

# Consumer Justice for the Elderly: Litigation Clinic Information for Prospective Students

(Rev 3/2021)

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Seminar: Tuesdays  
3:30 - 5:30 p.m.  
Location: TBD

The Consumer Justice for the Elderly: Litigation Clinic (CJELC) is an in-house, live-client clinic. Systemic racism in the legal and court system and economic justice issues will be explored in representing clinic clients. This Clinic is a civil litigation and advocacy clinic in which students represent low-income, older residents of Queens in actual cases involving foreclosure defense, deed theft, mortgage loan modifications, home improvement contractor fraud and debt collection. Students represent clients under the supervision of two full-time clinical faculty members. CJELC is a one semester, four credit, letter-graded course. The clinic office is located on the second floor of the Law School, in the Law School Clinics office suite (Room 2-26). Prior to COVID-19, except for court appearances and other off-site events, students performed their work in the law clinic.

## Hybrid Clinic

**For the Fall 2021 semester, we will conduct the clinic in person, if classes are fully in-person in the fall. If social distancing is still required, we will conduct the clinic as a hybrid clinic. If the Clinic is a hybrid clinic, students will work in the clinic offices up to 2 days a week, for a maximum of 4 hours a day (8 hours maximum in-person). The remainder of office hours will be performed remotely. The seminar component will be taught in-person.**

## Prerequisites

CJELC is open to 2L, 3L, and 4L students. Enrollment in the clinic is limited, and there is an application process, as explained below.

## What Types of Cases Will I Handle in the Clinic?

**Deed Theft.** Deed theft occurs when a person's home is essentially "robbed" from them through fraudulent deed transactions, sometimes as part of a foreclosure rescue scam. Sometimes, the victim may have diminished mental capacity. The fraud is usually effectuated through forged or fraudulently obtained deeds and powers of attorney. The property is quickly sold or "flipped" to another party, and the victim will be threatened with eviction or foreclosure. Clinic students work to have title restored to the true owner.

**Home Improvement Contractor Cases.** Clinic students have filed lawsuits against home improvement contractors who sign contracts with our clients, take their money, but never complete the home repair work or perform defective work. In some of these cases, the contractor assists the client in obtaining a loan on unfavorable terms to finance the work.

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**Consumer Debt Litigation and Debt Collection.** Our local courts are flooded with lawsuits to collect modest debts from consumers. Debt collectors file many of these suits without proof, without serving consumers, and without verifying the debt. We represent older consumers who have been sued on a consumer debt or whose money has been garnished. We counsel clients who are being harassed by debt collectors and occasionally commence lawsuits in federal court under the Fair Debt Collection Practices Act. Debt collectors regularly enforce very old judgments by seizing consumers' bank accounts and garnishing their wages. Often, the debt is not valid or the collector is collecting from the wrong person. We also protect clients' Social Security and other protected income from being seized by judgment creditors.

**Foreclosure Defense/Loan Modification.** The Clinic is a leader in defending Queens homeowners who face foreclosure as a result of the subprime mortgage crisis. In the past, we had many older clients who were defrauded by unscrupulous mortgage brokers, and entered into predatory, unaffordable mortgage loans, with the false promise that their total debt burden would be lightened or that the house they were purchasing or repairing would be as good as new. Now, many of our clients are facing foreclosure and clinic interns are fighting for our clients to keep their homes. We help many of these clients to obtain loan modifications and lowering their monthly mortgage payments.

**Volunteer Lawyer for the Day Program.** Each clinic student participates in this program during the semester and represents unrepresented consumer debt litigants for the day in the Consumer Debt Part of Queens Civil Court. **Because of changes in court operations in response to COVID-19, VLFD has not operated since March 2020, but might be offered in a remote/or in person form in the Fall of 2021.**

**Other Consumer Matters.** We assist clients who have suffered from deceptive business practices in the sale of automobiles, in door-to-door sales, and in the sale of other consumer items.

**Senior Center Site Visits.** Students make presentations about consumer protection at Senior Centers throughout Queens. In the Fall and Spring, each student team makes one presentation. **Depending on circumstances in the fall, CJELC may have students visit Senior Sites.**

### What Lawyering Skills Will I Develop?

Students enrolled in the clinic are permitted to practice law under a Student Practice order issued by the New York Supreme Court, Appellate Division, Second Department. Students work in teams of three. Occasionally, there is a team of four. Although supervised by Professors Goldweber and Calabrese, students are expected to take ownership of their cases and perform all of the lawyering tasks necessary and appropriate to further their client's interests. It is the Consumer Justice for the Elderly: Litigation Clinic's goal that students will develop the following lawyering skills:

**Client interviewing and counseling skills.** Students interview new clients and advise existing clients after evaluation of options.

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**Initial case assessment and case strategy.** In consultation with the professors, to determine whether a client should be accepted for representation, to identify client goals, and to formulate a course of action that will best achieve the client's goals.

**Professional responsibility.** Students must identify, confront, and resolve ethical issues that arise in their cases.

**Legal research and writing abilities, particularly persuasive writing.** Students draft all legal documents: pleadings, motions, briefs, settlement agreements, deeds, etc.

**Courtroom advocacy and effective oral advocacy skills.** Students make all formal court appearances, accompanied by the professors, and conduct all communications with opposing attorneys

**Pre-trial litigation.** This includes motion practice and all aspects of civil discovery. Students take and defend depositions, draft and respond to written discovery tools.

**Negotiation skills.** Students negotiate settlements of lawsuits and interim matters in lawsuits.

**Informal advocacy and dispute resolution.** Students learn how to resolve client matters through persuasive oral and written advocacy, without resorting to lengthy and costly litigation.

**Collaboration.** Students work in teams of three and share responsibility for their cases.

**Policy and Law Reform.** Occasionally, the clinic takes on a law reform project to address.

**Community Lawyering.** Student teams make presentations at Queens senior centers on consumer protection, foreclosure and mortgage issues.

### **What are the Requirements of the Consumer Justice for the Elderly: Litigation Clinic?**

Students must devote fourteen (14) office hours per week to working on their clinic cases. These time requirements should be viewed as minimums, because there are times during the semester when meeting a litigation deadline or other demand will require more than the usual number of hours – sometimes considerably more.

Students must establish a set schedule of office hours for the entire semester. Office hours must be distributed over four days of the week, Monday through Friday, between 8:00 a.m. and 6:00 p.m. Office hours must be scheduled in increments of at least two continuous hours. For example, if a student schedules 2 hours for Mondays, she may be scheduled to work from 10:00 a.m. to 12:00 p.m., but not from 10:00 a.m. to 11:00 a.m. and 3:00 p.m. to 4:00 p.m. Students must be present in the clinic office during their in-person office hours. For remote office hours, students must be virtually present and work continuously for their entire shift hours with a computer and internet access.

In addition to regular office hours, students attend a seminar once a week, on Tuesdays, from 3:30 pm to 5:30 pm. If a student is unable to attend the seminar in person, (with permission from

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the Dean's Office), the student may participate remotely. The seminar covers lawyering skills, such as interviewing, counseling, fact investigation, discovery, negotiation, and ethical decision-making as well as some substantive areas of law related to the clinic's practice. The seminars are interactive, and discussions often draw upon students' experiences in client representation and litigation. Some seminar assignments will include simulation exercises in interviewing and negotiation.

CJELC is a letter-graded, four credit course. Grades are based on the student's performance on clinic cases, including fulfillment of weekly office hours, ability to take ownership of cases, professional responsibility, quality of legal research and writing, case preparation and strategy, interviewing and advocacy skills, improvement over the course of the semester, attendance and participation in the clinic seminar. Students are not expected to know, at the outset, how to accomplish the many lawyering tasks involved in their cases, or to do a perfect job the first time, but they are expected to have a willingness to learn, to strengthen their skills, and work diligently on their cases.

In the Consumer Justice for the Elderly: Litigation Clinic, students act as attorneys for our clients and are authorized to practice law under faculty supervision, pursuant to a Student Practice Order of the New York State Supreme Court, Second Department. Thus, students who wish to take the clinic must possess a high degree of maturity and the willingness and ability to shoulder the substantial responsibilities of a practicing attorney. The clinic is demanding, and students should carefully consider this in light of their other academic, co-curricular, and personal commitments and goals.

### **Clinic Policy on Outside Employment**

Part-time employment is strongly discouraged for students enrolled in the clinic. One reason is the time demand of the clinic. Another very important reason is the risk that an intern's outside employment, particularly legal employment, will create a conflict of interest for the clinic and the intern. In order to avoid creation of a conflict, a student cannot be enrolled in the clinic and concurrently work for a firm whose practice has potential to lead to a conflict. Some examples are representation of lenders in mortgage foreclosures and real estate closings, and representation of debt collectors.

### **How Do I Apply?**

Attendance at the Clinic Information Session is strongly encouraged, but if you are unable to attend, please let us know. After attendance at the Information Session, please go this URL:

[tinyurl.com/lawclinics21-22](http://tinyurl.com/lawclinics21-22)

**Complete the online application and upload the following:**

**Current Resume**

**Cover Letter**

**Unofficial Transcript**

Applications are considered in the order received. Selections will be made on a rolling basis.

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### **Registration**

Students who have been selected and accept an offer will be registered by the clinic administrator.

### **Clinic Withdrawal Policy**

Notwithstanding the deadlines and rules for dropping or withdrawing from other classes, once an offer to participate in a clinic is accepted, a student may not withdraw and/or drop the clinic without the consent of the Professors and the Associate Dean for Student Services. (This provision does not apply to students who defer acceptance.)

Withdrawal from a clinic is reserved for extraordinary personal or family circumstances that prevent a student from meeting the clinic's requirements.

Such extraordinary circumstances include, but are not limited to, serious illness of the student or death of a close family member. Notice of this rule shall be published in the Student Handbook, clinic registration materials, and provided to each student who is made an offer to join a clinic.