

1. Client Representation

Student lawyers, under direct faculty supervision, conduct all aspects of the representation of their clients, including arraignment and bail hearings, factual investigation (interviews of client, family and witnesses; visits to the scene), negotiation with prosecutors, preparation of motions and legal memoranda,
hearings, trials and sentencing advocacy. Student lawyers who represent prisoners will also be responsible for filing administrative appeals of prison disciplinary hearing determinations, and may have the additional opportunity to engage in civil litigation in the form of filing an Article 78 petition. Student lawyers handling school suspension or civil forfeiture hearings will engage in all phases of the case from initial client interview through the final hearing. Student lawyers are expected to maintain updated, organized case files, participate in case rounds and regularly meet with Clinic faculty for individual case conferences. Students are accompanied by Clinic faculty at all court appearances.

2. **Classroom Instruction**

The Clinic utilizes a combination of lecture, discussion, observation and simulation methods. Class explores the social and political aspects of the criminal justice system generally, and New York criminal practice in particular, as well as the full panoply of lawyering and trial advocacy skills (e.g., factual and legal investigation, trial preparation and development of a case theory, motion practice, direct and cross-examination, opening and closing statements, and sentencing advocacy). The culmination of the trial advocacy component of the Clinic is a simulated suppression hearing based on a case handled by a former Clinic student. Much attention is devoted to exploring professional responsibility of the criminal defense practitioner. Members of the judiciary, the local bar and other law schools periodically participate as guest lecturers.

3. **Writing Assignment**

Students in the Defender Clinic are also expected to research and write about a subject of relevance to criminal defense or prisoners’ rights. Students work with Clinic faculty to structure their research and to produce rough and final drafts.

4. **Placement**

In addition to in-house client representation for which students act as lead counsel, students will also assist outside counsel in various criminal justice matters. Typical placements include solo practitioners, small law firms, and criminal defense organizations (e.g., Bronx Defenders, Brooklyn Defender Service, Legal Aid Society, Mental Hygiene Legal Services, Neighborhood Defender Service of Harlem, Office of the Appellate Defender, Prisoners’ Legal Services).

*Admission Policy*

Admission to the Clinic is at the discretion of the Clinic faculty, following the completion of a clinic application, and, if necessary, an interview. No student who desires a career as a prosecutor will be automatically rejected. However, because of the potential for a conflict of interest, no student will be admitted to the Clinic who is currently employed, salaried or otherwise (including interning or externing), with a prosecutor's office or with any law enforcement agency. Please note that students who have accepted or applied for a school-year internship or post-graduate position with a prosecutorial and/or law enforcement agency will be limited in their ability to be primarily responsible for direct individual client representation in the Clinic.

Representation of clients requires a working knowledge of the 4th, 5th and 6th Amendments. As a result, Criminal Procedure is a pre- or co-requisite.
Defender Seminar and Clinic Application Form

Name: ________________________________________________________________

Address: ______________________________________________________________

_____________________________________________________________________

Phone #: _____________________________

Email: _____________________________

You may be required to participate in an interview as part of the Application process. You will be notified in advance if you need to make an appointment for an interview.

Do you have any special background in legal or non-legal employment, which might be relevant to the Defender Seminar and Clinic? If so, describe briefly and specify.

_____________________________________________________________________

_____________________________________________________________________

_____________________________________________________________________

Have you taken Criminal Procedure?

Yes _____  No _____

Will you need to work during your third year (if you know)? Yes _____  No _____

If so, how many hours per week? __________

Languages other than English:

Oral Level of Fluency _____________________________

Written Level of Fluency _____________________________

What are your learning goals for next semester and your third year?

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_____________________________________________________________________
What are your career goals upon graduating?

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Please be advised that students who have accepted or applied for a school-year internship or post-graduate position with a prosecutorial and/or law enforcement agency will be limited in their ability to be primarily responsible for direct individual client representation in the Clinic.

Please answer the following questions. You may add any additional comments on separate pages. Incomplete applications will not be considered.

1. Why do you want to defend individuals charged with crimes?

2. In your own words, what is the responsibility of the defense attorney? What is the responsibility of the prosecutor?
3. At arraignment, you meet your client for the first time. He is able to verify his family and other ties to the community. In fact, family members are present in court. You believe you can persuade the judge to release him without bail. Before going into court for the formal arraignment, you begin to schedule a second interview date with your client. He tells you not to bother, he is skipping town and will not be back. What do you tell your client? What do you say in your bail argument to the judge?

4. What do you expect to learn from the Defender Seminar and Clinic?

5. What past experiences have you had that you feel will assist you in the Defender Seminar and Clinic?
Community Economic Development

Professor Carmen Huertas-Noble

The CED Clinic provides legal support to community-based organizational clients – such as nonprofit organizations, worker-owned cooperatives, tenant associations, and worker centers – that are creating viable neighborhood institutions and organizing for social and economic justice. The Clinic works with both start-ups and more established organizations on a range of matters – including incorporation, tax exemption, bylaws and contract drafting. The Clinic also provides strategic legal services to tenant associations in support of their efforts to prevent worker exploitation and to bring affirmative litigation against employers who violate the FLSA. Clinic clients and community partners have included Make the Road New York, Green Worker Cooperatives, the Acacia Network, the Urban Justice Center, Adhikaar and Brandworkers.

The CED lawyering seminar will have an intense focus on teaching students core lawyering skills within the context of community economic development practice. Through simulation-based work and in-class exercises, students will learn how to represent community-based organizational clients such as grass-roots non-profits and worker-owned cooperatives. Students will identify and resolve practical and ethical challenges, interview and counsel clients, and draft various legal documents, including incorporation and governance documents. Students will also focus on key legal areas related to the practice of community economic development law, such as nonprofit corporation law, the Internal Revenue Code, and various legal frameworks related to the preservation of affordable housing and workers rights. Throughout the semester, students will learn about theories and models of community lawyering, and will get an overview of how community-based organizations combine legal services and organizing.

Interested students should feel free to contact Professors Huertas-Noble.

Defender Lawyering Seminar and Clinic

Professor Nicole Smith
Professor Steve Zeidman

The Defender Lawyering Seminar, as a prerequisite for the Defender Clinic, prepares students to zealously and knowledgeably assist and represent indigent youth and adults in the New York City Criminal Court and in related prisoners’ rights and criminal justice contexts (e.g., challenges to solitary confinement; parole preparation and revocation hearings; criminal appeals; clemency and pardon applications, etc.). While direct client representation is primarily emphasized in the Clinic, Defenders in the Lawyering Seminar may also have the opportunity to represent young people at school suspension hearings brought by the NYC Department of Education, people facing the loss of their property and belongings at civil forfeiture hearings brought by the New York City Police Department, or incarcerated persons preparing for parole hearings or filing clemency applications.

The Seminar provides intensive instruction in constitutional and statutory analysis of New York Criminal Law and Procedure. Students learn lawyering and trial advocacy skills, including factual and legal investigation, research and writing, interviewing, counseling, and negotiating.
An overview of the criminal process is accomplished by examining every phase of a criminal case, from arrest through trial, and examines the rights of those who are incarcerated.

Class trips and readings expose students to critical stages of a criminal case, and sensitize them to the impact of the criminal justice system on poor communities of color. The pedagogical methodology consists of lecture, discussion, observation, and simulation. Further, students may also have the opportunity to represent clients at school suspension or civil forfeiture hearings. In addition to simulations and fieldwork, students explore the special ethical issues that arise in the criminal defense context. They also research and write a memorandum of law that requires rigorous analysis of one or more sections of New York’s Penal Law.

All students who successfully complete the Defender Lawyering Seminar are automatically enrolled in the Defender Clinic. * Please see Defender Clinic Details Memo (attached).

**Economic Justice Project**
**Professor Babe Howell**
**Professor Stephen Loffredo**

Note: The Economic Justice Project operates as a live-client clinic. Students enrolled in this seminar will represent project clients at adversarial administrative hearings: (1) challenging adverse actions against CUNY undergraduates who receive or have applied for public benefits; and (2) contesting NYC public school student suspensions. Preparation for these hearings will entail a substantial time commitment. In light of the required academic and clinical commitment, students enrolled in this seminar will receive a total of 7 credits, as explained below. If you select EJP, please do not undertake an internship commitment that requires more than one day a week of your time.

The Law School launched the Economic Justice Project (EJP) in response to the social justice crisis triggered by regressive welfare reform legislation enacted the late 1990s. One of the many tragic consequences of "welfare reform" in New York City was that it forced thousands of welfare recipients who had been pursuing CUNY degrees to quit school in order to fulfill workfare requirements, sweeping streets, cleaning parks and the like. Many of these students were single parents struggling to obtain the skills and credentials needed to secure living-wage employment, move their families out of poverty and improve the life chances of their children; others were teenagers or young adults in families so poor as to qualify for public assistance. EJP responded to this challenge on several fronts, providing direct representation to hundreds of CUNY undergraduates, collaborating closely with and supporting the organizing and political efforts of the Welfare Rights Initiative (WRI) and other grassroots organizations, and engaging in legislative and other systemic advocacy. The theory, genesis and structure of the Project are described in *Poverty Law and Community Activism: Notes From a Law School Clinic*, 150 U. Pa. L. Rev. 173 (2001).

In March 2014, following years of advocacy by EJP and other community and advocacy organizations, the NYS Legislature enacted a law (initially drafted by EJP) that, for the first time, allows welfare recipients to meet a substantial part of their “workfare” obligations through studies in four-year college. The adoption of the law has opened opportunities for thousands of families in poverty and, given the link between educational attainment and economic mobility, holds out the possibility of transformative change. A significant part of EJP’s work this year will focus on ensuring full and effective implementation of the new law. The current city
administration has been eager to work with poor people’s advocates and organizations to improve the circumstances of low-income New Yorkers. This has presented an opportunity to participate in significant policy change, alongside our representation of individuals, and EJP will continue to engage in this process together with our grassroots advocacy partners.

Last Spring -- in line with the EJP’s mission of expanding and equalizing educational access across all communities – the Project began representing New York City public school students in school suspension hearings. Although the New York State Constitution guarantees all children a free public education, and access to education powerfully influences the personal development and life chances of our children, New York City makes excessive use of school suspensions and other exclusionary punishments, effectively denying many children this critically important right. While the new administration has pledged to reduce reliance on suspensions, the numbers remain staggering: over 50,000 in the 2013-14 academic year. Moreover, this discipline disproportionately affects black and Latino students and students with disabilities. According to a recent report by the city itself, these “troubling disparities in race and disability have increased.” See “Safety With Dignity: School Climate Leadership Report” (July 2015). Students have the right to contest suspensions at administrative hearings, but only a small percentage invoke this right and very few have assistance of counsel. We plan to structure the school suspension component of EJP on the same multi-level model as the college access component: providing representation in individual cases, seeking opportunities to partner with and assist community groups addressing the issue, and identifying and advocating for reforms that could bring about systemic change.

Seminar students will participate in all aspects of the Project's advocacy. First, every seminar student will represent individual Project clients. (EJP students work collaboratively in “case supervision groups” typically composed of three interns.) The representation will entail rigorous preparation for and conduct of administrative hearings challenging official actions in individual client cases. We anticipate that each seminar student will represent three to five clients, with the expectation that the student will have the opportunity to conduct at least two administrative hearings during the course of the semester. These hearings – whether in the welfare or public school context -- are adversarial evidentiary proceedings at which seminar students will present direct testimony and documentary evidence, cross-examine opposing witnesses, make appropriate procedural and substantive objections to adverse evidence and offer oral and written argument. When appropriate, we will contest any negative hearing outcomes through appeals.

In addition to individual representation, seminar students will also select and participate in a "project workgroup" that engages in some broader or related form of advocacy relating to economic justice; several of these project workgroups operate in collaboration with grassroots or other advocacy organizations. Project workgroups have included public outreach and organizing (including Know Your Rights sessions and intake clinics at various CUNY campus around the city); policy advocacy at the local, agency or state levels; and development of advocacy strategies and approaches focused on particular issues that affect our clients (e.g., domestic violence, disability, access to child care). Two years ago, EJP initiated the worker’s rights project workgroup, which operates in conjunction with third-year law students handling the labor docket housed in the Community Economic Development Clinic. Students who elect this workgroup will participate federal litigation on behalf of low-wage workers, and in related activity that may include collaborations with community organizations and other advocacy
groups (current relationships include Adhikaar, Make the Road New York, the Legal Aid Society and Catholic Migration Services).

In recognition of the substantial time that students must devote to preparation and provision of live client representation, this seminar is coupled with a co-requisite 3-credit course on Social Welfare Law and Policy, known as Public Benefits. The two separate courses are actually taught together as one 7-credit program.

**Labor Arbitration & Collective Bargaining**  
**Professor John Cicero**  
This course will address two related areas of workplace regulation in the United States. Since the enactment of the National Labor Relations Act in 1935, collective bargaining has been a central means of establishing the wages, hours and other terms and conditions of employment for American workers. Since 1960, as a result of landmark Supreme Court decisions, labor arbitration has stood as a focal point in the resolution of disputes arising under the collective bargaining agreement. The course will address the substantive law in these two doctrinal areas, as well as the skills required to negotiate effectively and to arbitrate successfully. We will examine the law applicable to arbitration, both within and outside the collective bargaining context. For example, grievance resolution and the arbitration hearing will be studied, along with the nature of the evidence produced during arbitrations; the role of an arbitrator; issues of federal common law concerning arbitration; the Union’s duty of fair representation; the subjects of arbitration; and the arbitration of individual employment claims. As part of the skills agenda, you will be placed in role as counsel to either the union or the employer and will be required to evaluate evidence, conduct independent legal research and write a post-hearing brief to the arbitrator. In the labor context, arbitration is created through the negotiation process. Accordingly, we will study the law and mechanics of bargaining, including the dichotomy between mandatory and permissive subjects; the distinction between (lawful) hard bargaining and (unlawful) surface bargaining; impasse and unilateral action; the types of strikes and rights of strikers; lockouts; and the strategic considerations underlying the choice to use any of these “economic weapons” during negotiations, as well as the duty to provide information during negotiations. As we study about the substantive doctrine, we will prepare and exchange bargaining proposals, learn about and examine different negotiating styles and techniques, and meet weekly in actual negotiating sessions. The semester will end with a final, comprehensive, negotiation session in which a final agreement must be reached.

**Mediation Training for Law Practice**  
**Professor Beryl Blaustone**  
This lawyering seminar will focus on the theories of mediation, the development of mediation skills, applications to different substantive areas and the development of a critical lawyering perspective on the use of this process. Students who pass this course will receive a certificate stating that they have successfully completed a course in mediation training for law practice.

The use of mediation processes and mediation techniques within the legal system and in society generally has increased dramatically in the last thirty years. There is hardly any area of law practice where these processes are not operating. It is now common for lawyers to participate in mediations as advocates as well as serve as mediators, and many law firms designate one of their lawyers as a specialist who provides third-party intervener services. These specialists also assist
trial attorneys in strategizing the handling of cases. There are now several successful national firms specializing in the mediation of particularly complex legal cases in such areas as discrimination, torts and commercial transactions. Furthermore, many private practitioners function in some cases as litigator and in others as mediator. Federal law requires federal district courts to incorporate these processes in civil litigation. Both state and federal courts commonly employ mediation or variations thereof in their settlement and diversion processes. Both state and federal administrative agencies are using mediation in their rule-making and adjudication processes.

The mediation process will be turned to by some lawyers more frequently than by others. Nevertheless, all lawyers should understand what mediation is, along with its limitations, so that they can make informed decisions regarding: when to use it, when not to use it, when to draft mediation clauses into legal documents and when to support or oppose particular legislative and judicial initiatives. It is also to the lawyer's benefit to consciously incorporate many of the skills commonly regarded as mediation techniques into his/her daily professional tasks. These skills promote proficiency in many of the core techniques for any good legal fact investigation and enable an attorney to move beyond the limits of adversarial positions and argumentative techniques. However, because the use of mediation skills leads to a fuller understanding of a dispute, these same skills contribute to better performance in adversarial proceedings as well.

This seminar examines all stages of the mediation process, focusing in particular on the functions of the mediator in each stage of the process. We will also devote significant attention to practicing the range of skills involved in doing mediation. Specifically, we will practice: opening statements and starting the process; effective listening and thorough fact investigation; issue framing; agenda-setting; brainstorming; evaluation of settlement options; and drafting of negotiated settlements. We will develop these skills as we prepare for and conduct a full, simulated mediation hearing. I also plan to have leading practitioners meet with us to discuss their significant cases and to give suggestions for career development in both the public and private sectors.

I began my mediation practice over three decades ago. I have taught mediation at several law schools and have conducted mediation trainings nationwide. I have served on several national, state, and local committees in the field. I continue to mediate employment discrimination, disability issues, attorney-client disputes and work-place disputes. My background is in these areas in addition to the broader range of case we handle in the Mediation Clinic. Students will thus be exposed to the current "hot" legal and policy debates taking place in the courts, the organized bar, and organized professional third-party neutral organizations.

Students who take this course will be given strong preference for admission as third year law students into the Mediation Clinic, Main Street Legal Services, Inc. There will be an application process including an interview for those students who wish to enroll in the Mediation Clinic in their third year who have not taken this lawyering seminar.

Interested students should feel free to contact Professor Blaustone.
Professor Dinesh Khosla
Non-profit organizations have been influential in American society since colonial times. They wield considerable influence on various aspects of social and political life. They employ approximately 7% of workforce in this country and generate revenues estimated at 9% of the gross national product. A large number of our graduates and current students work or aspire to work for non-profits that provide a range of services and are engaged in social reform activities.

This seminar teaches the legal processes and requirements of formation, dissolution, operation, and governance of the non-profit organization. We also study the regulations impacting charitable solicitations, tax exemptions of non-profit organizations and private foundations (a vehicle increasingly used by the wealthy to promote their charitable agendas. For example the Bill Gates Foundation, Clinton Global Initiative, etc).

This lawyering seminar will engage students in a wide range of tasks lawyers representing not-for-profits are called upon to perform. Students will engage in a wide range of activities such as the interviewing and counseling involved in pre-formation planning and decision-making; drafting articles of incorporation, mission statements, by-laws; preparing the filings necessary to obtain 501(C)(3) status; collecting and evaluating information and data to assist the organization in developing efficient internal governance processes and evaluating the effectiveness of their operations; reading and interpreting financial reports and business plans; learning to lead the organization. Students will be encouraged to draw on experiences and connections they have with not-for-profit organizations for use by the class and/or on individual projects to provide real-life context for this learning.

Ideas relating to the non-profit sector are conceived and executed in this seminar. In the last five years at least six new organizations were created by members of this seminar. Among the well known are COMMON LAW, SEVA, GAY AND LESBIAN ELDER SERVICES ORGANIZATION, TAX JUSTICE FOR RENTERS (in process), A CLEARING HOUSE FOCUSED ON THE FAILURES OF HMO’S TO REIMBURSE.

Dinesh Khosla is the Executive Director of the SDK Foundation for Human Dignity which provides for the educational and basic needs of poor children, and funds program activities to promote cross-cultural understanding. Professor Khosla has been instrumental in the rehabilitation of approximately 2,000 apartments with the goal of providing affordable and dignified living conditions for those with limited incomes. He has also been successful in creating and supporting over 20 projects in rural India aimed at economic and social liberation of the poor. He is a founder of India Heritage Center, a new not for profit organization, dedicated to building a Museum of the Journey of People from India to the United States.

Trial Practice: Tactics and Methods
Professor Merrick Rossein
A trial may be viewed as a competition of inconsistent versions of facts as applied to theories of law. But a trial can capture much more of the human condition than this sterile definition suggests. The Trial Tactics and Methods Seminar is designed to introduce second year students to the theory, skills, and tactics involved in the preparation and presentation of a case for trial, whether it be in an administrative, civil or criminal context. We will examine the tactics and techniques used by the trial attorney to persuade the finder of facts that a particular version of the facts should be believed and that the law favors her client. We will also examine the dynamics
of a trial and the professional role of an attorney, including different styles of lawyering and attention to ethical and professional responsibility issues.

The pedagogy of the course is structured on the key components of a trial. We will approach each subject from a theoretical and practice perspective, with lecture, discussion, problems and exercises. Students will be required to perform weekly role playing as we learn the many different tasks of a trial attorney, such as conducting depositions to obtain the facts, obtaining documents through discovery procedures, jury voir dire, opening and closing arguments, examining experts, and direct and cross-examination. During the semester, students will also write a memorandum of law on a motion in limine, dealing with several evidentiary issues, and will argue the motion. Further the student will prepare a “trial notebook” and pre-trial memorandum for the court. We will examine the developing "electronic" courtroom and learn how to use the electronic display of evidence in the courtroom through the Sanctions software program. The semester will end with a jury trial. Guest trial lawyers, including some of the leading trial bar, will demonstrate various trial skills and critique the students’ performance of those skills. The class will also observe and critique a trial in court.

Professor Rossein tried major federal court jury trials, as well as many other trials in the past. United States District Court Judge Weinstein in Leibovitz v. New York City Transit Authority, 1999 WL 167688 (E.D.N.Y., Feb 25, 1999) (NO. 95 CV 3860 (JBW)) wrote in an Order and Decision after Professor Rossein tried the case that: "Counsel [Rossein] for plaintiff is an extraordinarily able attorney specializing in discrimination litigation. Counsel was dealing with a difficult area in this field. He showed extraordinary skill.” Two CUNY Law students assisted Professor Rossein in that trial.

Following participation in Professor Rossein’s Trial Seminar, two teams of four third year students enrolled in Professor Rossein’s Advanced Trial Practice participate in the American Bar Association’s Section on Labor and Employment Regional Trial Competition conducted at the U.S. Courthouse in Manhattan. The teams are coached by Professor Rossein and alumni of his Trial seminar. One team defeated a team from Columbia University Law School to take first place in a trial conducted by U.S. Magistrate-Judge Peck. Another team lost a 2-1 jury verdict in the finals taking second place among ten area law schools. The experience and feedback from expert trial lawyers was invaluable and the notation on the students’ resumes enhanced their seeking post-graduate law positions. Professor Rossein is teaching an Advanced Trial Practice Seminar this year for the two teams (eight students) participating in the 2016 competition.

**Writing from a Judicial Perspective** (evening only – Part-Time Students Have Priority)

**Professor Andrea McArdle**

Imagine a judicial system in which there were no judicial opinions, in which courts heard and decided cases but merely announced outcomes without committing their rationales to writing. What would we lose if we no longer had the benefit of a court’s written analysis of the reasons for its rulings? What would be the effects on the development of legal doctrine? How would litigants and their advocates gain access to the basis for judicial decision making?

This writing-focused Lawyering seminar will address these and other questions implicated in the drafting, analysis, and use of judicial opinions. Its focus and areas of inquiry may be of particular interest and relevance to students considering judicial clerkships and internships and to students
interested in advanced advocacy. Areas of inquiry will include the nature of judicial authorship, and the roles that judicial clerks play in the conceptualization and drafting of opinions; clerking and confidentiality; the audiences that judges write for, and how considerations of audience shape judicial writing; the role of empathy in judging; the lack of a consensus-based tradition (or what some would consider a privileging of the separate author) in U.S. appellate opinions, and the issues created for courts and advocates in interpreting and using separate opinions from a single case; the function of amicus curiae briefs; the manifestation of social-justice perspectives in judicial writing; the relationship between judicial philosophy, including judicial activism, and judicial writing; framing law and using facts in opinion writing; the effect of precedent/revisiting stare decisis; the trend toward courts’ drafting "unpublished" opinions and the status of these opinions as precedent; the use of social science evidence; and identifying a judicial voice.

The course will pay close attention to the "practice" of judicial writing with assignments that include drafting a bench memo and an opinion in a pending United States Supreme Court case. Past cases that have been the focus of study include United States v. Windsor, which declared unconstitutional the Defense of Marriage Act. Students hear oral argument on the case and participate in a "bench conference" to discuss the issues, the legal standards, the evidence, and the policy implications of various possible rulings. The seminar will engage in close readings of judicial opinions illustrating key themes of the course (including notably Bush v. Gore, Planned Parenthood of Southeastern Pennsylvania v. Casey, and DeShaney v. Winnebago County Department of Social Services), and will analyze writing by judges and other legal scholars related to the areas of inquiry noted above. We will also consider discourse from recent U.S. Supreme Court confirmation hearings relating to conceptions of judicial role. In addition to taking up these issues from the perspective of judges, we will approach them from the vantage point of advocates who use judicial opinions in their own written argument, and who must anticipate, and try to influence through written argument, the way judges write opinions in the cases that they argue. Although the course considers judicial writing in a variety of doctrinal areas, the seminar includes close analysis of opinions involving substantive due process claims in the context of family relations.

From time to time during the semester, judges will visit the seminar and discuss their approaches to opinion writing. Seminar students will also choose an additional writing project, which, with approval of the instructor and subject to availability, may include a short-term placement with a New York City-area court or administrative tribunal, during which students draft a judicial writing. Alternatively, students may complete a paper/written project related to one of the themes of the seminar after approval by the instructor. Given the substantial time commitment required by the research and writing component of a judicial placement, and the need for students in placements to have greater schedule flexibility/availability, considerations in approving a judicial placement include but are not limited to a student’s course load and academic status. The seminar has had a high level of placements in Queens and Brooklyn Family Courts, the Brooklyn Integrated Domestic Violence Court, and the Manhattan and Brooklyn Surrogate’s Courts, and will continue to seek placements for students interested in these practice-focused courts and in similarly focused courts in other boroughs. In addition, students who have participated in short-term placements have worked with or for judges in the Appellate Division, First and Second Departments, Manhattan Supreme Court, New York City Civil and Criminal Courts, Brooklyn Supreme Court, Bronx Supreme Court, Bronx Civil Court, Queens Criminal Court, Queens Supreme Court, Westchester County Court, various federal courts in the Eastern and Southern Districts of New York, the Office of the Staff Attorney for the Second Circuit Court of Appeals,
and the New York City Office of Administrative Trials and Hearings. Short-term placements typically span 7-8 weeks starting in the third or fourth week of the semester.

This seminar will provide an opportunity to develop legal writing, research, close and critical reading, and analytic skills, an exposure to the workings of the courts, and a deeper analysis of strategies of advocacy drawn from insights into judges’ responses to written and oral argument.