COMPASSIONATE AND VERSATILE

Al Lamarque, Danny Moabs, Karl Amelchenko, and Nick Lovelace, Burt Conley, Audrey Golden, Katie McClanahan, and Laura Petrie.

Nothing seems to faze this group of students. They have seen a lot in their short time here -- a 103-year-old client, a sticky situation that called for a security guard, a $30,000 rip-off by a niece, and a case involving cruise ship tickets!

Armed with intelligence, compassion, and good humor, they have taken on every case that came their way. They asked questions, did research, negotiated, investigated, drafted and advised. Congratulations to a versatile and energetic group!

www.law.wfu.edu/eclinic

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TEACHING PARTNERS – WFU’S SCHOOLS OF LAW AND MEDICINE

We have had a high level of interaction this semester with our partners in the medical school. For example, two nursing students spent time observing the law students at work. Also, Professor Mewhinney taught several sessions to the young physicians in the geriatrics fellowship program. And, law student Katie McClanahan attended the quarterly meeting of the medical center’s Ethics Committee.

Dr. Hal Atkinson, head of geriatrics fellowship training, taught a class to the law students about medical issues of older patients. This is just one way that our partnership with the medical school enriches both our teaching and the quality of representation we can offer older adults. Understanding the medical aspects of mental capacity issues is particularly critical in the field of elder law.

Our neighbors in the Sticht Center on Aging include the Geriatric Assessment Clinic and Memory Disorders Clinic. Sometimes, our law students will finish their interview with a client who has memory problems, and then explain the services offered by these medical clinics. Referrals are easy when the law student can just show the client and his or her family the very place where the geriatricians hold appointments.

Al Lamarque actually spent an afternoon observing the Memory Disorders Clinic. He saw the classic “Folstein mini-mental status exam” being administered, and heard what issues brought families and patients to the screening clinic.

All the family members I witnessed tried to take control when the patient could not answer a question. The doctor remained focused on the patient until he knew he was not going to get an appropriate response and then...

(See TEACHING, p. 4)
COURT-APPOINTED INVESTIGATORS

Nick Lovelace assisted a woman whose adult daughter has severe autism. Nick obtained medical records and prepared the necessary papers to show the need for a guardian and then represented the mother in the court hearing.

Burt Conley served as the “guardian ad litem” for a woman who is now in a nursing home. The woman’s husband filed for guardianship so that he could manage her affairs. Burt met with the medical staff and tried to interview the wife. He then drafted a report to the court, finding that the legal standard of incompetency had been met.

SHOW ME THE MONEY!

Laura Petrie handled a sticky interstate situation. The client’s adult daughter had been court-appointed guardian in another state, but seems to have mismanaged the mother’s funds there. A bench warrant was issued for her arrest and a new guardian appointed! The Social Security Administration recently redirected the client’s income to the new out-of-state guardian, who then stopped sending funds here to North Carolina. Our client’s daughter, who has been her caregiver here for several years, was left without this important income. Laura managed to persuade the new guardian and the local and out-of-state Social Security Administration offices that the client’s income had to be sent to her here. So, a new “representative payee” now handles the income for her in our state.

COMMUNITY PROGRAMS

Laura Petrie gave a talk to the Galilee Missionary Baptist Church on “Wills, Powers of Attorney and Advance Medical Directives.” Laura fielded quite a few questions and provided useful information to the attendees. This type of outreach provides a community service. It also gives students experience doing client development, a useful skill when they are out practicing law.

Nick Lovelace gave a presentation to a group of people in a clinical research study being conducted by the Wake Forest University Department of Health and Exercise Science. The SHARP-P study is a randomized clinical trial to assess whether physical activity and cognitive training reduces the risk of significant cognitive decline in older people.

Karl Amelchenko teamed up with our local hospice to provide free living wills and health care powers of attorney to members of the law school community. Collaborating with Karl was the Community Partnership on End-of-Life Care.

www.hospicecarecenter.org/programsPartnerships.aspx

Their Clients LOVE Them!

"Burt Conley was courteous and friendly. He had a sincere desire to help. I was very appreciative of his follow-up summary letter.”

"Katie McClanahan was very poised and confident. I especially liked her overall manner and preparedness. It’s great that Wake Forest offers this service!”
I found my first meeting with a client at The Elder Law Clinic to be refreshing. My previous law school experience involved class attendance followed by sitting alone to read court opinions and make outlines. My faithful companions were my laptop and a handful of heavy, overpriced casebooks. It was a breath of fresh air to meet with an actual human being I could help.

One of my first thoughts that returned over the next few months was how little I actually knew, in spite of undergoing three semesters of intense legal study. Each new client brought a new set of issues - consumer issues, federal subsidized housing rules, and more. At times, I felt like I knew little more than the clients did. I realized that my obligation was not to give my clients brilliant, insightful advice on the spot, but rather to gather all the information necessary for me to seek and find the correct approach to their problems after the initial interview. In the meantime, I needed to reassure them that we were capable of and committed to doing so.

It was easiest to keep from becoming too emotionally involved in my clients’ cases when the cases involved something straightforward like drafting a will or a power of attorney. There was no emergency in these situations, and no client’s comfort or happiness was immediately at stake. The encounters that were the most stressful for me were a handful of discussions with the adult children of clients. One of these adult children was quite frustrated and overwhelmed by the burden of caring for her mother. The mother’s growing needs had clearly been wearing down the daughter for some time. It was difficult to keep the daughter’s stress and frustration from rubbing off on me. As much as I would have liked to ease this burden somewhat, I had to recognize that all I could do was to provide the services requested of me - giving Medicaid advice, etc. These would make the path a little easier for both the daughter and the mother, but ultimately I could not entirely eliminate the anxiety inherent in caring for an aged parent over the long term.

Over the semester, I became reconciled to the slow pace at which some of my cases moved. While some problems could be solved easily, others required me to do some research, send a letter to someone, await a response, contact my client about something, and then to await another response. I felt like I needed to work overtime to bring them to a conclusion. Then, I came to see this as a regular part of a legal practice. Many clients’ situations cannot be resolved quickly or easily (unlike law school class hypotheticals) and it is better that they be resolved well than that they be resolved speedily and inadequately.

This semester has given me a much greater appreciation for the significance of elder law issues in modern society. They have a profound real-life impact upon countless older Americans, and I am grateful for the chance to help a few of these seniors navigate these complex waters.
Accepted the family member’s answer. Sometimes the doctor would respond to a family member’s answer and politely ask the patient to confirm. My experience in the medical clinic will help me communicate more effectively when meeting with clients who are having some memory problems.

After graduation, Karl Amelchenko is joining a firm that represents health care providers. So, while in E-Clinic, he spent some time examining the inner workings of a typical future client! To learn about the legal issues that come up in a large medical center, Karl spent time with Beth Gianopulos, associate hospital counsel (JD ‘01). He was also hosted by Jerold Smith, the director of Risk and Insurance Management. This department handles a wide range of matters, to prevent and monitor potential liability exposure involving patients and visitors.

Several of our law students got to observe the administration of electroconvulsive therapy (ECT). Professor Peter Rosenquists, M.D., of the psychiatry faculty; answered their questions and explained how ECT can be a beneficial treatment for older patients. The students also got to talk with a patient, before the treatment. The need for ECT sometimes triggers the filing of a guardianship case, so advocates for older clients need to understand the medical treatment being offered. Lawyers don’t usually get to “gown up” -- they had gloves, masks, bonnets and shoe covers!

Our very own John Grisham?

Audrey Golden’s cases left lasting impressions on her. As court-appointed guardian ad litem for one gentleman, Audrey’s task was to determine whether he was unable to manage his own affairs. When he told her he was from Mars (and got here by spaceship), Audrey was pretty surprised! The poor condition of the nursing home also caused her to reflect on “how our society treats those who have not been privileged.”

In another case, Audrey drafted a will and power of attorney for a lovely 80 year old gentleman. “I also learned that there are definitely stylish 80-year olds out there!”

I feel a much greater need, now that I have been a student in The Elder Law Clinic, to be compassionate. My U.S. history teacher told our high school class that the old folks we yelled at on the roads were the same people who make up the ‘greatest generation’ because they fought in WW II and showed that women were capable of going to work to help the war effort. I’ve thought again about this and about the values of kindness and helping others.

After graduation from law school, Audrey is heading to the University of Virginia, into a PhD program in English. Perhaps she’ll be writing legal mysteries?
TOUGH LESSONS IN ETHICS

Attorneys give advice. And clients make choices. Simple? Not always! Consider this story.

Several years ago, a man came to The Elder Law Clinic to sign a power of attorney. He chose his “good daughter.” Now he has a memory problem. So, his “good daughter” called the E-Clinic and came to speak with Katie McClanahan.

This daughter described how much money Dad was giving to another daughter. The “bad daughter” never could hold a job and so her father (the E-Clinic client) has always helped her. Now the “bad daughter” seems to be helping herself...from this client’s money! Katie explained to the “good daughter” that, as a former client, the Dad would be our client. Then, when Katie met with him, he was adamant about helping out his other daughter.

Even when a client has a memory problem, as attorneys we cannot force them to make good decisions. An important ethics rule for elder law attorneys is the one that requires us to maintain a normal attorney-client relationship with clients who have diminished capacity. If other family members disagree, they may need to get their own legal counsel.

Katie reflected on her experience:

The wishes of the ‘good daughter’ conflicted with what our former client (Dad) wants. Representing both of them wasn’t possible, since Dad wasn’t willing to budge. While this was a good lesson in professional ethics, it was a difficult thing for me to accept. It is frustrating not to be able to find a solution to this situation. I suggested to the ‘good daughter’ that she seek separate counsel.

NEWS OF THE MANAGING ATTORNEY

Clinical Professor Kate Mewhinney was invited by the United Nations to participate in its first Expert Group Meeting (EGM) on the rights of older adults. The meeting will take place in Bonn, Germany, in May.

The purpose of the U.N. meeting is to provide the General Assembly with independent expert opinion on questions related to the rights of older persons and to make recommendations for the forthcoming report of the Secretary-General. A total of 10 people were invited to participate in the EGM.

Since the beginning of 2009, Professor Mewhinney gave these presentations:

- "Ethical Dilemmas When Wards Improve," National Guardianship Association, 2009 Colloquium on Guardianship, Charlotte, N.C.;
- “Legal Preparation for Your Golden Years,” The Lifelong Learning program for Wake Forest University alumni.
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STOP AND THINK

It sort of makes you stop and think, doesn’t it?

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GREAT FEEDBACK

“Nick Lovelace was very kind, patient and helpful in every way. He guided me through getting my legal affairs in order.”