Our students handle a wide variety of cases. In some, the legal drafting is a challenge. In others, the family dynamics are . . . dynamite!

Danielle Stone, for example, had a lovely 94-year-old client with two sons. Her client wanted to have her will reviewed and execute a financial power of attorney. The family seemed to communicate well about their concerns. It all went smoothly.

Another one of Danielle’s clients, however, was facing more challenges. He and his wife were in a dispute. Assets had been transferred and allegations about abuse flew back and forth. Danielle also communicated with his physicians (with his consent) to help develop a plan to address his needs.

Villy Stolper listens to his client’s concerns.

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INS AND OUTS OF HEALTH LAWS

Why would someone give his home away? Joe Jones might do exactly that. Mr. Jones (not his real name) came to the Elder Law Clinic about getting a will and power of attorney done. He wanted to be sure that just one of his adult daughters will inherit his home. This daughter has lived with him and provided care to him for years. Mr. Jones uses a wheelchair and has multiple health issues.

Julia Gravely prepared a will and a power of attorney for Mr. Jones. She also explained to him that if he has a nursing home stay in the future, the Medicaid program will make a claim against his estate. Often, these “estate recovery” claims take a person’s entire estate. Julia advised him that he could avoid this type of claim. Here is one of his options. Federal law allows a person in his situation to transfer his home to a “caregiver child” who meets certain strict rules. Julia contacted Mr. Jones’ physician to obtain an affidavit documenting that the daughter met these “caregiver child” rules. Now the client can assure that his daughter’s right to inherit the home is protected. Julia’s advice included a recommendation that Mr. Jones keep lifetime rights in the home.

Will Peete verifies details with his client.

DEBTS X 3 = STRESS

Will Peete had several clients with debt problems. One client had paid off a mortgage only to find that the lender had failed to cancel the lien or mark the debt satisfied. Will contacted the lender to notify them of this oversight.

Another of Will’s clients had many bills she simply could not pay. She did not realize that her modest home and her Social Security income were fully protected under state and federal laws. Debts are a common source of significant stress, particularly for single, older women who live alone. Will’s advice to her about legal protections was reassuring. He reviewed the process for protecting her income and assets in a counseling session and a follow-up advice letter. His calm manner was as helpful as his legal knowledge.

APPEAL TO THE HEAVENS

Paddy was driving down the street in a sweat because he had an important meeting and couldn’t find a parking place. Looking up to heaven he said, “Lord take pity on me. If you find me a parking place I will go to mass every Sunday for the rest of me life and give up me Irish whiskey.” Miraculously, a parking place appeared. Paddy looked up again and said, “Never mind, Lord. I found one.”
REACHING OUT

The Elder Law Clinic helps more people by preparing educational materials and presentations.

Scott Villarreal put together a brochure about the rights of assisted living residents. It covers the state laws that protect residents from unlawful discharge. Being asked to leave can be very difficult for an older person and their family. The brochure will help people understand the legal grounds for having to move. It also explains the process they need to follow to appeal.

Danielle Stone advises her client and his daughter.

Villy Stolper gave a talk to about forty older adults. The group is in a research study about successful aging, called “Lifestyle Interventions and Independence for Elders” or LIFE. Villy gave them some useful information about health care programs that pay for long-term care. The Medicaid and Medicare laws are complicated, but Villy gave a clear explanation of common situations.

GOOD NEWS FOR MOUNTAIN COMMUNITIES

Kathleen Rose is heading to Asheville to the Van Winkle Law Firm and will practice estate planning and elder law. There, she joins E-Clinic alumna Caroline Knox, who is a partner in the firm and certified as an elder law specialist by the N.C. State Bar and the National Elder Law Foundation.

ILLUSTRIOUS ALUMNAE

E-Clinic alumnae Kristin Burrows (‘05) and Natalie P. Miller (‘04) were elected by the N.C. Bar Association Elder Law Section to two-year terms on the Section’s executive council.

Good news from Vermont! Devon Green (‘06) has been handling elder law cases for Vermont Legal Aid. She writes:

Now I'm going to work as a health care policy analyst for Vermont's director of health care reform. Vermont is moving towards a universal health care system within the next few years, and I am excited to be a part of this process. I hope to bring some of my experience with Medicaid and Medicare to the table. I think this health care reform effort will help innovate health care delivery for the population in general and seniors in particular.

HOW TO HELP VULNERABLE ELDERS

Your tax-deductible contribution helps us serve more senior citizens. For more information, contact eclinic@wfu.edu. Thank You.
RIGHTING SOME WRONGS

Andrew Dixon’s client moved from one assisted living facility to another. But the first one kept the money she had in her “resident’s account.” These funds were from her Social Security income and were protected by federal law from her creditors. Andrew provided the corporate office the state and federal laws that prohibit this type of “self-help” seizure of a person’s money. He succeeded in getting his client’s money back.

Kathleen Rose handled myriad financial issues for one of her clients. She worked with the client to set up a pre-need funeral contract and to change life insurance beneficiaries. She also helped her client arrange for bank drafts of routine bills and to cash in a life insurance policy. Kathleen’s careful work helped the client regain control over her income and property. Previously, the client’s family members had been mishandling both!

Lessons for Young Lawyers

In my garden I would first plant five rows of peas:
• Preparedness, Promptness, Perseverance, Politeness and Prayer.

Next to them I would plant three rows of squash:
• Squash gossip, Squash criticism, Squash indifference.

Then I would put in five rows of lettuce:
• Let us be faithful; Let us be loyal; Let us be truthful; Let us be unselfish; Let us love one another.

No garden is complete without turnips:
• Turn up for meetings.
• Turn up with a smile.
• Turn up with a new idea.
• Turn up with determination.

ETHICS FUNDAMENTALS

Ethics are emphasized in the Elder Law Clinic. Law students learn the diplomatic skills involved in representing older clients. They meet one-on-one with the older person, and only involve adult children with the client’s consent. The clinic students document to whom the client has authorized disclosures of information. They let the client know how they will proceed if the client becomes incapacitated during our representation.

Elder law ethics resources can be found on the Clinic’s website, in the Resources section.

GRATEFUL CLIENTS

✦ Will Peete explained things well to me. He was patient and prompt, too.
✦ Kathleen Rose was friendly, polite and professional.
✦ Danielle Stone was very pleasant and gentle with my father. She was knowledgeable about what needed to be done.
✦ Julia Gravely explained everything well, on my level of understanding. I don’t think she could have been better.
THE MANAGING ATTORNEY

Clinical Law Professor Kate Mewhinney recently:

- Became an accredited attorney by the U.S. Department of Veterans Affairs.
- Sponsored a multi-disciplinary program to train health care providers how to spot elder exploitation. The training is part of a national initiative, handled here by the North Carolina Secretary of State. It is called the Elder Investment Fraud and Financial Exploitation Prevention program (EIFFE). Co-sponsors of the event included the N.C. Bar Association Elder Law Section and the Section of Geriatrics of the Wake Forest School of Medicine.

Attorney Fred Flynt and Glenn Hudson confer before court.

MOTIONS, MEDIATION AND MORE

Willy Stolper argued a complicated and lengthy summary judgment motion in Forsyth County Superior Court. He won on all the claims and counterclaims that were the subject of his motion. The case involves claims of exploitation, trespass and constructive trust. Some weeks later, he represented the same client in a mediated settlement conference to address the parties’ remaining claims and counterclaims, a week before the scheduled jury trial. An experienced certified mediator, Thorns Craven of Mediation, Inc., assisted the parties in reaching a settlement.

Glenn Hudson prepared a motion to intervene in a case. Her client and his girlfriend have lived together for twenty years. Unfortunately, she now has Alzheimer’s disease. Glenn’s client wanted to be the guardian for his girlfriend. His adult children, however, filed a court action to be appointed guardian. Glenn gathered medical evidence and affidavits to present to the court. Her client won and now serves as his girlfriend’s guardian.

The Elder Law Clinic partnered with the Psychiatry Department’s Geriatric Outreach (GO) Program on this case.
Kathleen Rose reviews a legal procedure.

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