Counsel in Time of Crisis: Student Attorneys Advise Consumers Under Siege

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Counsel in time of crisis

Student attorneys advise consumers under siege from creditors

Students in the Law School’s newest clinic are learning and serving the public in an area where they’re sorely needed: the world of consumer debt judgments. Associate Clinical Professor Lauren Breen, who began the Consumer Financial Advocacy Clinic last spring, says the need arises primarily from the high-volume debt buyer industry. Typically, she says, debt buyer companies purchase unsatisfied debts from original creditors who have written the debt off, for pennies on the dollar. The debt buyers most often obtain default judgments, then freeze bank accounts or garnish the wages of consumers to collect on the money judgments. Many of these consumers are not properly served with the summons and complaint, only to discover they have a default judgment against them when their bank account is frozen, wages are garnished or they are denied a job based on information in a credit report.

Surprisingly, says Breen, the debt may not even be theirs: “The judgment may or may not be from a lawsuit that has been conducted in a fair and equitable manner. . . . Many consumer debt lawsuits are not served properly, and debt buyers often do not purchase any of the underlying documents to prove a debt is owed. Even debt discharged in bankruptcy is purchased by debt buyers.”

Hence the clinic, in which student attorneys, working with legal services and volunteer attorneys, help staff the Buffalo Civil Legal Advice and Resource Office, or CLARO. A project of the Western New York Law Center, CLARO works with client “visitors” on Tuesday afternoons and Friday mornings. The project is modeled on one created at Fordham University Law School’s Feerick Center for Social Justice in New York City.

When CLARO visitors arrive, Breen says, they go through an intake interview, receive guidance about their rights as consumers, and work closely with an attorney to prepare legal documents to address the consumer problem.

“Being able to talk through a consumer issue with an attorney or a student attorney is valuable to the visitors in both legal and non-legal ways,” she says. “It’s dramatic when a consumer debtor tells his or her story to the attorneys. We can see the relief on their faces when they leave. . . . We get all kinds of life situations. We see people who are on disability who strive to repay their debts. We also see people who, at one time were irresponsible, bought too many luxury items, things they didn’t need, or who were irresponsible, bought too many luxury items. They don’t have the money to hire an attorney, but they know they probably should have an attorney. We generally do not see people who ran up credit cards with a lot of luxury items. We see people with a history of working who have faced medical and economic hardship that negatively impacts their ability to pay bills.”

The student attorneys, she says, many of whom are facing the prospect of repaying their education loans, can relate to the visitors’ situations. “I was struck by the natural respect and empathy they have for the visitors,” Breen says. “The educational component, she says, ranges widely. “Student attorneys generally learn New York State civil practice law and procedure rules,” Breen says. “The mentoring that goes on with the students is really important. We are lucky to leverage the legal experience of many experienced attorneys from the Western New York Law Center and from private practice.”

CFA Clinic student attorneys talk about clinic experiences such as dealing with a visitor who has just lost a job opportunity because of a credit report error, another with a mental impairment, or one who brings a relative who is not thrilled with the idea that they’re meeting with a student attorney. “We can’t predict who’s going to come in the door, so talking about what worked and what we could do better next time is really effective for the student attorney,” Breen says. “They’re learning all sorts of things critical to practice that I may not even catch every week.”

CFA student attorneys also write a weekly reflection paper. “Visitors can see their attitudes toward people in financial trouble change as they do the work. They might come into the clinic thinking that ‘people were irresponsible, bought too many luxury items, things they didn’t need, and weren’t being careful. But the students say, I met somebody and here’s how this person got into financial trouble—they got cancer, they couldn’t work full time for a year, they charged $10,000 on their credit card just to get by. So the students are very much learning to have an open mind about how people come to need legal assistance. ‘The overwhelming number of CLARO visitors have been enormously grateful and so generous in terms of allowing student attorneys to observe and represent,’” Breen says. “They understand it’s a teaching clinic. These are very personal situations, and it’s been such a gift from these visitors to create this learning opportunity.”
From both sides of the desk

Students in the Consumer and Financial Advocacy Clinic, and those they have helped, reflect on the experience:

"I'm really surprised by some of the cases," says third-year SUNY Buffalo Law student attorney Tyson Prince. "I just had a woman who had a lawsuit brought against her for $18,000 for a credit card she never had. They never performed service on her and she never was aware of the suit, so she didn't show up for the court date. This is a mother of five who works as a nurse's aide. She came to us and we were able to get the default judgment vacated and her bank account unfrozen.

We also counterclaimed to try to recover her bank fees. That makes me feel good.

"In law school you spend a lot of time in the classroom getting theoretical information. But being able to actually go out there and to interact with visitors, hearing their legal problems and figuring out the answers, and having it be a service to the community, it hits all the angles."

His classmate Christopher Grover says the work "personifies the legal system. It puts a face on someone. Before I started consumer law work, you'd just think someone didn't pay their credit card. There's not really the perspective until you sit with people who face these judgments and are praying they have enough gas to get home."

"Client interaction is something you can't just pick up right away," Grover says. "We're taking the legalese out of it, explaining to people the real-life situation they're in and helping to calm them down. Those are skills you can't learn in the classroom."

CLARO visitors say they found good advice and financial relief at the drop-in clinic. A visitor named Lisa tells her story: "I applied for a job that was absolutely perfect for me. After the second interview they told me they needed to do a credit check because I would be doing finances. Once they did the credit report, I never heard from them again. That hurt. I'm a single mother; I take care of two kids. I do have to be able to support my kids and I do have to be able to get off welfare so the other part of the world can stop paying for me to live. I should be able to support myself and my family. [The CLARO staff] made it very easy for me. They did all they could to make sure it was taken care of, and that means a lot to me."

Another visitor, a man named Pat, has a similar story: "I was recently applying for a position for which I thought I was qualified. I was contacted for an interview and I consented to a background check and a credit report. I was unaware that a bank had filed a small judgment against me for a delinquent credit card. I did not receive a summons and complaint; they were therefore able to enter a default judgment against me. That information wound up on a copy of the TransUnion credit report. Unfortunately, that information on my credit report took me out of the running for the position. "I sought out CLARO's help because I needed to get that situation resolved. I've been unemployed for some time now and I'm concerned that the length of time is working against me in securing new employment, as well as these issues with my credit report. CLARO was able to assist me in devising a strategy to petition the creditor that had filed the judgment and having that vacated, which with the help of CLARO I was successful in doing."