

# NEW ENGLAND CLINICAL CONFERENCE 2023

at Vermont Law & Graduate School



## “It’s the End of the Law as We Know It (And I Feel Fine?): Clinical Teaching in a New World”

Featuring Shilpa Jain

Friday, March 31, 2023

164 Chelsea St., Royalton, VT 05068

8:00-9:00 AM     **Registration & Continental Breakfast  
(CHASE BREEZEWAY)**

8:00-8:50 AM     **New Clinicians Introductory Workshop  
(NINA THOMAS CLASSROOM, DEBEVOISE 102)**

9:00-9:10 AM     **Welcome from Vermont Law & Graduate School  
(CHASE CENTER)**  
*Rodney Smolla, President*

9:10-9:40 AM     **Opening Session – Setting Intentions, Building Lenses  
(CHASE CENTER)**  
*Shilpa Jain, Speaker and Facilitator*

9:50-10:40 AM     **Concurrents Session 1**

**Engaging and Motivating Clinic Students, Externs, and Aspiring Public Interest  
Advocates in the Wake of West Virginia v. EPA et al.**

**(NINA THOMAS CLASSROOM, DEBEVOISE 102)**

*Christophe Courchesne, Vermont Law & Graduate School (VLGS), Environmental  
Advocacy Clinic (Moderator)*

*Sean Donahue, Donahue and Goldberg, LLP, Adjunct VLGS Professor*

*Bethany Davis Noll, New York University School of Law, Executive Director, State  
Energy and Environmental Impact Center*

*Megan Herzog, Donahue and Goldberg, LLP, Former Special Assistant Attorney  
General, Massachusetts Attorney General’s Office, Energy and Environment Bureau*

*Michael Myers, New York Attorney General’s Office, Senior Counsel, Environmental  
Protection Bureau*

Last year, in *West Virginia v. EPA*, the Supreme Court invalidated strong regulatory action under the federal Clean Air Act to limit carbon pollution from the electric power sector. The case marked a major setback for a once-promising legal strategy to fight the climate crisis that inspired and consumed a generation of government policymakers and lawyers, environmental advocates, and clean energy attorneys. Our students are passionate about the climate crisis and environmental injustice, and

many came to law school inspired to contribute to legal efforts to drive transformative and urgent responses. In the wake of West Virginia and other judicial decisions in and outside environmental law that may profoundly constrain progress at the federal level, what should supervisory faculty and attorneys do to help clinic students, externs, and new advocates chart meaningful professional goals, combat demoralization, and effectively advocate for a more sustainable and equitable world? This panel brings together experienced public-interest environmental practitioners with leading roles in the West Virginia case for an informal discussion about next steps.

**Helping Our Students “Be the Change” Through Their 3 Spheres of Strengths, Responsibility, and Accountability**

**(OAKES 210)**

*Cecily Banks*, Boston University School of Law, Director, Corporate Counsel Externship Program, and Lecturer

*Laurie Barron*, Roger Williams University School of Law, Clinical Professor of Law, Director of Clinical Externships, Director of the Feinstein Center for Pro Bono & Experiential Education

Today’s students come to law school to solve problems, make change, and right wrongs. They arrive with innate abilities and life experiences, poised to take on and push back on complex challenges. They are well-versed in social justice and the truths that racism and biases are everywhere, outcomes benefit whiteness and wealth, and legal employers are entrenched, white, heteronormative spaces. Students know how to lean into their values and speak up – until we ask them to adopt *our* lawyering identity, learn *our* way of thinking, and internalize *our* way of interacting with the world. We ask them to tread carefully with the powers-that-be so they stay “safe” in these settings, causing them to lose touch with the powerful reasons they sought a law degree. The **“3 Spheres of Strengths, Responsibility, and Accountability”** is a methodology to empower students to recover their voices. This approach is intended to help students decide whether and how to respond in a situation that makes them want to act or speak but question whether they should. This framework enables students to unpack that moment. We bring “3 Spheres” to the NECC participants to play with it, try it, critique it, and reshape it.

**Re-Imagining Clinical Legal Education: Supporting Healing and Liberation**  
**(OAKES 208)**

*Susan Brooks*, Drexel University Kline School of Law, Acting Director, Stern Community Lawyering Clinic

We are living in a time of tremendous uncertainty and ongoing oppression for many in our communities and our society. And yet, we have often demonstrated our ability to heal from past traumas, rise to whatever challenges present themselves, and even find new and generative possibilities, especially when we affirm our interconnectedness through acts of caring and solidarity. The present moment similarly calls on us, especially in our role as clinicians, to reimagine the ways we teach and practice law by living into the principles and values that center relationships and respect for the dignity of all human beings. Our ability to embrace our shared

humanity more fully by acting according to these principles and values can strengthen and enhance our own and our students' wellbeing and can transform the legal profession in ways that can lead to healing and liberation at the personal, interpersonal and systemic levels.

**Your Mission, Should You Choose to Accept, Is to Go Where No Clinic Has Gone Before!**

**(OAKES 211)**

*Carolyn (Carrie) Kaas*, Quinnipiac University School of Law, Associate Professor of Law, Associate Dean of Experiential Education and Co-director of Center on Dispute Resolution

*Brendan C. Holt*, Quinnipiac University School of Law, Visiting Clinical Professor of Law

*Kara McCarthy Perry*, Quinnipiac University School of Law, Affiliated Law Faculty

Our session will describe Quinnipiac's new Negotiation Clinic and newly-reimagined Mediation Clinic. These clinical experiences apply the integrative approach to law, to further the law school mission to educate students to be whole and healthy lawyers and to create future changemakers. The panelists will summarize the benefits of this innovative approach, as well as identify the barriers that students experience. We will brainstorm elements that can be adopted in any clinic to improve law student well-being and develop personal and professional leadership.

Integrative law is a "movement" of innovations in various areas of law, all of which grant dignity and voice to everyone in the legal system and focus on values-based, creative, sustainable, and holistic solutions that strengthen relationships. Specifically, our Negotiation Clinic applies the Conscious Contracts® approach to transactions. Our Mediation Clinic handles typical mediation matters but does so with a nod to integrative law. Both call for students to apply leadership skills, including agility, resilience, empathy, authenticity, and adaptivity. Student teams in the Negotiation Clinic design their conflict management systems, and then facilitate their clients to develop theirs.

To further support long-term satisfaction and well-being in the profession, students create their own wellbeing plans and experience mentoring and coaching programs.

**11:00-11:50 AM Concurrents Session 2 and Works-in-Progress**

**Teaching Resilience: Tools for Sustainable Practice Within Oppressive Systems  
(NINA THOMAS CLASSROOM, DEBEVOISE 102)**

*Sarah Branch*, University of Maine School of Law, Visiting Clinical Professor and Director of the Youth Justice Clinic at the Cumberland Legal Aid Clinic

*Courtney Beer*, University of Maine School of Law, Associate Clinical Professor and Director of the Prisoner Assistance Clinic (PAC) at the Cumberland Legal Aid Clinic

*Anna Welch*, University of Maine School of Law, Director of Cumberland Legal Aid Clinic and Founding Director of the Refugee and Human Rights Clinic

*Sara Cressey*, University of Maine School of Law, Staff Attorney & Lecturer, Refugee and Human Rights Clinic at the Cumberland Legal Aid Clinic

This session will be conducted in a teaching rounds format to create space among clinicians to share challenges and strategies for teaching and modeling sustainable lawyering practices in light of the demanding work we do. We hope to focus specifically on how we can both inspire students who are working with disadvantaged clients (youth charged with crimes, incarcerated individuals, and asylum seekers, among others) while also teaching them tools to develop professional resilience. We will begin by briefly describing the tools we employ at Maine Law (including a panel of therapists, meditation, and seminar classes on professional resilience, among others) to enable students to engage in this rewarding but difficult work armed with strategies to combat burnout, compassion fatigue and other difficulties they may face. We will then transition into smaller breakouts to connect clinicians teaching in similar practice areas to allow participants to dig into various tools and specific challenges in more depth. We will then come back together to share lessons and resources. We hope to generate, as a group, specific resources and tools that participants can take back to their programs and incorporate into their teaching.

### **What Are We Doing When We Teach About Lawyer Wellbeing? (OAKES 211)**

*Julie Dahlstrom*, Boston University School of Law, Clinical Associate Professor, Director, Immigrants' Rights & Human Trafficking Program

*Danielle Pelfrey Duryea*, Boston University School of Law, Lecturer and Clinical Instructor, Director, Compliance Policy Clinic

*Brian Wilson*, Boston University School of Law, Lecturer and Clinical Instructor, Interim Director, Criminal Law Clinical Program, Supervisor, Prosecutor Clinic

Other than student affairs, experiential education may be the place in most law schools where issues of balance, wellbeing, and mental health are most concretely addressed. However well-intentioned, efforts are proving insufficient to prepare our students to become capable, ethical professionals who enjoy long, healthy careers in the law. This concurrent will focus on three challenging facets of teaching lawyer wellbeing now:

- Meaningfully differentiating how we talk about and respond to varieties of stress, distress, and mental health concerns, including:
  - motivating effects of stress v. experiences that undermine
  - subclinical experiences of distress v. emerging mental health crises
  - mental health crises v. chronic mental health conditions.
- Adaptations that were made to partially overcome necessary disconnections, such as meeting remotely, continue – whether because of convenience, productivity, or mere inertia. Yet there's a relative consensus that remote learning was detrimental in many ways to many people.
- Concepts of "work-life balance" are subject to widely varying interpretation. How do we teach habits that ensure zealous advocacy and high standards of client service as well as support health and wellbeing? Do we disserve students if we don't set expectations about professional commitment that correspond with future employers' expectations?

## **Restorative Pedagogy in Clinical Education**

### **(OAKES 210)**

*Brett Stokes*, Vermont Law & Graduate School South Royalton Legal Clinic (SRLC),  
Vermont Immigrant Assistance Project (VIA)

*Jessica Brown*, Vermont Law & Graduate School, Assistant Professor of Law, Associate  
Director, Center for Justice Reform

*Maya Tsukazaki*, Vermont Law & Graduate School South Royalton Legal Clinic (SRLC),  
Vermont Immigrant Assistance Project, Vermont Poverty Law Fellow

*Miche Altman*, Vermont Law & Graduate School, student

What is restorative pedagogy? How might it apply to clinical legal education? What restorative tools can teachers/students use within a clinical teaching environment? What are the benefits?

To answer these questions, participants will engage in a Circle process, learning the values and benefits of restorative pedagogy and how it can bolster student engagement and passion. The session will include a brief explanation of restorative practices and pedagogy, followed by smaller groups participating in a Circle, facilitated by an RJ practitioner.

12:10-12:40 PM **Box Lunch Pickup  
(CHASE CENTER)**

12:40-12:45 PM **Speaker Introduction, Welcome to Afternoon Sessions  
(CHASE CENTER)**

*Beth McCormack*, Dean of Vermont Law School

12:45-1:45 PM **Afternoon Session – Grounding, Weaving, Framing, Harvesting  
(CHASE CENTER)**

*Carolyn (Carrie) Kaas*, Quinnipiac University School of Law, Tribute to Jay Pottenger  
*Shilpa Jain*, Speaker and Facilitator

2:00-2:50 PM **Concurrents Session 3**

**Leading Clinical Programs through Disruption – Generative AI as Threat or Opportunity?**

**(NINA THOMAS CLASSROOM, DEBEVOISE 102)**

*Sarah Boonin*, Suffolk Law School, Associate Dean for Experiential Learning

*Hemanth Gundavaram*, Northeastern University School of Law, Director of Legal Clinics, Associate Dean for Experiential Education

This summary was written by Chat GPT in response to the following prompt: “Write a 200 word description of a law school presentation at a conference about lawyering in the age of ChatGPT and teaching law clinic students the issues, challenges, and opportunities that ChatGPT brings up.”

Chat GPT: This law school presentation at the conference focuses on the topic of lawyering in the age of ChatGPT, a cutting-edge language model that has revolutionized the legal profession. The presentation aims to explore the challenges, opportunities, and ethical issues that arise from the use of ChatGPT, and how law clinics can prepare law students for the future of legal practice.

The presenters begin by providing an overview of ChatGPT, discussing its capabilities and applications in the legal field. They explain how the technology can assist lawyers in various tasks, such as legal drafting, document review, and legal research. However, the presenters also highlight the potential ethical and professional challenges that can arise from relying on ChatGPT for legal work, such as the importance of maintaining client confidentiality and competence.

The presentation also explores the importance of teaching law clinic students about the issues, challenges, and opportunities presented by ChatGPT. The presenters emphasize the need for law schools to adapt their curriculum to incorporate the use of this technology, providing students with the necessary knowledge and skills to succeed in the changing legal landscape.

Overall, the presentation offers an insightful and engaging discussion on the impact of ChatGPT on the legal profession and the importance of law clinics in preparing law students for the challenges and opportunities presented by this cutting-edge technology. It underscores the importance of staying up-to-date with technological advancements to remain competitive in the legal industry.

### **Re-Making Personal Professional (OAKES 210)**

*Keri K. Gould*, Washington and Lee School of Law, Director of Externship Programs, Professor of Practice

*M. Teresa Schmiedeler*, University of Maryland Carey School of Law, Managing Director, Public Service Programs & Outreach

*Lisa M. Patterson*, University of Buffalo School of Law, Program Director for Externships, Public Interest Offerings, and Access to Justice Initiatives

The presenters have noticed changes in our externship students who are coming out of the pandemic and reentering (at least partially) in-person externship placements. There is evidence that today's students are physically and emotionally different due to environmental, technological and isolation factors. For us the causes for these changes is not as immediately important as how can we pivot to prepare our students to get the most out of their law school endeavors and their externship experience. In doing so, how can we help our students become the lawyers they want to be not only by learning doctrinal law or lawyering skills but to actualize themselves as fully productive, competent, happy people who thrive in our chosen profession.

We have noticed recently, that when asked to state their externship goals, students often seem to list topics that reveal anxiety about entering the working world. They are seeking guidance on interacting with their mentor attorneys, other personnel at

the externship placement, opposing counsel, clients, and other professional interactions. They also mention topics such as time management at the office or how to understand the professional culture of their placement. In addition, we have noticed shorter focusing times and increased reporting of exhaustion that interferes with class time and assignments.

Recognizing that a change in classroom teaching is needed, the presenters have modified their teaching methods, the timing of classes, and class topics to better meet the needs of their students. The new ventures are based, in part, on new or updated developments in Emotional Intelligence in the classroom, Self-Assessment instruments such as DiSC, MBTI, the Attorney Assessment and others, listening techniques, such as Active Listening or Non-Violent Communication, weekly “lawyer songs,” Self-Care resources, such as Dr. Laurie Santos’ Happiness Lab, a 1-1 meeting near the beginning of the semester in addition to weekly classes, and Anti-Racism and Cultural Humility materials. In doing so, we have found our classes become “safe places to share experiences” and are more interesting, fun and transformational for us as well as our students.

We would like to share our materials and information with others and hear about what strategies others have used in their classes.

**The Trick with Trauma  
(OAKES 208)**

*Heather Arroyo Perez*

*Elizabeth Campbell*

*Claire Donohue*

*Jordon Engelhart*

Part Panel Part Discussion Group, this interactive session will take up the issues of trauma and clinics unique position to lead pedagogy on this subject:

Trauma is everywhere these days, except in the law school curriculum. This panel will explore the ways in which clinics can teach our students about trauma and help them deal appropriately with client trauma, both in terms of their clients’ needs and their own. In the housing context, the client population may have suffered past trauma and housing instability is itself traumatizing, yet we do not generally name this trauma. In the family law context, trauma may be central to the theory of the case, but while placing that trauma front and center may help us “win,” it may not be healing for our clients. In every client-facing practice setting, we deal with difficult moments and conversations with our clients, in which previous or ongoing trauma may play a role. Even as experienced attorneys and teachers, we may not be fully equipped for those conversations, and our students rarely are. This panel will be an open conversation about how we and our students can understand trauma, learn to distinguish between trauma and anxiety, and learn to work with and through our clients’ trauma.”

**Fifty Shades and the Plausibility of Sexual Assault in the BDSM Context  
(NINA THOMAS CLASSROOM, DEBEVOISE 102)**

*Victoria Chase*, Rutgers Law, Clinical Associate Professor of Law and Associate Dean for Academic Affairs

This session will explore the role of plausibility in perception and persuasion and examine how it shapes narratives deployed in trials and briefs. Despite advancements in social and cultural awareness regarding sexual assault, thin dominant narratives continue to obscure factual realities of sexual assault and influence how the legal system treats the phenomena. Using a central example of sexual assault in the context of a consensual relationship involving BDSM, the goal of this presentation will be to create a conversation about how clinicians address our role as potential gatekeepers of the narratives that receive attention in the legal system. Attendees will learn about affirmative consent sexual assault laws, consider the intersection of legal writing and clinical teaching strategies, and reflect on the ongoing struggle to move past dominant narratives in sexual assault work.

**Developing Inclusive Language Competency in Clinical Teaching  
(OAKES 210)**

*Jennifer Safstrom*, Vanderbilt Law, Visiting Assistant Clinical Professor, Stanton First Amendment Clinic

Drawing from legal pedagogy, litigation practice, and teaching experience, this presentation provides a set of key considerations for inclusive language decision-making in the clinical setting. Using a multi-factor framework—accuracy, precision, relevance, audience, and respect—this analysis will explore the process for deciding on terms to use in practice and the potential implications of those choices on student learning, case outcomes, and attorney-client relationships. In addition, this project will explore some current trends and best practices when adopting these principles in the context of specific groups. This project will connect these principles to broader academic and practice issues, including the American Bar Association accreditation standards and Rules of Professional Conduct.

**“Lenny Bruce is Not Afraid” and You Need Not be Either: Use of Emerging  
Technology in Clinical Teaching and Supervision  
(OAKES 208)**

*Christina Miller*, Suffolk University School of Law, Associate Clinical Professor of Law, Prosecutors Program

*Brian Wilson*, Boston University School of Law, Lecturer and Clinical Instructor; Interim Director, Criminal Law Clinical Program; Supervisor, Prosecutor Clinic

With new technologies impacting the practice of lawyering and teaching emerging every day, our students, clients, and legal systems expect clinicians and clinical students to not be afraid of, and even embrace, technology. Yet for many clinicians, technology’s evolving role requires us to confront the challenge of keeping up with, or even catching up to, our students’ knowledge — the exact opposite of what we do



otherwise. Panelists will seek to increase awareness of how emerging technologies can be used in the classroom, through supervision, and in outward presentations to clients and factfinders. After presenting ways in which clinical faculty can model and teach students how to use technological tools to be better lawyers, panelists will lead a discussion about what participants do to effectively use technology in their clinics and create a list of ideas and resources.

**Bring-Your-Own-Coffee Incubator**

Grab some coffee and a snack, and bring your half-baked ideas for scholarship! Sandy Tarrant will moderate, and anyone who wants to workshop their ideas or help others develop theirs is welcome to join us.

**(OAKES 211)**

4:00-4:50 PM

**Wrap-up and Debrief – Digestion, Learnings, Unlearnings, Seeds to Plant  
(CHASE CENTER)**

*Shilpa Jain*, Speaker and Facilitator

5:00-6:30 PM

**Reception  
(YATES)**