Recent East Bay Community Law Center students Olivia Gee '20 and Anya Ku '20 Photo by Brittany Hosea-Small

## Clinical Program

Advancing Equal Justice Through Teaching, Service, and Research

2020-2021

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Laurel E. Fletcher Director, Clinical Program

For the second year in a row, Berkeley Law's clinics simultaneously grapple with the continuing pandemic, assault on democracies around the world, and West Coast wildfires due to unchecked climate change. Amidst so much uncertainty, the upcoming year will also be challenging as we transition back to in-person learning. Yet we are ready to tackle these crises head on — this is what we do. Year after year, students in our 14-clinic program collectively work thousands of hours a week providing direct legal services, litigating cutting-edge issues, conducting research, and advancing policy advocacy to increase access to justice, promote rights protections, tackle climate change, and work for social justice.

Each year, we train more than 300 students in one of our six in-house clinics, or in one of our eight community-based clinics at the East Bay Community Law Center (EBCLC). Our clinical teaching faculty are experts in their fields. They skillfully introduce students to real-world practice through close supervision and through weekly seminars, which deepen students' training with critical reflection on the role of law and lawyers in achieving social change.

We are excited to launch the new year with the largest class ever of incoming clinic students: 170 students will work alongside 47 clinical supervisors this fall. To meet students' growing demand for clinics, we are undertaking expansion of the program. We will add five clinical tenuretrack faculty over the next five years. These positions will expand our current offerings as well as launch new clinics. Stay tuned for further developments!

In the meantime, we are forging ahead and continue to expand our clinical teaching faculty, allowing us to enroll more students and provide them with small classes and mentorship. This year, we are delighted to welcome several new teachers to the in-house and EBCLC clinics:

Sabrina Ashjian (Supervising Attorney, Environmental Law Clinic), Milo Manopoulos Beitman (Supervising Attorney, Health and Welfare Clinic, EBCLC), Steve Castleman (Supervising Attorney, Environmental Law Clinic), Cameron D. Clark (Teaching Fellow, Policy Advocacy Clinic), Antonette Cordero (Supervising Attorney, Environmental Law Clinic), Hannah Flanery '19 (Supervising Attorney, Housing Practice, EBCLC), Delaney Green M.P.P. '21 (Teaching Fellow, Policy Advocacy Clinic), Desirée Nguyen Orth (Director, Consumer Justice Clinic, EBCLC), Cynthia Nguyen Ruff (Supervising Attorney, Housing Practice, EBCLC), Yasmine Tager '18 (Teaching Fellow, Policy Advocacy Clinic), and Gloria Yi (Supervising Attorney, Education Advocacy Clinic, EBCLC).

As I begin my second year as director of the Clinical Program, I am honored to continue to work with such a remarkable group of faculty and students. I have been carried through 17 months of remote learning by the inspiring work of the members of our Berkeley Law Clinical Program. Their work fighting for the rights of the underrepresented, continuing to support groundbreaking legislation, and bringing successful legal challenges to systemic discrimination is my navigational North Star toward justice. Read on to learn about the work of our faculty and students.

Best wishes,

Famel Fletcher

Laurel E. Fletcher

### Sax Prize Celebrates Clinic Students





Ellen Ivens-Duran '21 won the 2020 Brian M. Sax Prize for Excellence in Clinical Advocacy for her outstanding work in the Death Penalty Clinic (DPC) and the East Bay Community Law Center's (EBCLC's) Health and Welfare Clinic and Education Defense and Justice for Youth Program. At DPC, Ivens-Duran led her team in preparing a motion a state supreme court partially granted, making it more likely her client's unconstitutional death sentence will be overturned. At EBCLC, she won a disability appeal for a client who can now afford housing and helped an adult client seal his juvenile record. She says: "I just can't imagine what law school would have been like if I hadn't done the clinics that I did. And particularly in the death penalty context, doing anything . . . that might give any of our clients a chance for relief is the most important work we can be doing."



**Ted Lee '21** won the Sax Prize Honorable Mention for his excellent work in EBCLC's Consumer Justice Clinic. Lee took the initiative to improve courts' communication to clients, codified a public comment program, and created materials to educate consumers about their rights and warn against predatory companies. He says: "It's been a true privilege and honor to work alongside those who embody Berkeley Law's pro bono culture by doing good work for the marginalized and oppressed."

### Death Penalty Clinic



Elisabeth Semel Co-Director

Ty Alper Co-Director



Founded in 2001, the Death Penalty Clinic seeks justice for individuals facing the death penalty by providing them with highguality representation and offers students a rich opportunity for meaningful hands-on experience in high-stakes, complex litigation. Students participate in field investigation, consult with experts, draft pleadings, prepare for hearings, and help shape case strategy. The clinic also exposes and tackles problems endemic to the administration of the death penalty through direct representation, policy advocacy, and friend-of-the-court briefs in cases involving issues such as racial discrimination, prosecutorial misconduct, ineffective assistance of counsel, and methods of execution.

#### **Recent News**

In October, the clinic and Dean Erwin Chemerinsky filed an amicus curiae brief highlighting racial bias in capital jury proceedings on behalf of Governor Gavin Newsom in the California Supreme Court supporting Don'te McDaniel, who was sentenced to death in Los Angeles County. The Court asked for briefing on an issue that affects all pending capital cases: Does the state's jury trial right require the application of both the beyond-a-reasonable-doubt and unanimity standards to the finding of aggravating factors and the penalty verdict? In the first-ever brief by a California governor challenging the constitutionality of a death sentence, the clinic shows why the historical and present relationship between racism and capital punishment in California requires an affirmative answer. Read the brief, the governor's press release, and the law school story. The Court recently issued its opinion, rejecting McDaniel's claims. The clinic will continue to bring systemic challenges to capital punishment in California and other jurisdictions.

The clinic continues to garner support for Toforest Johnson, a prisoner on Alabama's death row long represented by the clinic and the Southern Center for Human Rights. An unprecedented seven amicus briefs were filed in the state trial court on Johnson's behalf earlier this year from key stakeholders in the Alabama legal and faith communities, including Alabama's former attorney general and chief justice. Johnson's case, which continues to reveal misconduct and race discrimination 24 years after he was convicted, has received international attention as his legal team seeks to win him a new trial. Read more news >

Family members Tony Green (cousin) and Shanaye Poole (daughter) hold photos of Toforest Johnson, a prisoner on Alabama's death row represented by the Death Penalty Clinic and the Southern Center for Human Rights, who are working to win him a new trial.

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### Environmental Law Clinic

The Environmental Law Clinic tackles critical environmental justice and environmental health issues, while providing students with hands-on experience representing individual and institutional clients with environmental advocacy needs. Our tools include litigation, legislative drafting, administrative agency practice, and policy analysis. Our projects reduce human exposure to pollution, toxic chemicals, and radiation; increase access to nature; and promote racial and economic equity in environmental policy. The clinic aims to make students creative and effective environmental lawyers; to make an environmental difference; and to address unmet environmental legal needs.

# **Claudia Polsky**









Director

Sabrina Ashjian Supervising Attorney

Supervising Attorney

Antonette Cordero Steve Castleman Supervising Attorney

### **Recent News**

A clinic team of law and public policy students in late 2020 researched the regressive and racially discriminatory effects of a financing mechanism called Property Assessed Clean Energy (PACE) that is frequently used to pay the up-front costs for residential solar energy and energy efficiency measures. The clinic's harsh critique of residential PACE in "The Dark Side of the Sun," a 2021 report to support advocacy by California legal services providers who assist those defrauded in PACE transactions, is making policy waves. It prompted introduction of a major PACE reform bill in California; was featured in a CBS-TV series on housing insecurity in California; and was explained to 4 million viewers on HBO's "Last Week Tonight with John Oliver."

In fall 2020, the clinic filed a proposed amicus brief in federal district court on behalf of the Louisiana groups Concerned Citizens of Saint Johns and Justice and Beyond, opposing the construction permit for a plastics production and petrochemical complex in the highly polluted area known as Cancer Alley or Death Alley. The brief emphasized the environmental justice outrage of adding more toxic emissions to the majority-Black and low-income communities and the dignitary outrage of the plant's intended location atop unmarked graves of the formerly enslaved. The U.S. Army Corps has since suspended the facility's permit to reevaluate location alternatives.

Read more news >



Environmental Law Clinic Director Claudia Polsky appeared on "Last Week Tonight with John Oliver" to discuss the clinic's report about a program designed to help homeowners afford solar assets and other energy improvements that has instead left thousands of low-income Californians facing steep property tax debt. The report prompted introduction of a California Senate bill to implement its key recommendations, and is influencing PACE reform conversations in other states.

### International Human Rights Law Clinic







Roxanna Altholz Co-Director Laurel E. Fletcher Co-Director Astha Sharma Pokharel Teaching Fellow

The International Human Rights Law Clinic advances human rights at home and abroad through litigation, documentation, evidence-based policy work, and client-centered advocacy on a range of cases and urgent issues. One of the oldest human rights clinics in the country, the clinic has pioneered a client-centered, multidisciplinary, collaborative approach to its work. Students hold perpetrators of mass violence accountable in international and domestic courts, fight for justice for migrants at the border and immigrants in our community, and protect human rights defenders under threat from authoritarian regimes.

#### **Recent News**

In February, the clinic announced the filing of new testimony from three former Department of Homeland Security officials who point to a cover-up in a landmark case before the Inter-American Commission on Human Rights. The clinic and Alliance San Diego, a community empowerment organization, represent the family of Anastasio Hernández Rojas, a longtime San Diego resident who died after being brutally beaten and Tased by U.S. border agents at the San Ysidro Port of Entry. The high-ranking federal officials testified that U.S. border agents destroyed evidence and obstructed investigations of Hernández's death.

The clinic advocated on behalf of Sri Lankan human rights groups for international justice for atrocities committed during the country's civil war, which ended in 2009. In March of this year, faced with strong opposition from the Sri Lankan government, the United Nations Human Rights Council debated a resolution that would increase its human rights monitoring role. In advance of the meeting, a clinic team published a working paper and an opinion piece making the case for UN action. After an intense push by international and domestic activists, the council voted to increase its scrutiny of the human rights situation and advance accountability. Read more news >

International Human Rights Law Clinic Co-Director Roxanna Altholz (right) looks up at a San Diego mural memorializing the life of Anastasio Hernández Rojas with her client, Rojas's partner Maria Puga (center), and co-counsel Andrea Guerrero, executive director of Alliance San Diego (in red). The three are being filmed for an upcoming documentary about their international suit against the United States for Rojas's beating death by U.S. border agents.

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### New Business Community Law Clinic







**Kelly Woolfolk** Supervising Attorney



Des Lafleur **Teaching Fellow** 

The New Business Community Law Clinic provides free legal assistance to new businesses that cannot afford legal help during the critical early years. By helping entrepreneurs, clinic students gain important experience in counseling business clients and applying transactional law in a variety of areas, including entity formation, raising capital, employment law, risk management, intellectual property protection, and regulatory issues. The wide variety of legal issues gives students important experience serving as in-house counsel for these businesses. The clinic provides free legal representation, walk-in office hours, trainings, and online resources throughout the East Bay and Central Valley.

#### **Recent News**

The clinic's new initiatives offer legal help to immigrants and technology startups focusing on water and energy. The clinic also leads Bay Area legal providers in advising entrepreneurs struggling with California's harsh new restrictions on contractors. Over the next two years, the clinic's East Bay Recovery Alliance will provide free legal assistance to over 600 businesses trying to reopen. The alliance builds on clinic partnerships with Oakland and Richmond business incubators, and Immigrants Rising, to reach immigrant entrepreneurs precluded from federal pandemic relief.

With the help of clinic students who designed its equity-sharing arrangements, the clinic and Fresno State's Water, Energy, and Technology (WET) Center teamed up on a California Energy Commission-funded initiative to help Central Valley water and energy technology startups. The clinic also hosted strategy discussions with Bay Area legal service providers to help entrepreneurs cope with California's new rules for contractors. Many entrepreneurs are hired as contractors or rely on contracting to find workers, but California's AB5/AB2257 legislation creates serious liabilities for misclassifying employees as contractors. The clinic has shared workshop materials and new contractor agreements, and helped immigrant entrepreneurs formalize as limited liability companies to qualify as contractors under this new legislation. Read more news >

New Business Community Law Clinic students continue to provide free legal help to businesses navigating the pandemic. Evangeline McKilligan, who says the clinic "has just been amazing" in charting a path for her bakery, presents her latest creations to Mariana Acevedo Nuevo LL.M. '20 (left), Alyssa Crooke '21, and Vishan Patel '20.

### Policy Advocacy Clinic

The Policy Advocacy Clinic is the nation's premier interdisciplinary clinic where law and public policy students team up to take on systemic racial, economic, and social injustice. The clinic's approach is ground-up (rooted in the lives of impacted people), problembased (addressing pressing social issues), and community-driven (accountable to advocacy and community-based organizations). Students support local, state, and national criminal justice reform campaigns while exploring the capacities and limits of law and public policy to solve problems.

#### **Recent News**

In 2021, clinic staff and students supported local partners in Colorado, Louisiana, New Mexico, Oregon, and Texas to abolish regressive and racially discriminatory fees and fines imposed on vulnerable youth and families in the juvenile delinquency system. On behalf of Debt Free Justice California — and building on the coalition's success in ending 23 fees in the criminal system and discharging an estimated \$16 billion in outstanding fees on July 1 — the clinic is leading efforts to end the 63 remaining fees and relieve families of billions more in onerous debt.



**Jeffrey Selbin** Stephanie Campos-Bui Director **Deputy Director** 



**Devan Shea Deputy Director** 





Cameron D.

Clark

Anavictoria Avila

**Teaching Fellow Teaching Fellow** 











Delaney Green Yasmine Tager Teaching Fellow Teaching Fellow

**Gus Tupper** Teaching Fellow

**Rachel Wallace Teaching Fellow** 

**Maiya Zwerling Teaching Fellow** 

With the Juvenile Law Center and National Center for Youth Law, the clinic submitted a letter signed by more than 180 organizations across the country and political spectrum calling on the Biden Administration's Department of Justice to reissue and update guidance to states on ending juvenile fees and fines. With Fines and Fees Justice Center and other national groups, the clinic also submitted an amicus brief in the Idaho Supreme Court on a key fines and fees case. A unanimous ruling from the conservative court in June prohibits magistrates from issuing arrest warrants for failure to pay court fines and fees before establishing a defendant's ability to pay, which will have major implications in other states that still permit this form of debtors' prison. Read more news >

After two years of work, Policy Advocacy Clinic alumni Marcos Mocine-McQueen '21 (holding son) and Emma Atuire '21 (in yellow) stand behind Gov. Jared Polis, who signed a law on July 6 abolishing juvenile fees in Colorado and discharging \$58 million in outstanding debt — one of five states ending fees this year thanks largely to the clinic's winning strategy.

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### Samuelson Law, Technology & Public Policy Clinic



Catherine Crump Director





Jennifer Urban Director of Policy Initiatives

The Samuelson Law, Technology & Public Policy Clinic trains the next generation of lawyers to advance the public interest in a digital age marked by rapid technological change. The clinic's work focuses on three main areas: protecting civil liberties, ensuring a fair criminal justice system, and promoting balanced intellectual property laws and access to information policies. The clinic does this through strategic litigation opportunities, regulatory and legislative processes, and policy analysis.

### **Recent News**

Continuing its work to keep laws free and accessible to the public, the clinic asked the California courts to remove all copyright restrictions from the official jury instructions, on behalf of Public.Resource.Org. The clinic's proposal to the Judicial Council argues that jury instructions do not qualify for copyright protection because they are not original enough and law is not copyrightable. Nearly 500 individuals and organizations signed on to support the proposal, including 342 law professors, librarians, and legal practitioners, and 11 public interest organizations.



Megan Graham Supervising Attorney Gabrielle Daley Teaching Fellow

The clinic recently filed a Second Circuit brief in a Freedom of Information Act case case on behalf of the Knight First Amendment Institute seeking information about the government's policies for immigration decisions based on people's speech, belief, and associations. The Trump Administration's travel ban executive orders required collecting social media handles from people seeking immigration benefits; the clinic is litigating a case to obtain records about how speech, beliefs, and associations are factored into decisions to exclude or remove people from the United States. The Second Circuit case will be argued this fall. Read more news >

Samuelson Law, Technology & Public Policy Clinic students Jennifer Hewitt '22 and Blaine Valencia '22 researched and wrote a proposal to ask the California courts to remove copyright restrictions for jury instructions.

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### East Bay Community Law Center







Zoë Polk Executive Director

Clinical Director

Seema N. Patel Rosa Bay Co-Deputy Director

Jay Kim Co-Deputy Director

The East Bay Community Law Center (EBCLC) is Berkeley Law's largest expression of public service to the surrounding community. For more than three decades, Berkeley Law students have been helping to provide critical legal services and policy advocacy at EBCLC — Alameda County's largest provider of free legal services. The center teaches critical, practical, and handson lawyering skills, while fighting for justice and reflecting on the lawyer's role and the lawyering process.

### **Clean Slate Clinic**





**Jael Myrick** Director

Maureen Kildee Supervising Attorney

Osha Neumann Supervising Attorney





Rebecca Oyama Supervising Attorney

Smallwood Supervising Attorney

Candy

Asher Waite-Jones Supervising

Attorney

The Clean Slate Clinic provides legal services at the intersection of criminal, employment, and consumer law, representing clients on post-conviction record-sealing petitions in criminal court and engaging in local and statewide criminal justice reform, particularly as it relates to court debt and the criminalization of homelessness. Law students file petitions in criminal court, conduct intake at weekly courthouse clinics, write declarations and briefs, and represent clients in administrative hearings and municipal court.

#### **Community Economic Justice Clinic**

Attorney





Jassmin Poyaoan Director

Seema Rupani Hewot Shankute Supervising Supervising Attorney

The Community Economic Justice Clinic uses corporate law to provide technical assistance to organizers in building community resources such as land trusts, cooperatives, and credit unions. Students engage in "movement lawyering" strategies, including community legal workshops, client counseling, and direct representation to advance people-oriented economic development and empower low-income communities of color to build long-term solutions to poverty.

#### **Consumer Justice Clinic**



Kara Acevedo

Supervising

Attorney



Desirée **Nguyen Orth** Director

Elizabeth Deucher Supervising Attorney



**Miguel Soto** Supervising Attorney

The Consumer Justice Clinic provides assistance and representation to low-income Alameda County residents on a variety of consumer issues, including debt-collection defense, student loans, car fraud, predatory lending, and consumer scams. Students engage in a full range of litigation practice, including drafting motions, representing clients in court, and negotiating settlements. Students also support the clinic's pursuit of state policy initiatives that address the most significant challenges faced by low-income consumers.

### **Education Advocacy Clinic and Youth Defender Clinic**





**Oscar Lopez** Education Advocacy Clinic

Whitney Rubenstein Interim Director, Supervising Attorney and Director of Social Work





Cancion Sotorosen Supervising Attorney

Gloria Yi Supervising Attorney

The Education Advocacy Clinic and the Youth Defender Clinic

work together to fight back against the criminalization of youth of color, so that they can thrive in their communities and get the education they deserve. The clinics work together to provide holistic representation to youth in the juvenile justice system. Law students represent clients in juvenile court, special education (IEP) proceedings, and at expulsion hearings. Students also participate in the clinics' policy advocacy, which includes supporting local and statewide campaigns to curb the education system's overreliance on police in public schools and challenging the use of electronic surveillance (GPS) with youth.

### **Health and Welfare Clinic**



Erin Le Director **Milo Manopoulos** Beitman Supervising Attorney





Taylor Boutelle Daniel Faessler Supervising Attorney

Supervising Attorney

The Health and Welfare Clinic provides critical legal services to individuals at risk of poor health outcomes due to poverty, unsafe housing conditions, homelessness, and/or inadequate health coverage. Through medical-legal partnerships with local providers, law students work to provide stability for their clients. Students represent clients at administrative hearings involving the denial of disability-related benefits and provide limited-scope representation regarding public benefits issues.

### **Housing Clinic**









Meghan Linda Yu Gordon Co-Director Co-Director

Supervising Attorney

Hannah Flanery Marc Janowitz Supervising Attorney

### **Immigration Law Clinic**





**Theo Cuison** Co-Director

Sara Dunsky Supervising Attorney







Sabyl Landrum Supervising Attorney

**Evelina Nava** Supervising Attorney

Cynthia Nguyen Ruff Supervising Attorney

The Housing Clinic is a high-volume litigation practice designed

Pedro Viramontes

Supervising Attorney

to protect and promote safe, healthy, and affordable housing for low-income tenants through eviction defense and affirmative litigation to compel landlords to maintain their rental properties in a habitable condition. Students engage in a full range of litigation procedures while representing tenants in civil eviction proceedings and in administrative matters under local rent control ordinances.





**Mindy Phillips** 

Co-Director

Janely Mendoza Melissa Phatharanavik Supervising Supervising Attorney Attorney

Patricia Zermeno Supervising

Attorney

The Immigration Law Clinic provides legal services to lowincome individuals focusing on the most vulnerable populations - people with disabilities and chronic illness, members of the LGBTQ+ community, and youth. The clinic has formal schoolbased partnerships providing legal services to immigrant students in the Oakland Unified School District, community colleges, and UC Berkeley. The clinic prioritizes cases involving criminal issues and deportation defense. Students carry their own client caseload and experience the full range of client representation through assessing legal relief in initial consultations and providing direct legal representation in immigration court and before other government tribunals.

#### **Recent News**

In 2021, the East Bay Community Law Center (EBCLC) launched a bold vision for success with its Women of Color-Centered Platform. As a woman-of-color-led and -centered organization, EBCLC affirms that uplifting Black and brown women, who bore the brunt of the COVID-19 crisis and serve as the organization's primary clientele, will lead to more thriving, healthy, and dignified communities. To celebrate the platform, EBCLC unveiled "Know Justice, Know Peace" — Our Vision for Community Health Mural, a gift honoring South Berkeley's prosperous history, reflecting EBCLC's key tenets of justice, courage, resilience, and community.

As communities continue to struggle with the pandemic's impacts, staff and students have worked tirelessly to find creative anti-displacement solutions using EBCLC's holistic support practices to secure the collective health and safety of their clients and community:

- As reopening plans emerge, the Housing Clinic and partnering legal aid organizations are ensuring our clients remain housed, working together to extend California's eviction moratorium until October 2021, and securing up to 100% rental debt relief for clients.
- The Community Economic Justice Clinic continues to push to pass the Tenants Opportunity to Purchase Act, an antidisplacement housing policy to preserve affordable housing in Berkeley.
- The Clean Slate Clinic pivoted to assist 1,315 unhoused individuals in the *Sanchez v. Caltrans* settlement who were subjected to Caltrans sweeps, secure \$1.3 millon in compensation for their losses.

- With the national rise in ankle monitors and house arrest during the pandemic, the Education, Defense and Justice for Youth practice's years of anti-surveillance advocacy has been vital in protecting youth from being incarcerated for minor technical violations.
- After four long years of anti-immigration policies, the Immigration Law Clinic's clients are experiencing a shorter processing time for DACA and domestic violence asylum applications due to the new administration's policies. The clinic continues to advocate for passage of the DREAM Act to provide security to undocumented minors.

Our clinics were also essential in protecting clients' financial well-being from the pandemic's economic recession:

- After dismissing nearly \$16 billion last year, the Debt Free Justice California coalition continues to advocate for repeal of the remaining criminal fines and fees through SB 586 coauthored by Senators Robert Hertzberg and Nancy Skinner.
- The Consumer Justice Clinic pressed forward with policies to automatically waive court fees for clients under the poverty level and establish the Fair Debt Settlement Practices Act while also completing several pandemic-related scam prevention awareness campaigns.
- The Health and Welfare Clinic quickly pivoted to providing legal assistance with employment insurance when clients were facing unprecedented levels of unemployment.
- EBCLC conducted outreach to its women-of-color clients to gauge their understanding of and access to the vaccine.
  EBCLC found that ignoring the importance of an equitable vaccination allocation plan impacts not only women of color but also their families and communities.
  Read more news >

EBCLC Clinical Director Seema N. Patel (left) and Executive Director Zoë Polk in front of the "Know Justice, Know Peace — Our Vision for Community Health Mural" at EBCLC's South Berkeley location.

Photo by Bethanie Hines

Mural by Anavictoria Avila (former EBCLC supervising attorney and current Policy Advocacy Clinic teaching fellow) Clinical Program University of California, Berkeley School of Law 353 Law Building Berkeley, CA 94720-7200

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