

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
(OAKES 109)**

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.
(OAKES 109)**

*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

In furtherance of its mission to educate the whole lawyer to understand and serve the whole client, Quinnipiac launched a new clinic in 2020, our Negotiation Clinic, in a deliberately virtual format, adopting the principles of the Integrative Law Movement as the basis of the legal work. Students use the Conscious Contracts® approach to facilitate deals and transactions between parties who may be anywhere in the world. In an effort to humanize the clinical school experience and support being a whole, healthy lawyer, we have established an integrated approach to the clinical experience by fusing practical lawyering abilities with powerful leadership skills. This work is similar to that done in our Mediation Clinic.

Using an integrative law model focused on creating a legal system that grants dignity and voice to everyone in the legal system and uses values-based, creative, sustainable, and holistic solutions to build and strengthen relationships, the clinic calls for students to apply leadership skills such as agility, resilience, empathy, authenticity, and adaptivity, to their work with their clients. Among other assignments, students design their own conflict management systems; negotiate using integrative law principles; create and practice their own well-being plans; and learn to be future changemakers in the law.

To support long-term satisfaction in the profession, the clinical experience also includes a mentorship program with volunteer lawyers who are well-being experts. Students explore various topics, including autonomy, mindfulness, emotional intelligence, play, and boundary setting to redefine “professional identity” in a manner that prioritizes well-being. In weekly small groups, students are encouraged to connect with their mentor and peers with vulnerability by sharing challenging experiences, an approach not typically found in the competitive vortex of law school. This practice creates community and a space for psychological safety, increasing the openness of sharing, storytelling, and engagement. Through these interactions, students also practice valuable leadership skills, including active listening, giving/receiving feedback, and empathy.

The panelists will share their experiences and summarize the benefits of this innovative approach, as well as identify the barriers students experience. The session will encourage participants to brainstorm ideas for continuing to transform the clinical

experience to meet students' needs and support their voices in shaping well-being initiatives. The goal is for participants to walk away with new ideas (both presented and co-created during the session) on how to adapt the clinical experience so that students embrace the possibility of a law practice that supports being a whole, healthy lawyer.

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

Teaching Resilience: Tools for Sustainable Practice Within Oppressive Systems (OAKES 109)

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

We will come together to share strategies that we use across clinics within the University of Maine School of Law's clinical program to inspire students who are working with disadvantaged clients (youth charged with crimes, incarcerated individuals, and asylum seekers, among others) while also giving them the tools to develop professional resilience. The tools we employ (including a panel of therapists, meditation, case rounds and seminar classes on professional resilience and so on) help encourage students to go out in the world to engage in this rewarding but difficult work, while also taking care of themselves. The session will begin with a large group discussion before transitioning into breakout groups based on practice area to allow participants to dig into various tools and challenges in more depth. We will then come back together to share lessons and resources, with the hope of generating some specific resources 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)**

Tribute to Jay Pottenger

Shilpa Jain, Speaker and Facilitator

**Leading Clinical Programs through Disruption – Generative AI as Threat or Opportunity?
(OAKES 109)**

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."

**Bring-Your-Own-Coffee Incubator
(OAKES 211)**

3:10-3:40 PM

Lightening Round Concurrents

**Fifty Shades and the Plausibility of Sexual Assault in the BDSM Context
(OAKES 109)**

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.

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)