ularly high, perhaps the career interest cited are based on non-salary-related factors, such as compensating differentials or career mobility.

How does movement into and out of law vary over a law graduate's lifetime? The labour participation rates for males and single females follow almost identical patterns, increasing from the early career to more than 98 percent by career age 10, then falling slightly in later career. The number of male in-field law school graduates peaks at career age 6 to 10, when 831 of every 1,000 are employed as lawyer or judge. The lower in-field number for new graduates (career age less than 6) reflects the unstable labour market status that most new graduates experience. This is a period of job shopping. Female law graduates are much more likely to be employed in academic law early in their careers. Overall, female law school graduates have lower in-field rates than males even after controlling for marital status.

The legal profession retains a high percentage of law school graduates, with approximately three quarters working as lawyers or judges. Compared to other professions, this is a very high rate. Although there is some career instability in the first five career years, in general the probability that a law graduate will leave the law, particularly to pursue a career in management, increases with career age. Males tend to move into academic law later in their career; females tend to move out of academic law later in their career.

Most law graduates leave the law voluntarily. Of all law school graduates who perceived their degree to be unrelated to their job, almost half said that the reason was either pay and promotion or career interests. Family-related reasons rank high as a reason for females, while difficulty in finding a job in law was a major reason that minorities worked outside the legal field. Overall, underemployment and unemployment among law school graduates are low, although females and minorities have higher rates than males and whites.

# CLINICAL LEGAL EDUCATION

## Establishing a securities arbitration clinic

B Black

*50 J Legal Educ* 1, 2000, pp 35-49

In the fall of 1997 Pace University School of Law established one of the first law school clinics to provide student assistance to small investors who have disputes with their broker-dealers. As a speedy, economic and fair forum for resolution of disputes, securities arbitration can meet the needs of both investors and broker-dealers. Yet many investors have deep suspicions of industry bias, and, as a result, securities arbitration is frequently described as a deck stacked in favour of the brokerage firms. Investors with small claims feel particularly disadvantaged. Many of them are unable to obtain legal representation because their claims are quite small, and they must present their cases themselves against brokerage firms represented by experienced legal staff. The aggrieved investor may not be able to distinguish between losses caused by broker-dealer misconduct and losses resulting from his own assumption of market risk.

Like many law schools, Pace wants to develop additional clinical offerings. The 1992 MacCrate Report emphasised the importance of developing the fundamental lawyering skills and the fundamental values of the profession within the law school curriculum. A securities arbitration clinic would be not only another clinical offering, but also an offering that might interest a different community of students. The clinic seems to be an attractive intersection between the business curriculum and the skills training urged by the MacCrate Report.

An attractive feature of the securities arbitration clinic was that it could be offered as a relatively low-credit but nevertheless live-client clinical offering. It would appeal to students who wanted a clinical experience, yet did not want the intense immersion of the other clinics. In addition, the clinic would appeal to students with an interest in business and securities law, who might not have an interest in either the subject matter of the other clinics or their emphasis on litigation. Providing assistance to investors permitted students to develop lawyering skills in relatively low-risk, low-stakes cases. The informal nature of the arbitration hearing, with its minimal emphasis on rules of procedure and evidence, was a good introduction to litigation for inexperienced students.

In the fall semester the class met once a week as a seminar to study the substantive law of broker-dealer regulation, arbitration theory and practice and lawyering skills. Private practitioners, Securities and Exchange Commission attorneys and broker-dealers participated in the teaching of the seminar. In addition to the weekly seminar meetings, students were expected to handle, under faculty supervision, the clinic's caseload. Students were responsible for responding to preliminary inquiries from prospective clients and investigating their complaints. If, after investigation, it appeared that the investor may have a viable claim against the broker that could not be amicably resolved, and if the investor chose to file an arbitration claim, the student drafted and filed the statement of claim.

After an investor telephoned or wrote to the clinic, a student would call her back and briefly describe the clinic and its purpose. The student then asked about the investor's situation. If the investor indicated an interest in pursuing the possibility of clinic representation, the student promised to send out the description of the clinic and its eligibility questionnaire. About half of the investors to whom we mailed a questionnaire chose not to return it. If the investor did return the questionnaire, the student would review it with the faculty supervisor and make a decision about whether to invite the investor to the clinic to get more information about the investor's possible claim. If it appeared that the claim was an appropriate one for the clinic to handle and the investor met the eligibility standards, the student team would invite the investor to the clinic for an interview, asking her to bring documen-

tation about her claim and copies of her income tax returns. These interviews, always conducted with the faculty supervisor present, lasted at least an hour.

All the students had extensive experience in interviewing. First, in the initial telephone conversations, they have to quickly elicit salient facts to make a rough judgment about whether this might be a possible client. Students also have the experience of gathering and organising the complicated facts necessary to understand the client's case. In short, students have to learn what lawyers do - the often tedious and exacting work of compiling a case through documentary evidence and understanding the complexities of the transactions involved.

Students had varied writing experiences. Most students drafted a statement of claim. Each statement of claim went through several drafts and was edited both by the faculty supervisor and by an adjunct securities teacher. In preparation for drafting the statement of claim, students researched and drafted memoranda on the relevant legal issues in their cases, which the faculty supervisor critiqued. Students also gained experience in drafting letters to prospective clients about the strengths and weaknesses of their claims.

Given the small number of clients the clinic has represented and the few monetary benefits it has gained for them, it is difficult to speculate about whether the clinic has yet demonstrated that it can provide significant benefits to the securities arbitration process. Much of the clinic's work has been to provide assistance to investors that have not resulted in the filing of arbitration claims. It has provided investors' education services: reviewing account statements, reading and explaining customer's agreements, explaining margin rules. In some instances, the students have acted as an intermediary between the customer and the broker to figure out why the losses in the investor's account occurred. In some cases, a student has been able to resolve the dispute through a settlement satisfactory to both the broker and customer. While the customers may be disappointed that the law does not provide a remedy for their loss, many have thanked the students for taking the time to investigate and explain the situation to them.

## Faculty diversity as a clinical legal education imperative

J Dubin

51 *Hastings L J*, March 2000, pp 445-477

While much has been written about the composition of law and university faculties, the value of faculty diversity in university and traditional law school education settlings and proposals for reform, scant attention has been paid to the composition of the increasingly significant cadre of law professors engaging in clinical teaching and scholarship and the educational and social consequences of the demographic distribution of clinical faculty positions. The problem of identifying, confronting and dealing with issues of diversity and difference with respect to clients and students occurs with such frequency in clinical scholarship and in discussions at clinical conferences as to be part of the clinical education 'canon'.

In 1997, the AALS Special Commission on Meeting the Challenges of Diversity in an Academic Democracy convened and developed a series of papers around issues of law school diversity. The Commission distinguished between two types of diversity issues: 'First generation' issues – those of access to enrolment and employment in law schools; and 'Second generation' issues: the reception by law schools of students and faculty who belong to groups that have traditionally been excluded from legal education. While the Commission focused primarily on analysis of the second-generation issues, members noted that the first generation access issues are still prevalent.

The progress toward access and inclusion of faculty of colour in clinical education must be placed in context of progress in the academy generally. The percentage of total faculty of colour in the academy has risen from 3.9% in 1980-81, to 5.4% in 1986-87 to 13.2% in 1997-98. At the same time, the percentage of the subcategory of clinical faculty of colour started out higher but has experienced slower and less steady growth in the 1990s from 5.4% in 1980-81, to 7.5% in 1986-87 to 12.9% in 1998-99.

Although by 1998-99 virtually every ABA accredited law school had some course known as a 'clinic' and thus some clinical faculty, 110 (69%) law schools have no clinicians of colour on the faculty, 41 (25.5%) have only one, and only 9 (5.5%) have reported more than one clinician of colour. Thus, while one might debate the significance of the progress and continuous movement toward diversity in clinical legal education, one cannot seriously suggest that we have even minimally transcended basic diversity access issues when nearly 70% of all law schools still have no clinicians of colour.

There are two broad rationales behind the creation and employment of diversity and affirmative action programs generally and for students and faculty at American law schools more specifically: a compensatory rationale designed to serve as a corrective for past injustice and exclusions; and an instrumental or functional approach which seeks to secure future-oriented benefits, such as the educational value of a diverse faculty and student body and the external benefits that flow from the professional success of an individual to other members of the group.

The value of faculty diversity to the depth and breadth of evolving clinical pedagogy, clinical scholarship and lawyering theory is significant. Thus it is not surprising that with the growth in the population of clinicians of colour, clinical programs have increasingly focused on new underserved populations, or on different ways of serving and teaching about serving underserved groups. Another concrete example of the influence of clinical faculty of colour is the emergence of multicultural lawyering theory and instruction as an important element of the continuum of professional competency instruction and of clinical education.

Faculty diversity and the inclusion of both 'insider' and 'outsider' perspectives in the collaborative clinical firm enhance the learning environment for lessons of