



Las Americas

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Internship Experience

My experience at Las Americas Immigrant Advocacy Center (Las Americas) was a wonderful experience. I began work at Las Americas with no knowledge of what Immigration Law entailed. I have had an interest in Immigration Law since I decided to pursue a legal career. Personally I am interested in Immigration Law because I have personally lived the impact that immigration laws and its' policies have on individuals. My two brothers were born in Mexico and immigration laws have impacted their lives and mine.

The opportunity to work for Las Americas during the summer gave me the ability to exercise my desire to gain more knowledge about Immigration Law. The Managing Attorney of the organization was my supervisor and I worked with an Accredited Representative. The Accredited Representative works specifically with VAWA, U Nonimmigrant, and T Visas. I began my work at Las Americas through exposure of VAWA cases.

VAWA cases have particular challenges that are difficult to overcome. The clients that I worked with were, for the most part, victims of domestic abuse. I got to see the process through which USCIS conducts its' investigation to determine if an applicant qualifies for a visa. USCIS can request the applicant for additional evidence and then the applicant has to timely respond to that request. During this part of the process, a

challenge can occur when the applicant is asked for additional information such as, proving that the applicant was in fact married either in good faith or that the individuals lived together. A response to a request for evidence has to be carefully examined to ensure that all necessary information is submitted. To avoid additional requests for evidence it is the duty of the attorney or accredited representative to ensure that proper documentation is submitted. I was able to get all possible documentation from the client and then organize it in such a way that would satisfy the requirements of USCIS.

Some clients do not have all the documentation necessary or sometimes the clients only have partial documentation. When the client does not have all the documentation it is the attorneys' duty to overcompensate for the lack of documentation. A declaratory statement or witnesses can overcome the lack of documentation. Since USCIS has the discretion to either reject or accept the information that is sent, it is crucial to take cautionary steps to ensure that the client is not placed at risk. The discretionary component in Immigration Law can either help the client or affect the client.

Many clients were required to provide USCIS with additional evidence in support of the domestic violence. When evidence such as, proof of domestic violence or severe domestic violence is requested a challenge arises. A declaratory statement is written by or on behalf of the client. The declaratory statement is a statement by the victim where he or she divulges his or her personal life of what the abuse entailed. This process can be quite difficult when the client still has reservations about her abuse. Some clients still suffer from the abuse that took place and cannot disclose what the abuse entailed. In the declaratory statement it is beneficial for the client to describe in detail the hardships that

occurred as a result of the abuse along with the different types of abuses that the victim suffered; the abuses could range from social abuse to emotional abuse.

To overcome the obstacles that different clients faced, it was important to establish that the client has a good moral character. Witnesses are asked to write a letter in support of the client to attest to the abuse or relationship. When a client was asked to submit evidence in regards to “good faith marriage” it was important to add information about the good moral character of the client. I learned to brainstorm on the different types of documents that could help the clients’ case. It was a process of understanding the procedures that USCIS uses and the reasoning behind the evidence requested. I was able to develop the skillset of thinking on behalf of the other side. Although the attorney is not in a court proceeding when an application is submitted to a USCIS officer, the attorney is still an advocate on behalf of the client and it is important to realize that even documentation alone is a tool that is used to advocate on behalf of the client.

Additionally, I was also able to experience first hand the importance of attorney-client relationship. Communication can help or affect the relationship between the client and the attorney. Under a particular case, the client had immigration status under VAWA and the client was ready to apply to permanent residence status. Once the interview began we discovered information that was harmful to the clients’ ability to gain permanent residency. A different attorney and/or accredited representative had initially worked with the client. The application that was submitted previously had a question concerning marriage, and during that time the client had stated that she had only been married once. The application for permanent residence asks the same question about marriage and as it turned out at the time the client was asked about her marriage she had been married in a

different country. The client was never able to retrieve a marriage certificate and so she assumed that marriage had been terminated. After she married the first time she got married once more in the United States. When we asked her again, she stated that she had been married twice and as it turned out the first marriage was never terminated and so the client was out of status due to the information being incorrect. This to me was an example of the information that the client will relate to his or her attorney; it also represents the importance of making thorough questioning to achieve the best results for the client. I think that this is a very crucial skillset necessary for successful advocacy. We asked the client if she could retrieve a marriage certificate from her country and she was able to do so, this meant that her first marriage never really ended.

Throughout the summer I was also doing constant research. Through my research I was able to realize that Immigration Law is not black letter law, it is a body of law that goes through constant and continuous change. Research is important in different areas of the law, but in Immigration Law, the laws and policies change rapidly and in order to prepare for court it is important to make sure that you do a constant check on the work that you produce. I believe that Las Americas gave me additional skillsets that I will carry onto my legal career. I was able to learn from my supervisors the importance of “thinking on your feet” there are issues that come up and it is important to have knowledge of the different courses of action that are available and that will benefit the client. Immigration Law has INA, which is the main statute that deals with the different issues that arise under immigration. It was important for me to realize that INA is not the only source that controls, rather, policy memorandums, issued by ICE, also control and are very relevant to the practice of Immigration Law.

Additionally, I got to visit clients in the Processing Center located in El Paso. The clients were either attending a hearing or they were preparing to appear in court. The visits that we made to the detention center involved speaking with the client about the issues that were present in their case. I was able to see the process of an intake where a person is detained but has no representation. I was able to see the obstacles that occur when the person is indigenous and knows no rights and does not understand his or her rights. As an attorney, it is important to speak to potential clients in a manner that will make them feel safe or at ease. To obtain a client it is important to develop a skillset that allows that potential client to feel safe and at ease.

Under Immigration Law, the courtroom is not the only place where an attorney advocates for his or her client. Las Americas had a client who was a victim of a crime and the client was detained. A motion of stay was submitted to the court and was later denied. Although the client was denied the right to stay, the client was able to stay because her deportation officer allowed it. The deportation officer had discretion to decide whether she would leave or not. Our client had a pending U Nonimmigrant Visa and she had met the prima facie phase of the process. The deportation officer allowed her to stay until a decision was established of whether or not she was to receive the U-Visa. Later the client was release because she needed an operation. All this would not have occurred had it not been for the strong advocacy that occurred. The accredited representative was able to speak in person with the deportation officer to describe the circumstances under which the client found herself. Also, the deportation officer did not know that the client was sick and needed an operation.

I was able to see how important it is to advocate not only inside the courtroom but also outside the courtroom. Las Americas taught me valuable lessons; not only did I learn how to conduct myself as an attorney, but also how procedure works. Las Americas was a great place to get an understanding of Immigration Law. I hope that this is not the only opportunity that I get to continue to serve my community in a legal aspect. There is so much need in the community of El Paso and also in other communities. I want to take my knowledge that I gained in Las Americas and expand it in the future.

Thank you for allowing the experience,

Esther Marie Mijares
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Candidate for Doctor of Jurisprudence, 2016

September 4, 2014

To Whom It May Concern:

My name is Bryan Herrera and I am beginning my second year at the Texas Tech University School of Law. This summer I had the privilege of interning at the Diocesan Migrant and Refugee Services (DMRS), in El Paso, Texas. I was born and raised in El Paso and so it has always been my intention of returning to El Paso in order to pursue my legal career after graduation. I hope to someday work in immigration law because it is an area of that law that is particularly important to me since my parents were once immigrants. Immigration law is a field that is quickly growing and opening up with many career opportunities. I believe that working in immigration law is where I can make the biggest impact on my community. My time at DMRS was one of the most rewarding experiences of my professional career thus far. My internship strengthened my desire to someday work in immigration law and I will never forget my experience at DMRS.

At DMRS I worked under the supervision of several brilliant attorneys. I learned so much from all of them, especially my supervisor, Alma Camacho. Alma was always willing to make time to review my work or to answer any question or concern that I had. I had never worked at such a big office with so many employees and didn't really know what to expect at first. However, everyone that I worked with at DMRS really went out of their way to enhance my experience. I got to meet a lot of wonderful people and genuinely enjoyed interning at DMRS.

My duties this past summer consisted mostly of completing the initial client intakes and working on the cases that had upcoming court hearings and making sure that everything was prepared for when the attorney appeared in court. This entailed legal research and legal writing, scheduling appointments with the clients, and meeting with them in order to gather the required

documents or information necessary for their particular form of relief. I learned fairly quickly that simply getting ahold of the clients was not always as easy as it sounds. Interacting with the clients this summer also helped me improve my Spanish as many of the clients spoke only Spanish. This was especially helpful in learning the Spanish translations of various immigration legal terms. I certainly increased my knowledge and became more familiar with the requirements for the more common forms of immigration relief such as: the Petition for Alien Relative, the Application for Cancellation of Removal, the Application to Permanent Residence or Adjust Status, the Petition to Remove Conditions of Residence, the Application for Employment Authorization, Political Asylum, and Prosecutorial Discretion. The majority of the cases that I worked on at DMRS were comprised of the forms of relief listed above, and of course, some cases were more complicated than others. I also learned more about the workings of the U.S. Department of Homeland Security as well as U.S. Immigration and Customs Enforcement and the U.S. Citizenship and Immigration Services, respectively.

However, the highlight of my time at DMRS was definitely working on a Political Asylum case with a client from Somalia. The client had fled their country and traveled halfway across the world in order to escape persecution. Along with another intern, Pedro, I visited with and interviewed the client at the detention facility in El Paso. We worked on this client's case for about a month. The day of the client's actual court hearing was one I will never forget. Pedro and I had decided a week before that we were going to divide the direct examination and the closing argument between ourselves. I was going to be doing the closing argument. However, on the day of the hearing, while I was at the detention facility waiting for Pedro to arrive, I received a phone call. It was Pedro. He told me that he was outside the detention facility and that the ICE officers were not allowing him inside because his driver's license was expired. We spoke to the judge

and informed her of the situation, however, there was nothing she could do. She called the ICE officers and they explained to her that they could not make an exception. So, I found out 15 minutes before the hearing that I was going to be doing the direct examination as well. I got my first taste of what actual law practice is like. Looking back, I don't think I have ever been more nervous in my entire life. However, I had been working on the case for about a month and I felt confident enough in my abilities and knowledge of the case to move forward. Unfortunately, the client was not granted Political Asylum and once again, I got a taste of what actual practice is like. Pedro and I received a letter from the client about a month later thanking us for taking on his case and for fighting for him. Knowing that I was still able to make a difference in someone's life, even though we didn't win the case, was probably the most rewarding part of the entire experience. Besides, I now have my first court appearance under my belt. I believe that I gained more experience from working this case than a lot of first year law students do.

I am so grateful for the opportunity to intern at DMRS and to have received the funding that I did. The funding that I received has allowed me to continue to pursue my goals of becoming an attorney. My desire to serve others is why I chose to pursue a career as an attorney and this has allowed me to do that. I learned a lot from this experience and I gained many tools that I will carry with me throughout my legal career. Thank you.

Sincerely,

Bryan Herrera
Texas Tech University School of Law
Candidate for Doctor of Jurisprudence, 2016
University of Texas at Austin, B.A. 2012
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LITIGATION SECTION INTERNSHIP PROGRAM FINAL REPORT

Family Violence Prevention Services, Inc.

LEGAL AID FOR LOW-INCOME TEXANS

Family Violence Prevention Services, Inc. (FVPS) provides legal assistance to low-income Texans in family law matters. Specifically, FVPS aids victims of family violence in obtaining protective orders, child-custody orders, and divorces. This litigation firm provides a unique litigation experience because clients are often going through very difficult life changes. Many clients are residing at the family violence shelter while we are assisting them with their legal case. This hands-on litigation experience gave me the opportunity to understand the importance of litigation work while informing me of the prevalence and legal issues surrounding family violence.

LITIGATION OVERVIEW

During my clerkship over the summer of 2014, I was able to contextualize the information learned in the isolated, theoretical setting of the classroom and apply this knowledge to real-life situations. I learned the importance of work, not only in the courtroom, but also in pre-litigation preparation and post-litigation explanation. Family law cases involve life-changing decisions and it is important that the client understands the process and consequences of the lawsuit. It is equally, if not more, important that an attorney be sensitive to these concerns and manage client expectations throughout the legal process. Because FVPS clients were victims of abuse, the attorneys at FVPS used litigation to help clients become survivors.

With family violence victims, they are often uncertain if they want to apply for a protective order or seek a child custody order or divorce because they are uncertain of the legal process and because victims often return to their abusers. This is attributed to the power and

control dynamic that encompasses the client and opponent's relationship. The litigation assistance provided by FVPS may be the first time in a victim's life that a victim is able to make her own decisions. This involvement in litigation process changes the power dynamic in the victim-abuser relationship and has a dramatic impact on the client's life. In order to inform potential clients of their legal rights and available remedies, FVPS created a class that provides an overview of the legal services provided by FVPS so shelter residents can better determine whether they would like to apply for legal services. During my internship, I given the opportunity to lead the "Know Your Rights" class offered to shelter residents and answer any questions regarding legal services provided by FVPS.

The application for legal assistance is the first step of the litigation process. FVPS funding requires potential clients to meet certain financial qualifications. Furthermore, resources must be properly allocated to ensure that FVPS is able to provide quality legal assistance clients. The application is entered into the FVPS client database and, if the application is incomplete or if there is a need for fact clarification, the applicant needs to be contacted so all questions necessary to make decision about legal representation are answered. The application process allowed me to understand some of the important factors needed to assess the urgency of the case and needed legal assistance, as well as how to properly speak with potential clients. Once a client gets through this first step, an attorney will meet with a potential client to go over the legal services FVPS is able to provide her and to make sure the client would like to move forward with the legal process.

I. PRE-LITIGATION: THE IMPORTANCE OF PREPARATION

Managing client expectations was one of the most difficult tasks in the representation process. For many clients, FVPS was representing them in their first legal matter and clients did

not know what to expect. Client expectations were often skewed based on stories they were told by friends, relatives, and other public resources. For example, many clients were surprised to learn that they are not entitled to alimony in the State of Texas. FVPS attorneys spent a great deal of time making sure clients understood their available legal remedies and explained any misconceptions clients had about the family law process.

During my internship, I was given the opportunity to draft several different legal documents. I was able to draft a petition for divorce, temporary ex parte protective order, request for discovery, temporary orders, affidavits, and many other documents. This allowed me to become knowledgeable and comfortable with prodoc and the process of drafting provided me with a better understanding of legal remedies. I filed cases online through e-file as well as at the courthouse and I filled out and submitted the paperwork needed for service and citation. I was also able to contact law enforcement agencies, hospitals, counselors, CPS caseworkers, and employers to collect any relevant facts or documentation concerning our cases. I also learned how to request records of police reports and audio recordings of 911 emergency phone calls from the San Antonio Police Department.

I was present during client meetings where the FVPS attorneys went over what to expect in court, obtained additional information in preparation for the hearing, collected financial information, and made sure the client's needs were properly understood and addressed. Clients would often provide potential witnesses to assist in the case. I was able to contact these potential witnesses to ask them questions regarding any physical and emotional violence they witnessed directed towards the client or the children. Witnesses often wanted to share stories they had heard from the client and it took time to explain the importance of restricting their testimony to only what they personally witnessed to avoid testimonial hearsay. I was also able to participate

in helping the client prepare for her testimony. This meeting provided the client with the opportunity to see what it will be like to be on the stand, answering questions, and to be cross-examined. The next or following day, the client would have her day in court.

II. IN THE COURTROOM

FVPS clients were given their own waiting room next to the presiding courtroom to help domestic violence survivors feel safe while in the courthouse. Keeping clients in their own rooms reduced the risk that they would run in to their abuser and helped eliminate any additional stress resulting from their court appearance. In presiding court, attorneys would often agree to confer prior to requesting a courtroom assignment. In family law, an agreement often provided better outcomes for clients because the opposing parties could create a more creative solution to their problems than the family code allows. Conferring was often a more positive solution because it eliminated the stress and potential embarrassment of being on the stand and it reduced the risk involved in allowing a judge to decide the matter. When children were involved, agreements would allow for more creative and flexible custody arrangements. The large majority of the cases I was involved in reached agreed orders and did not require a hearing before a judge.

I was able to attend some protective order and divorce hearings during my internship. The ability to attend hearings was a wonderful demonstration of how to properly enter evidence and effectively examine and cross-examine witnesses. During a temporary orders hearing, a FVPS attorney conducted a successful cross-examination of the opponent, which encouraged the opposing party to seek an agreement. This allowed our client and the opposing party to reach a better remedy for themselves and their child. Witness testimony has greatly improved with

access to technology. I was able to draft motions for telephonic and Skype testimonies, which allowed out-of-town witnesses unable to travel to testify before the Court.

To see how all of the work that goes into client and witness preparation, discovery, fact collecting, and all other pre-litigation research plays a role in achieving a successful outcome in the courtroom is a very gratifying experience. It allowed the pieces to come together and I was able to better understand the importance of pre-litigation work and its effect on a trial. Seeing a judge's signature on an order that protects your client and her interests is incredibly rewarding because it is proof that all of the hours and days of work put into preparing for a hearing were worthwhile and effective.

III. POST-LITIGATION: ENSURING THE CLIENT UNDERSTANDS THE FINAL ORDERS

Once an order was signed and filed with the clerk, clients were provided with certified copies of their court order and were also instructed where they needed to go to obtain additional certified copies. FVPS attorneys carefully reviewed all orders with the client and encouraged clients to contact them if they had any questions regarding these court documents. With protective orders, clients were given multiple certified copies and encouraged to provide copies to their child's school, their place of work, family members, and keep a certified copy of the protective order on themselves at all times. Clients were also encouraged to create a safety plan to reduce any risk of future abuse. I drafted closing letters for clients to summarize the work FVPS provided them, review their orders, and provide advice for the future.

CONCLUSION

My litigation experience at FVPS also allowed me to connect with people from different agencies across San Antonio that also try to prevent family violence. FVPS meets regularly with

CPS to go over effective safety planning and to encourage agency cooperation throughout the legal process. Many FVPS clients are also undergoing CPS investigations due to their involvement with family violence. The continued prevalence of family violence in the San Antonio area has encouraged the development of a special CPS task force that specializes in family violence cases. Since CPS investigations are often more successful for clients who cooperate with the investigation and CPS reports may have an effect on child custody orders, it was important for FVPS to understand how the CPS process works. I was able to attend one of these meetings to see how both FVPS and CPS try to assist each other by providing clarifications or explanations to certain policies and procedures. The two organizations also notified each other of obstacles they encountered while trying to work with the other agency so these issues can be resolved in the future.

I was also able to meet with different San Antonio Police Departments and attend police education courses to explain the FVPS shelter policies, family violence dynamics, and understanding protective orders. Police officers are on the front lines and often have the first contact with family violence victims. Police officers are able to remove victims from a dangerous situation, take them to a shelter, or provide victims with referral information so the victim can seek help in the future. It is important that the police officers know about the resources FVPS is able to provide victims. It is also essential for police officers to understand the meaning of protective orders so that orders can be effectively enforced. If a protective order can be violated without consequences, the order becomes ineffective. Because protective orders have different requirements, police officers need to be able to know what to look for to determine whether a protective order violation has occurred. The family violence education courses provided this information to officers and it also allowed FVPS attorneys to better

understand the challenges police officers face when they are responding to family violence incidents.

I was also able to contact and meet with attorneys from Texas Rio Grande Legal Aid (TRLA) and work with the military family advocacy program. The collaboration between the different agencies helped share resources and create a more holistic approach to the issue of family violence. Because of these outreach efforts, my litigation experience extended beyond the walls of the courthouse and allowed me to glimpse into the complex web of the prevalent social issue of family violence. This internship was a wonderful opportunity and I am incredibly grateful for the legal experience FVPS provided me throughout the summer.

Stephanie De Sola
St. Mary's University School of Law
J.D. Candidate
Class of 2016

Zachery Kahn

INTERNSHIP SUMMARY

This summer, I had the privilege of interning at SafeHaven of Tarrant County in their legal services department. During the summer, I had three tasks that I would deem as regular.

The first of those tasks was assisting the attorney at the courthouse and watching the attorney litigate. Generally, I would show up to the court house and meet the attorney and the client. We would normally wait for the judge to call up our case, then we would proceed on whatever matter it was. If it was the kind of thing that required a formal hearing, I would watch the attorney litigate. If it were the case where a judge was signing an order that we had drafted, I would assist the attorney in conforming the copies for the clerk and taking the copies to the clerk's office to have them certified. These were the ordinary things I would do, but of course there were always little things like running up to a different court to tell them something if there were two clients at the courthouse that day, just to use an example.

The second task was document preparation. Document preparation ranged from sending letters to drafting the documents to file themselves in document drafting software named ProDoc. This made up most of my work outside of the courthouse. I enjoyed this part of the internship the most. I felt as though that my experience in preparing documents allowed me to gain real knowledge about something that will be very useful to me in practice.

The third major task was sitting in on client intakes. We had these rather sporadically, but I really did enjoy them. I enjoyed learning what an attorney takes into account when assessing whether or not they will or should take a client. I also enjoyed once I learned about what the

various burdens of proof are, watching the attorneys craft their questions in order to discover whether or not this client would actually be able to win their case if they were to take it.

Overall, I thought the internship was a great experience. It's amazing for a student who actually wants to gain some practical legal experience before leaving law school. If I had the option, I would do it again.

To Whom It May Concern:

The Texas Bar Association, Litigation Section grant enabled me to dedicate my entire summer to working at Human Rights Initiative of North Texas (HRI). While other interns spent half their summer there, working for primarily one program, I was able to work for both of HRI's programs and really familiarize myself with the organization. After spending 10 weeks working at HRI, I feel that I have a much more thorough understanding of immigration law and its challenges, as well as the organization's structure and functions, than I would have had if I had spent a shorter time there. I was also able to develop close relationships with some of the staff members that have extended past my time there.

HRI is devoted to helping victims of crime through their Asylum Program and the Women and Children's Program. Potential clients, who usually hear of HRI's legal and accompanying social services through word of mouth, are first screened for financial eligibility over the phone and then interviewed in the office by an attorney and accompanying staff member. Once HRI determines that the individual has a credible legal claim, the staff discusses the case in weekly meetings. If the program heads and legal director feel the client has a viable claim, the client is paired up with an attorney from HRI's pro-bono network.

Around 1-3 times a week, I would sit in on these client "intakes" with a staff attorney, learning from her interview style and also more about the human rights issues that our clients faced. A couple of times, I was able to use my Hindi and Urdu language skills acquired in college to translate for our attorneys. After the intake, the legal head of the respective program that the client's case would fall into would discuss the case with the legal director, who would pass on questions to me about the client's case that they wanted me to investigate. Often, I was researching precedent in the Fifth Circuit and Board of Immigration Appeals to determine the chances of success of the case and what legal framework HRI should proceed with, if they accepted the client. I developed my analysis in short and long form memorandums, which were then sent to the legal director of HRI to help her decide whether we should accept the case.

I spent my first 7.5 weeks at Human Rights Initiative researching client claims in this manner for the Asylum Program. Often, my research also delved

into foreign immigration law, because I had to establish lack of permanent residence in the respective countries that our clients came from, so we could advance their claims for legal status in the United States. Each claim also required a different amount of country conditions research, to prove that the client did not have refugee in the country from which they had fled. I was also able to help the Asylum head prepare cross-examination questions to prep a client for her upcoming trial, and often looked over documents we were going to submit to court to assure that they were error-free and consistent.

I spent the last 2.5 weeks at HRI working in the Women and Children's Program. Here, I became familiar with the legal documents that may need to be filed with an individual applies for a visa or citizenship in the United States. I prepared packets to send to our pro bono attorneys that included all the documents they would need to file for visas based on abuse by a spouse or Special Immigrant Juvenile Status. I filled out Green Card applications for our in-house clients and sent referrals for the children housed temporarily at Catholic Charities of Fort Worth that would be sent to

Without the grant, it is very likely that I would have split my summer between HRI and another organization. I would not have been able to develop such close relationships with staff that have become my mentors, and also would not have such a concrete understanding of how a legal public service organization, and really any nonprofit, works. I really liked HRI's staff size and collegial work environment. Every staff member seemed to take genuine interest in the legal issues faces the clients and the steps that HRI took. I also was able to see very unique perspectives of current immigration issues, those of the individuals who make this decision to come into our country this way and those of the American citizens who've dedicated their careers and often much more to helping these individuals.

Thank you for affording me this opportunity.

Sincerely,
Vidushi Shrimali
University of Texas School of Law Class of 2016

**INTERNSHIP REFLECTION PAPER:
DISABILITY RIGHTS TEXAS,
LUBBOCK OFFICE**

By RICHARD B. KEETON

**Litigation Internship Program
Summer 2014**

LITIGATION SECTION
STATE BAR OF TEXAS

Abstract

Many individuals with disabilities find their biggest challenges have little to do with the actual physical and mental disabilities they must cope with day to day. Often their biggest obstacles arise from external societal factors: discrimination, ignorance, and negative stereotypes about what individuals with disabilities can—or cannot—do. Disability Rights Texas exists to help disabled persons break through such barriers to achieve their personal goals and dreams. I spent summer 2014 working as a Law Clerk for Disability Rights Texas, the federally funded and designated legal protection and advocacy agency for people with disabilities in Texas. This internship was made possible by a generous grant from the State Bar of Texas Litigation Section.

ORGANIZATIONAL BACKGROUND

Disability Rights Texas (“DRTx”) (formerly named Advocacy Inc.) is a nonprofit organization that protects and advances the legal, human, and service rights of Texans with a broad range of disabilities. DRTx’s mission is to help people with disabilities understand and exercise their rights under the law, ensuring their full and equal participation in society. The agency’s attorneys and advocates fulfill this mission by (1) providing direct legal assistance to people with disabilities whose rights are threatened or violated; (2) protecting the rights of individuals and classes of people with disabilities through the courts and justice system; (3) advocating for laws and public policies that protect and advance the rights of people with disabilities; and (4) informing people with disabilities and family members about their rights, often by making referrals to available community programs and services. (Disability Rights Texas, 2014) DRTx is headquartered in Austin, and it employs over one hundred people in thirteen offices across Texas.

DRTx is a protection and advocacy agency (“P&A”) funded by the United States federal government and the Texas Access to Justice Foundation. Thus, its attorneys and advocates often help protect and advance the rights of individuals with disabilities at no charge to the clients. When a prospective client calls the statewide intake line, he or she talks with an intake specialist who asks several questions about the client and the problem the client is facing. Once identifying the issue, the specialist will either provide the client with information to resolve his or her own issue, refer the client to another agency, or assign the client’s case to an attorney or advocate for investigation and/or legal services.

However, demand for DRTx’s services far exceeds the availability of its attorneys and advocates. Cases are selected based on available resources and the agency’s priority areas.

DRTx's scope of work includes the following priorities: accessibility, community living, education, employment, health care, housing, protection and civil rights, transportation, and voting rights. (Disability Rights Texas, 2014) DRTx uses a comprehensive survey of its clients, staff, policymakers, and people with disabilities in Texas to help identify those service priorities, which are re-established every four years and reviewed on an annual basis by its board of directors. Because DRTx cannot assist with all protection and advocacy needs within Texas, the priority setting process helps to determine which issues and groups have the greatest need in the P&A's limited resources and how those resources can be best utilized.

DRTx decides whether it can represent individual clients on a case-by-case basis. The agency considers (1) the details of the client's case; (2) other resources available to the client; (3) the client's ability to advocate for himself; (4) whether the client's issue falls within one of DRTx's service areas as determined through public surveys and board approval; (5) availability of resources within the organization; and (6) the extent to which the client's case may benefit others with disabilities. (Disability Rights Texas, 2014) DRTx represents only people with disabilities. Further, DRTx does not provide financial assistance nor does it provide legal services for non-disability related legal issues (i.e., bankruptcy, criminal law, family law, foreclosure, personal injury, probate, social security determinations or appeals, etc.).

PERSONAL EXPERIENCE

I started my summer internship at Disability Rights Texas on May 27, 2014. I was employed as a Law Clerk in the agency's Lubbock Office. As a Law Clerk, I provided legal research and support to attorneys within the organization. Additionally, I reviewed client records and other evidence; drafted client correspondence; drafted legal pleadings, motions, and legal briefs; and communicated with clients, attorneys, and fellow DRTx staff regarding current cases

and projects. In such duties, it was essential that I maintained accurate and complete client records, while applying the principles of the organization's vision and values in all work-related and business interactions.

I worked under the supervision of Denette Vaughn, Senior Attorney on the "HEAT" Team (Housing, Employment, Accessibility, and Transportation). Additionally, I worked with Chris McGreal and Susan Motley on the HEAT team, as well as Colleen Elbe, the Lubbock Office Manager. As a member of the HEAT team, I had the opportunity to handle a variety of priorities within the organization.

First, the HEAT team helps ensure that people with disabilities have access to and opportunities to rent or own homes and apartments in their communities. To ensure such housing needs are met, the team ensures that landlords and property owners do not discriminate against persons with disabilities in renting or selling property. Further, the staff makes sure that housing is accessible to people with disabilities to the extent required by law by enforcing public and private landlords to comply with the laws requiring them to design and construct accessible new housing and make architectural modifications to existing housing. Additionally, the team advocates increasing the amount of accessible, affordable, and integrated housing for individuals with physical and mental disabilities.

Second, the HEAT team works to safeguard the rights of people with disabilities in a range of work environments. The team helps people get necessary services from the state vocational rehabilitation program and the Social Security Administration's "Ticket to Work" program. Further, the team advocates that employers do not discriminate against individuals with disabilities.

Next, the HEAT team helps ensure that people with physical disabilities have full access

to private businesses and government facilities, programs, and services. HEAT team advocates and attorneys work to remove architectural barriers to improve mobility, while advocating to modify policies so that persons with disabilities have equal access. The team ensures that necessary aids and services are provided for people with communication disabilities, such as sign language interpreters for people with deafness and Braille text for people with visual impairments. DRTx advocates for individuals who have been discriminated against by government agencies and officials, organizations receiving government funds, and private professional offices and businesses.

Finally, the HEAT team helps ensure that all public and private transportation providers (including bus companies, airlines, trains, taxis, and shuttles) meet their obligations for accessible transit under federal and state laws by making their services accessible to persons with disabilities.

INDIVIDUAL PROJECTS AND ASSIGNMENTS

While at Disability Rights Texas, I worked on several cases and completed a variety of tasks. I worked on cases for a number of unique individuals, each with his or her own challenges. I advocated for clients with physical disabilities, which affected their mobility, and other clients with sensory disabilities, including vision and hearing impairments. I also performed work for clients with intellectual disabilities, cognitive or developmental disabilities, and mental health and emotional disabilities.

Over the course of the summer, I conducted extensive research for several ongoing projects and initiatives at the agency. To assist with some open cases, I researched reasonable accommodation for individuals with service dogs in public places, such as restaurants, lodging, and retail. Under the Americans with Disabilities Act of 1990 (“ADA”), people with disabilities

must have equal access to goods and services available to the general public. The ADA defines “service animal,” and stipulates that individuals with disabilities may be accompanied by their service animals in places of public accommodation. DRTx often advocates for clients who have been denied admittance into a public accommodation due to the presence of a service dog simply because employees and business owners are ignorant of the law. Being denied access often takes an emotional toll on the disabled individual, including feelings of humiliation, depression, and loss of enjoyment of life. I focused my research on case law developments and recent settlements. My research served as a tool in settling one case, and will be instrumental in similar future cases.

I also performed extensive research on franchisee-franchisor vicarious liability. The agency is working on a case in which an employee of a private franchisee made discriminatory remarks towards a client. The trend in the law generally disfavors holding the franchisor liable for the acts of its franchisee. My research analyzed recent case law developments and outlined a strategic litigation plan in order to assign liability to the parent franchisor in DRTx’s case.

Additionally, I focused on one client in particular: an inmate at the Texas Department of Criminal Justice (“TDCJ”) Montford Unit. This client, whom relies on a walker as a mobility device, alleged that prison officials denied him use of his walker in community areas, including the day room, chow hall, and law library. Because of this, he sustained injuries by falling, or he was restricted access to certain areas. Further, he alleged that he was not allowed to participate in work activities due to the limitations of his disability. My supervising attorney and I visited him at the Montford Unit. Upon completing his interview and reviewing countless records, his claims seemed to be legitimate, and I felt strongly that our work might be able to make a real change in prison policies. I was pleased to see that only two weeks after DRTx initiated his case with the

TDCJ, the Montford warden issued him a pass to use his walker in the day room. However, that was far from providing him with adequate reasonable accommodation, and I hope that DRTx will be able to persuade the Montford Unit to change internal policies for our client and other disabled offenders like him.

Further, I prepared three individual jury charges: two for Texas state district courts and one for a Fifth Circuit district court. Two of the jury charges were prepared for cases in which an individual with a disability was denied access and accommodation to places of public accommodation (a restaurant and a bar/nightclub) because of the presence of his service dog. The charges were based off of claims of discrimination on the basis of disability and/or use of a service animal in violation of Title III of the Americans with Disabilities Act of 1990 and Chapter 121 of the Texas Human Resources Code. The other jury charge was prepared for a case in which two individuals with deafness were not provided with effective communication, as required by law. Specifically, a hospital failed to provide the plaintiffs with an American Sign Language interpreter so that they could communicate with their health care providers, and failed to provide aids or services so that the plaintiffs would have had equal access to the hospital's health care services. The plaintiffs brought claims of discrimination on the basis of disability in violation of Title III of the Americans with Disabilities Act, Chapter 121 of the Texas Human Resources Code, and Section 504 of the Rehabilitation Act.

Furthermore, I wrote various briefs and motions on sick leave as a reasonable accommodation (for a client who was terminated for absences from work resulting from her disability) and P&A access authority (for a defendant school district that refused to grant DRTx access to student records and guardian contact information). Much of my time was spent reviewing and analyzing client records and other evidence. Additionally, I drafted client

correspondence and regularly communicated with clients with disabilities.

LEARNING GOALS

Through this internship at Disability Rights Texas, I hoped to gain an understanding of the role of P&As in society, the framework by which they operate, and the role of attorneys in such a nonprofit public organization. I am pleased to report that this internship has satisfied my expectations.

I learned the culture behind P&A agencies and the National Disability Rights Network. P&A agencies, such as DRTx, have the authority to provide legal representation and advocacy services in compliance with all federal and state laws, to all people with disabilities, based on set priorities and available resources. Many P&As work with managed care facilities for individuals with disabilities, where P&As may monitor, investigate, and attempt to remedy adverse conditions. P&As also allocate considerable resources to ensure full access to inclusive educational programs, healthcare, financial entitlement, accessible housing, and meaningful employment opportunities.

DRTx is a member of the National Disability Rights Network (“NDRN”). The NDRN is a nonprofit, voluntary membership association for P&A and Client Assistance Programs (“CAP”). Collectively, the network is the largest provider of legal and advocacy services for people with disabilities in the U.S. Initially, the focus of the NDRN was to safeguard the well-being of individuals with disabilities living in institutions. However, over the years, P&A work was broadened to secure the rights of persons with all types of disabilities wherever they may reside. P&A statutes were accordingly expanded to give P&As additional authority to carry out their federal mandates. (National Disability Rights Network, 2012)

There are eight separate P&A programs:

- PADD (Protection & Advocacy for Individuals with Developmental Disabilities)
- CAP (Client Assistance Program)
- PAIMI (Protection & Advocacy for Individuals with Mental Illnesses)
- PAIR (Protection & Advocacy for Individual Rights)
- PAAT (Protection & Advocacy for Assistive Technology)
- PABSS (Protection & Advocacy for Beneficiaries of Social Security)
- PATBI (Protection & Advocacy for Individuals with Traumatic Brain Injury)
- PAVA (Protection & Advocacy for Voting Accessibility)

Disability Rights Texas receives funding from several grants, each specific to one of the above-named P&A programs. Therefore, each client file is assigned to the appropriate priority in order to properly allocate funding specified for individual programs.

As a Law Clerk on the HEAT team, the majority of my cases fell under PAIMI and PAIR. The PAIMI program was established in 1986. It mandates P&As to protect and advocate for the rights of people with mental illness and investigate reports of abuse and neglect in facilities that care for or treat individuals with mental illness. The Act was subsequently amended to allow P&As to advocate for individuals with mental illness who reside in the community. (National Disability Rights Network, 2012) The PAIR program was established by Congress under the Rehabilitation Act of 1993. PAIR authorizes P&As to advocate for persons with all types of disabilities not eligible for services under PADD, PAIMI, or CAP. (Ibid) Therefore, PAIR encompasses most physical and sensory disabilities.

Because DRTx's work is funded through various grants, attorneys and advocates (and paid law clerks such as myself) are required to bill their hours to client files, much in the same manner as do law firms. When working on a client file, staff members must keep track of the time they worked, in six-minute increments (one-tenths of an hour). This is necessary for two reasons: (1) so that DRTx can appropriately allocate funds from the correct account for which there has been funding provided, and (2) upon award of a settlement or lawsuit damages, DRTx

can accurately set forth a true accounting of reasonable attorneys fees.

PUBLIC SERVICE VALUES

The organizational culture of Disability Rights Texas prides itself on its slogan, “Protecting and advocating for the rights of Texans with disabilities – because all people have dignity and worth.” The agency carries out this mission by upholding the following values:

- disability is a natural part of the human experience;
- disability does not diminish the right to live independently or to exert control and choice in the lives of individuals; and
- because people with disabilities are at a greater risk for abuse, neglect, exploitation, and violation of legal and human rights, protection and advocacy organizations like Disability Rights Texas are needed.

(Disability Rights Texas, 2014) DRTx firmly believes that people with disabilities have basic human needs that are no different from those of all other people. They have a right to be free from neglect, exploitation, discrimination, isolation, and a right to be included in all aspects of their communities.

DRTx believes that through protection, outreach, and advocacy, people with disabilities:

- speak and act for themselves, are self-determined, represent their own interests, make decisions, and take risks based on their own goals and values;
- have access to health and human services that meet basic needs and have equal access to employment, independent living, and economic and social self-sufficiency;
- live free of abuse, neglect, financial and sexual exploitation, and violation of their legal and human rights; and
- have the right to legal representation and due process of law before any legal rights are restricted.

(Ibid) These values set the standard for DRTx’s guiding actions and priority decision-making.

Through its formalized structure and leadership, Disability Rights Texas reflects a noble conceptualization of traditional public service values in the workplace. DRTx furthers the public interest with accountability and transparency by assigning priorities and allocating specified resources to those priorities, evidenced through their website and annual report. The agency

exhibits professional values by serving populations in need with competence, efficiency, and objectivity. Further, DRTx acts ethically when working with other government agencies (i.e., Department of Justice, Equal Employment Opportunity Commission, housing authorities, etc.) so that those agencies will continue to trust and coordinate efforts with DRTx to further their shared goals. Finally, Disability Rights Texas demonstrates the utmost respect, equity, and fairness in its dealings with citizens and fellow public servants. (*See* Kernaghan, 2003) Thus, DRTx's public service values involve actions that are motivated by a concern for democratic, professional, ethical, and human values. (*See* *Ibid*)

CONCLUSION

I wish to thank the State Bar of Texas Litigation Section for providing this generous grant, which without, my participation in this internship would not have been possible. I further would like to thank all of the wonderful and talented attorneys I worked with at DRTx: Colleen Elbe, Chris McGreal, Susan Motley, and most of all, Denette Vaughn, my supervising attorney. Denette exemplified all that DRTx stands for, and she truly goes above and beyond for the underprivileged client. Although this internship honed my legal writing and drafting skills, the intangibles I learned from Ms. Vaughn will be most valuable to me as a future attorney.

Works Cited

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July 29, 2014

Litigation Section
State Bar of Texas
c/o J. Paul Manning
Field, Manning, Stone
Hawthorne & Aycock, P.C.
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Lubbock, Texas 79410

Re: Litigation Section Internship Program Final Report

Dear Mr. Manning:

My expectations for my internship with Texas RioGrande Legal Aid (TRLA) were to gain experience speaking Spanish in a legal setting. During my internship I drafted discovery documents, filled out application forms, wrote legal briefs and memos, interviewed clients, and attended court proceedings with my supervising attorney. The internship not only fulfilled my expectations for the experience, but also gave me an increased interest in a litigation practice.

Prior to producing the discovery documents, I spent several days researching the Agricultural Worker Protection Act as well as the Fair Labor Standards Act. Next, I reviewed sample discovery forms that had been filed on the past in similar claims. After the initial preparation, I drafted the mandatory disclosures, requests for admissions, interrogatories, and requests for productions. Mr. Riojas reviewed the documents and allowed me to enter the final changes so that I could learn how to form the final product.

Filling out application forms gave me an introduction to several different legal topics. I learned about EEOC retaliation regulations and the advantages and disadvantages to mediation in order to fill out an EEOC retaliation charge. Similarly, I learned about various reasons and rationales applied when granting immigration visas in working on a U Visa application.

The time I spent writing briefs and memorandums honed my legal research skills. I noticed that by the end of the summer I could find the answer to legal questions in almost half

the time that it took me to find them at the beginning of the summer. Helping draft briefs to be filed in the Fifth Circuit Court of Appeals introduced me to some of the concepts surrounding the intersection of criminal and immigration law. Furthermore, reading prior briefs helped me to formulate policy arguments that would be compelling to the fifth circuit. I prepared several brief memorandums that helped prepare me to do quick and accurate research when the attorneys I am working with need immediate results. On the other hand, I also produced a much longer and more formal memo with more-detailed analysis. This memo was valuable practice for me because it introduced me to performing legal analysis while juggling multiple complex legal concepts from different areas of the law. Moreover, from working on the memo, I developed a heightened appreciation of some of the issues surrounding the Environmental Species Protection Act, res judicata, collateral estoppel, and the separation of powers.

The interviews I performed were primarily in Spanish. At first, I found the interviews challenging, but by the end of the summer they seemed much more manageable. The topics of the interviews ranged from contracts claims over a car sale, evictions, a deed of gift, and a pension claim. The interviews gave me an opportunity to practice Spanish in a legal setting and helped to reinforce my understanding of the legal concepts by requiring me to translate and explain them to persons who often had a limited legal background.

The internship not only fulfilled my expectations for the experience, but also gave me an increased interest in practicing litigation. I found that I enjoy drafting discovery documents, filling out application forms, writing legal briefs and memos, and interviewing clients. This has led me to apply to litigation jobs for next summer and has opened my mind to different career paths.

Sincerely,



Nikolas Nelson

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