

Proposal for DISCOVER Curriculum Development Grant

Introduction

The DISCOVER Curriculum Development Grant will enable students in the Law and Social Justice Course (Law 268) to explore a vocation as a social justice lawyer through scholarly reflection and through a case study project intended to connect the students with the social justice legal community. The Law and Social Justice Seminar, taught by Professor Stephanie M. Wildman,¹ fills a void in legal education and addresses a question often posed by law students trying to find a career serving the needs of the community: “Where are the courses on justice?” By taking the Social Justice Seminar, students gain not only a theoretical understanding and scholarly reflection of social justice law, but the students discover how social justice theory operates in the real world. A Curriculum Development Grant would help the students to better connect with social justice lawyers, providing students with the opportunity to meet social justice lawyers and to talk to them about their work.

This Grant Proposal will cover: 1) brief description of the Law and Social Justice Course and the Case Study and 2) how the DISCOVER Curriculum Development Grant would help students find their calling as a social justice lawyer.

Law and Social Justice Course and the Case Study

The Law and Social Justice Seminar, taught by Professor Stephanie Wildman, examines three aspects of social justice law: the organization and delivery of legal services to clients who need representation; the set of rights it is possible to pursue through the legal system; and the variety of ways lawyers work with communities in struggle at local, state, and federal levels, including the pursuit of change in legislatures as well as courts. To ground these theoretical explorations in real-life practice, the course requires attendance at presentations by practitioners who work in the area of public interest and social justice. In addition, instead of a final exam or standard research paper, students work in teams to produce written case studies of the bay area social justice lawyering topic of their choosing (Case Study Requirement²). At the end of the semester, students present their Case Study to faculty, students, and interested members of the Santa Clara and Bay Area social justice community at a day-long mini-conference.

The Case Study enables students to go out into the community to interview the actors involved in a social justice dispute or legal problem, including the litigants, attorneys, law clerks, judges, community organizer/activists, legislators, and other relevant actors or professionals (such as expert witnesses). The Law and Social Justice Seminar helps students identify methods

¹ Professor of Law and Director, Center for Social Justice and Public Service at Santa Clara University School of Law.

² For a detailed description of the Case Study requirement, see *infra* Appendix A.

for participating in meaningful social justice work. The Case Study provides an opportunity for students to examine and evaluate strategies employed in a particular case and their results. Collectively, these Case Studies shed light on the availability of justice and whether the social order responds to the grievances and harms that people suffer. Studying individual cases and then meeting to share the knowledge gained will provide information toward this bigger picture.

The Case Study provides students with a different kind of research and writing experience than they usually get as part of legal education, while helping them build their own professional networks: The students get out of the classroom and interact with people engaged in the work. Students could use the Case Study as an opportunity to meet attorneys and judges working in their area of interest. This opportunity enables students to learn how they can become social justice lawyers or whether this is the vocation for them.

The Finding of Their Vocation

The DISCOVER Curriculum Development Grant will allow students in the Law and Social Justice Seminar who are interviewing lawyers, judges, and other social justice professionals for their Case Study to spend more time with these potential mentors. The students would each receive an allowance to travel to interview legal professionals whose careers focus on social justice and/or take these social justice legal professionals out for a business lunch. These lunches would give students the opportunity to explore a possible vocation as a social justice lawyer, to seek career advice, and to understand what drives these experienced professionals to choose their own social justice vocation.

While interviews could be conducted over the phone as a way of cost-savings, in-person interviews would add a dimension to the students' education that a phone interview could not capture. The students see how a social justice lawyer works, who the clients are, and why these lawyers do what they do. The in-person interviews places a "name with a face." The social justice vocation becomes authentic and tangible, not an abstraction, by the students being able to go out into the field and interview real people doing community work.

Grant Request

The Center for Social Justice and Public Service respectfully requests the DISCOVER Curriculum Development Grant for the Law and Social Justice Seminar because the money would assist students to meet social justice professionals in the field and to further explore whether a social justice vocation is for them. The funds would be used exclusively by students for their expenses associated with interviewing. Class enrollment is capped at 22 students.

Appendix A

CASE STUDY REQUIREMENT

SATISFYING THE REQUIREMENT: All students enrolled in Law and Social Justice must complete a written paper to receive course credit. This paper will take the form of a Case Study that focuses on a social justice issue that has been or is being addressed by courts or other institutions. Students will work individually or in groups of 2-4 to research and evaluate this social justice issue with Bay area legal community roots. Students will select their own groups, but the instructor will facilitate arranging groups, if students need assistance. Arrange an appointment as soon as possible with the instructor to discuss topics for your case study.

For students working in teams, each individual student also should submit a 4-5 page paper on the student's individual work for the case study undertaken by the group, reflecting on the research and the group process. This individual paper will be due Nov. 21 at the final class.

The most successful case study projects will study a litigated case by interviewing the actors involved in the dispute or legal problem, including the litigants, attorneys, law clerks, judges, community organizer/activists, legislators, and other relevant actors or professionals (such as expert witnesses). All projects must be approved by the instructor. Students will present the results orally at an evening conference for the class and other members of the Santa Clara community on **Monday, November 14, 2005 from 6 p.m. to 10 p.m. in Bannan 110.**

Each group will write a paper, which must be at least 30 pages in length; footnotes or endnotes should follow bluebook form. Some students find it useful to include appendices reporting the content of interviews, so they can cite those reports within the case study. Papers are due by **noon Wednesday, December 14, 2005.** A proposed outline of your paper (1-2 pages) is due by **noon on Tuesday, Sept. 13, 2005.** Student's individual work essays are due **Nov. 21 at the final class.** These are a firm deadlines. Out of fairness to everyone they will remain so. Failure to comply with these deadlines may result in the lowering of the course grade. Papers and outlines due at noon may be turned in to the Faculty support office in Bergin 214 or to the Center for Social Justice in Montgomery House.

GOALS:

(1) This course seeks to identify strategies for lawyers to participate in meaningful social justice work. The case study provides an opportunity for students to examine and evaluate strategies employed in a particular case and their results. Collectively, these case studies will shed light on the availability of justice and whether the social order responds to the grievances and harms that people suffer. Studying individual cases and then meeting to share the knowledge gained will provide information toward this bigger picture. Perhaps trends, themes, commonalities, or important differences will emerge.

(2) Santa Clara students are proficient at traditional legal writing such as legal briefs and law review-type research papers. The goal of the Case Study requirement is to provide students with a different kind of research and writing experience than they usually get as part of legal education, while helping them build their own professional networks. Use this opportunity to meet attorneys and judges working in your area of interest.

(3) The Santa Clara University Center for Social Justice would like to web publish these case studies to begin building a library of knowledge about this under-researched area.

FRAMEWORK OF THE CASE STUDY: The classic essay, William L.F. Felstiner, Richard L. Abel, and Austin Sarat, *The Emergence and Transformation of Disputes: Naming, Blaming, Claiming . . .*, 15 Law & Soc. Rev. 631 (1980-81), provides one framework for developing this exciting new scholarship. This essay urges more study of the emergence and transformation of disputes. Legal education focuses on appellate decisions. Clinical and skills courses do examine trial practices and the negotiation and counseling that may precede them. But very little attention has been paid to how disputes emerge.

Trouble, problems, personal and social dislocation are everyday occurrences. Yet, social scientists have rarely studied the capacity of people to tolerate substantial distress and injustice. We do, however, know that such “tolerance” may represent a failure to perceive that one has been injured; such failures may be self-induced or externally manipulated.

Id. at 633.

Felstiner, Abel, and Sarat have described three stages in the transformation of a legal dispute:

-- *Naming*. The first stage requires the transformation from a lack of awareness to an awareness that an experience has been injurious. *Id.* at 635.

-- *Blaming*. The second stage requires transforming the perceived injurious experience into a grievance. *Id.*

-- *Claiming*. The authors state: “The third transformation occurs when someone with a grievance voices it to the person or entity believed to be responsible and asks for some remedy. We call this communication *claiming*.” *Id.*

The authors assert: “The sociology of law should pay more attention to the early stages of disputes and to the factors that determine whether naming, blaming, and claiming will occur. Learning more about the existence, absence, or reversal of these basic transformations will increase our understanding of the disputing process and our ability to evaluate dispute processing institutions. We know that only a small fraction of injurious experiences ever mature into disputes.” *Id.* at 635-36.

APPROACHING THE CASE STUDY AND SOME SUGGESTED TOPICS: There is not one model or format for the case studies. Each case will lend itself to questions peculiar to that case. In general, all students should interview (1) the people who become the subject of a legal dispute (or, if the issues are sensitive or people involved are not available, similarly situated people); (2) the lawyers who work on the issue; and (3) community groups who do advocacy related to this issue. Students should read some or all of the briefs, motions, transcripts, or other

documents that are part of the case. Students should consider where this case fit into the lives of the clients and also consider where it fits into the practice of the attorneys. Here are some topics that students might consider addressing in the course of investigation and interviews:

Access to Justice: Did the case raise issues of access to justice? How did the participants become aware of their “injury?” How did they transform their injury into a claim? What were their goals at the outset? How did they secure legal advice or legal representation?

While the case studies will involve disputes that have transformed into legal claims, some of the questions can be directed to the early stages before naming began. These early stages may provide valuable insights into the accessibility of justice. Felstiner, Abel, and Sarat state:

[A]ttention to naming, blaming, and claiming permits a more critical look at recent efforts to improve “access to justice.” The public commitment to formal legal equality, required by the prevailing ideology of liberal legalism, has resulted in substantial efforts to equalize access at the later stages of disputing, where inequality becomes more visible and implicates official institutions; examples include the waiver of court costs, the creation of small claims courts, the movement toward informalism, and the provision of legal services. Access to justice is supposed to reduce the unequal distribution of advantages in society; paradoxically it may amplify these inequalities. The ostensible goal of these reforms is to eliminate bias in the ultimate transformation: disputes into lawsuits. If, however, as we suspect, these very unequal distributions have skewed the earlier stages by which the injurious experiences become disputes, then current access to justice efforts will only give additional advantages to those who have already transformed their experiences into disputes. That is, these efforts may accentuate the effects of inequality at the earlier, less visible stages, where it is harder to detect, diagnose, and correct.

Id. at 636-37.

Role of Lawyers: Was a lawyer the key actor in the case? How did the lawyer get involved in this issue? How was the lawyer paid? Did the means of payment affect the goals and/or outcomes of the case? Who defined the social justice issue in the case? Did the lawyer understand the client(s)’ goals? How were decisions made about how to pursue the claim? How was the litigation, or other formal processes, conducted? Did the goals change along the way? Did the client(s)’ relationship with the lawyer change? Was the lawyer’s role ultimately constructive or destructive? Did different participants have differing views of the lawyers?

Felstiner, Abel, and Sarat conclude that “a healthy social order is one that minimizes barriers inhibiting the emergence of grievances and disputes and preventing their translation into claims for redress.” *Id.* at 654.

Roles of the “Client” and Other Actors: Who was the “client”? Who were other significant actors in the naming and claiming of the social justice issue? Explore how the problem or issue developed for the people or clients involved. Who were significant actors in the contest and resolution of the dispute? Were they professionals? Did community members or leaders become involved? What were their goals? Was the community mobilized around the

issue? Why or why not? How helpful was the legal system in resolving the social justice issue for the people involved?

Lawyer-Client Relations: How was the litigation conducted? How were decisions made? What was the lawyer's view of the client? of the community? What was the client's and community's view of the lawyer? Did these opinions change over time?

Result: Did the lawsuit, or other process, achieve the result initially aimed for? What was accomplished? What were the participants' reactions to the legal process? What were the key factors in the success/failure of the case? Did the investigation uncover suggestions for improving future social justice practice or the legal system?

GRADING CRITERIA for the case study will include:

Quality of the case study in addressing issues concerning social justice lawyering.

- * what makes the case a social justice issue
- * how do the participants think about the issue
- * what strategies were considered
- * what strategies were used
- * how did the chosen strategies work
- * what do the people involved think now about the strategies
- * what are the lessons learned about social justice lawyering

Methodology. (Your case study should articulate its methodology)

- * what was the goal of the case study
- * what research strategies were planned
- * what research was done and why

Style.

- * organization
- * clarity of presentation
- * quality of writing

GETTING STARTED:

Talk to your classmates about interests and issues in order to form your groups.

The first step should be immediately to make contact with the attorney or attorneys who handled the case. Get an overview of the issue from them. They will generally be able to suggest additional people to interview. Then, divide the work (groups may need to adjust these responsibilities over time). If you have any questions, please call or email me promptly so that I can help resolve them.

Make an appointment with me to discuss your project plan.