

WOMEN'S EMPLOYMENT RIGHTS CLINIC:

Golden Gate University School of Law

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Established in 1901 as an evening law school, Golden Gate University School of Law (GGULaw) is a pioneer in making legal education accessible to many communities traditionally shut out of professional education. It continues that trailblazing history today, being one of the most diverse law schools in the nation: 62 percent of our students identify as people of color, 64 percent as women, 11 percent identify as LGBTQ and 48 percent as first-generation college or graduate students.

The Women's Employment Rights Clinic ("WERC"), established in 1993 by GGULaw, serves the dual purpose of advocating for the most vulnerable workers and providing a training ground for its diverse law students to become competent, ethical professionals. The Clinic's mission is centered on ensuring that every worker has the right to economic fairness, equal opportunity, and dignity in the workplace. Our advocacy is informed by and coordinated in partnership with broader community campaigns for economic and social justice. WERC

This article is part of the special section, "Legal History in the Making: Innovative Experiential Learning Programs in California Law Schools," in *California Legal History*, vol. 17, 2022 (see editor's introduction on page 3).

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is one of a handful of legal clinics in the nation engaged in multi-pronged advocacy, focusing on workplace problems that impact low-wage women workers, many of whom are immigrants and non-English speakers. Through an innovative combination of litigation, and legislative and educational strategies, WERC's mission is to collaborate with grassroots, community-based organizations and worker centers to enhance their capacity for systemic change and to "put law in the service of building the movement's power."¹

Within this community lawyering framework, students acquire essential and transferable lawyering skills, such as interviewing, fact investigation, counseling, negotiation, and trial skills, and they sharpen their oral and written advocacy. The Clinic also provides a unique opportunity for students to learn to be effective social justice advocates by having a focused, strategic vision for change. By combining law and organizing with sector reform, students are able to conceptualize a multifaceted advocacy agenda when they can simultaneously work on litigation and policy reform that are linked. Students have the opportunity to collaborate with non-lawyers, such as organizers and worker leaders, and understand the multifaceted roles that lawyers can play in social movements.

CLINIC DESIGN AND PEDAGOGICAL FRAMEWORK

The Clinic's dual mission to serve low-wage women workers while providing a rigorous learning experience has remained steadfast. The Clinic utilizes a three-pronged community lawyering model, combining litigation and policy advocacy with community education. This model teaches students how to use legal knowledge and expertise to support community organizations and worker centers that are at the forefront of the struggle for economic and social justice. Working closely with these organizations, the Clinic blends individual representation cases with larger impact matters.

What is unique, however, is that rather than diffusing its resources across sectors or without focus, the Clinic engages in industry-specific reform. It borrows this model from union-led organizing campaigns. Very

¹ Jennifer Gordon, *Law, Lawyers, and Labor: The United Farm Workers' Legal Strategy in the 1960s and 1970s and the Role of Law in Union Organizing Today*, 8 U. PENN. J. LAB. & EMPLOY. L. 1, 71 (2005), <https://scholarship.law.upenn.edu/cgi/viewcontent.cgi?article=1232&context=jbl>.

few lawyers, especially legal clinics, combine community-lawyering with sector reform. By using this multi-pronged approach, the Clinic has tackled the dismal working conditions of garment workers, domestic workers, and caregivers and has reshaped the legal landscape for all workers.

Students enroll in the clinic and the companion seminar class for one semester, and can get permission to enroll as advanced students for a second semester. In the seminar and clinic, students gain substantive knowledge, skills, and professional values. These classes work in conjunction to help students acquire and strengthen the core competencies necessary for the practice of law, as follows:

EFFECTIVE CLIENT-CENTERED LAWYERING:

- Communicate clearly and effectively with clients
- Interview clients effectively to elicit relevant facts
- Demonstrate good listening skills, including empathetic, non-judgmental, and reflective listening
- Treat clients with respect
- Establish rapport with clients
- Counsel clients to understand all of their options so they can make an informed decision
- Demonstrate cross-cultural competency (the ability to work effectively with clients from a wide variety of ethnic and cultural backgrounds)
- Engage in zealous oral and written advocacy on behalf of your client
- Understand the broader context of your client's problem and the systems that create the problem
- Explore non-legal forms of advocacy that might help your client's matter

PROFESSIONAL AND ETHICAL CONDUCT:

- Be responsive, responsible, and reliable
- Take ownership of case, take initiative, and engage in problem-solving
- Be thorough and detail-oriented and produce the best final work product
- Effectively manage time to meet deadlines
- Commit to critical self-reflection and be open to constructive feedback
- Work diligently and thoroughly; demonstrate strong work ethic
- Understand your professional responsibility to increase access to justice and critical awareness of systemic issues impacting access to justice (race/class/gender)
- Ability to recognize and resolve ethical issues
- Develop positive working relationships and communicate effectively with Clinic faculty, staff, team members and clinic students

ORAL AND WRITTEN COMMUNICATION:

- Understand the goal of the communication
- Use tone that is appropriate for your intended audience (clients, clinic colleagues, faculty, judges, opposing parties, etc.)
- Effectively organize your oral or written work product
- Speak and write clearly and persuasively
- Use proper grammar and citations
- Effectively use exemplars
- Address feedback and critique and integrate changes throughout the work product

LEGAL ANALYSIS AND REASONING:

- Clearly identify and develop legal issues
- Include the most significant, relevant facts and use them effectively in the analysis
- Clearly explain legal concepts
- Examine and assess the strengths of alternative theories/arguments
- Identify relevant statutes, regulations, and cases
- Synthesize research
- Analogize/distinguish legal authority to your set of facts
- Demonstrate creativity, flexibility, innovation in developing case/project strategy
- Recognize weaknesses in case theory and anticipate adversary's position

Faculty are constantly evaluating the effectiveness of the program to achieve these learning objectives, and, through frequent experimentation in its design, the program has remained flexible to meet the evolving needs of our students and community.

The Clinic

Students enroll in the Clinic for 2 or 3 units with corresponding minimum hours requirements.² The Clinic also accepts Honors Lawyering Program (HLP) full-time externship placements.³ Each semester, WERC accepts up to 12 students in the Clinic including 1–2 HLP full-time placements in the

² ABA Standard 310 requires 45 hours of in-person class for every credit unit. WERC requirements far exceed the minimum hours requirement (162.5 hours for 2 units and 195 hours for 3 units) but during the COVID-19 pandemic when the Clinic operated remotely, we reduced the clinic requirements to the ABA minimum standard.

³ The Honors Lawyering Program provides select, highly qualified students with an integrated practice-based program that combines intensive course work with full-time apprenticeships. The Clinic is an approved HLP placement.

fall. The Clinic regularly has maximum enrollment, with waitlists. It is staffed by two faculty members — a director and staff attorney — who supervise the students. The director is also responsible for the operations of the Clinic and fundraising.

Students are assigned a primary supervisor. In the first week, students submit a self-assessment of their skills and answer a series of questions about their work experience and professional development goals. They meet one-on-one with their supervisor to review the self-assessment and finalize the student's goals. In addition, the students are encouraged to start thinking about looking for their next internship/externship and, for those graduating, discuss their post-bar job search and bar study plans.

Each student is paired with another student (primarily based on the coordination of their clinic hours). Faculty assign students an exercise in collaboration, where they reflect on the challenges and strengths of working in a group, and the student teams then meet to discuss their reflections and steps they will take to ensure effective group dynamics. Each team is assigned cases and policy projects based on their strengths, identification of skills they seek to acquire, their interests, and the Clinic's docket. Law students staff an intake hotline providing advice and counseling to workers on a variety of employment-related matters including wage and hour violations, discrimination, workplace harassment, unemployment benefits, pregnancy, and family/medical leave. In addition, during COVID, students staffed two evening clinics each semester in partnership with community-based organizations. WERC will continue collaborating with additional community organizations to host the evening clinic.

A student will do any or all of the following, based on their hotline/legal clinic intake(s): legal research, investigating the matter, including client and witness interviews, brief advice and counseling, and brief service (e.g., writing a letter, legal research). The Clinic also selects cases from the intake hotline/legal clinics for full representation. For full representation cases, students will engage in any or all of the following: preparing and explaining client retainer agreements, client counseling, document review, drafting administrative or court complaints, representing the client in an administrative hearing, witness and client preparation, drafting pleadings for court cases, drafting and responding to civil discovery, negotiating settlements, etc.

The policy work is more fluid and ranges from researching legislative history, drafting bill language, and drafting comments on proposed regulations, to attending community meetings and lobby days in Sacramento. Students also develop and conduct Know Your Rights training and other presentations to community groups, workers and worker centers.

Faculty supervisors meet weekly with each student team. Prior to the meeting, the team submits a detailed weekly agenda. At the meeting, the students and the professor discuss the assigned cases, projects, and tasks, and identify any problems, including ethical issues. The students are asked to lead these discussions, making initial suggestions on how to proceed on a case or problem area. Throughout the semester, students engage in self-assessment and are provided formative assessments after completing each task (e.g., interviewing, writing a memo) to provide meaningful feedback so that students can improve in real time and gain a better understanding of their performance.

In addition, we conduct two summative assessments of the students' skills and performance in the clinic. At the mid-semester, the students complete a self-assessment, as follows:

REVISIT THE LEARNING OBJECTIVES SECTION OF THE SYLLABUS AND YOUR INITIAL SKILLS ASSESSMENT + PROFESSIONAL DEVELOPMENT PLAN.

For each of the four categories (Effective Client-Centered Lawyering; Legal Analysis and Reasoning; Oral and Written Communication; Professional and Ethical Conduct) write a brief paragraph reflecting on what you have done well and what you hope to improve on. Indicate if you have not had the opportunity to work on certain skills. Based on this reflection, would you modify the initial rankings you provided in your Initial Skills Assessment + Professional Development Plan? If so, how?

REVISIT THE GOALS YOU SET IN YOUR INITIAL SKILLS ASSESSMENT + PROFESSIONAL DEVELOPMENT PLAN.

Which ones have you made progress on? Have your goals changed? How? What are your goals for the remainder of the semester?

ASSESS YOUR SEMINAR PARTICIPATION.

Have you regularly attended class? Have you effectively read the assignments for class and regularly participated in class and shared your opinions? Have you thoroughly prepared for in-class exercises and thoughtfully worked on your reflective writing essays? Include any ways you hope to improve your Seminar participation.

The student and the supervisor then meet to discuss the student's self-assessment and the supervisor provides a summative evaluation. The student and supervisor also review the student's initial goals and either modify them or add additional goals.

At the end of the semester, the students complete a final self-assessment, as follows:

REVISIT YOUR INITIAL PROFESSIONAL DEVELOPMENT PLAN, MID-SEMESTER EVALUATION, AND THE LEARNING OBJECTIVES IN THE COURSE SYLLABUS. ANSWER THE FOLLOWING QUESTIONS:

1. Which areas/skills do you believe you made the most progress on?
2. What in particular did you improve?
3. How were you able to make progress in these areas?
4. Which areas/skills are still a challenge for you?
5. How do you intend to improve these areas/skills in your future endeavors?
6. Did you incorporate feedback that you got from your team partner and your supervisor effectively? What challenges did you have in receiving feedback?

In addition, we solicit feedback on the clinic/seminar, which they can submit anonymously, about what they found most valuable and what can be improved. Again, the student and supervisor meet for the final evaluation, where the self-assessment is reviewed and the supervisor provides a summative assessment of the student's performance, based on the same learning objectives rubric. Faculty supervisors also discuss the students' plans for their next internship/externship and additional coursework to continue to build their skills.

The Seminar

Students enrolled in the Clinic must take the companion 2-unit seminar class. It meets twice a week for 80 minutes each time. In the first week of the semester, the seminar has an intensive boot camp training. It is a five-hour, mandatory training on the first Friday of the semester. The boot camp allows the Clinic to onboard students immediately to start handling ongoing cases and to familiarize them with Clinic procedures. Depending on the immediate pending needs of the Clinic, the boot camp will address substantive employment law, intensive interview training, trial skills, and/or policy work. The bootcamp also focuses on professional and ethical skills

and, during COVID, the nuts and bolts of remote representation. WERC invites two Clinic alumni (usually at least 5–6 years out) during lunch to discuss their journey from law student to practicing attorney.⁴ The alumni speak also about what they gained from the Clinic and how it fit into their legal experience. The alumni lunch is always a highlight, both for the alumni and the clinic students, allowing Clinic students to build their legal network. Finally, at the beginning of the semester, students write a definition of what justice means to them. They then revisit this definition during the final class and discuss whether they still agree with their definition of justice and whether they achieved justice in their cases/projects.

The substantive classes are taught with the same method as podium doctrinal classes. Students have case readings, the Socratic method is used for case discussion, and then hypotheticals are integrated during class discussion. Certain classes designate “case experts” where several students are assigned to lead the discussion, which allows for a deeper and more nuanced understanding of the cases.

Legal skills classes are a combination of the theory of the underlying skill, a simulated hypothetical, and a skills exercise. Students have several opportunities for mock interviewing and counseling clients, including a video-taped review. The mock interview is then used as the basis for the Case Theory class, where students develop a case theory on their “mock case” along with a legal elements chart. In a subsequent class, the students use these materials to create a fact investigation plan. The Fact Investigation Class integrates the fundamentals of case planning and fact investigation but also incorporates memory recollection and bias. Recognizing that students need more repeated exposure to fundamental skills, the Clinic professors designed a writing component to the seminar in conjunction with the IL legal writing professors and the director of academic development. The students are given a closed universe of legal research and a discrete legal problem for which they write a motion arguing why their client is entitled to a penalty under applicable law. The students write a detailed outline, then attend class to discuss legal analysis and structure of the brief, and then submit a draft. Their supervisor provides written and oral feedback, and the student submits a final brief.

⁴ The alumni lunch was suspended during the time the Clinic operated remotely because of COVID-19.

The supervisor also provides written and oral feedback on the final brief. In addition, students submit several written reflective exercises, including a reflection on identity, power and privilege, and client-centered counseling. The seminar also has case rounds — which the professors are constantly experimenting to make them more dynamic — scheduled at times when students are at a critical juncture in their case/policy work.

Depending on the Clinic's docket, the seminar will focus on the skill acquisitions necessary for the Clinic's case and policy work. When the Clinic has upcoming hearings, students are taught trial skills and they practice direct and cross examination in mock sessions, introducing and admitting evidence and making objections. When there is a large policy project, an additional class, Social Justice Lawyering: The Role of Lawyers as Problem-Solvers, is added to the syllabus. This class widens the students' lens on the varied ways that lawyers are problem-solvers.

THE CLINIC'S SUBSTANTIVE WORK

California is home to the largest low-income population of any state. One in three California workers earns low wages.⁵ Nearly one in six Californians does not have enough resources to meet basic needs.⁶ Immigrants and people of color are overrepresented in the ranks of the poor. Almost 36 percent of undocumented immigrants live in poverty.⁷ Latinos make up 51.6 percent of the poor in California.⁸ Increasingly, workers are joining the ranks of the poor, as roughly 80 percent of poor Californians live in families with one working adult.⁹

While low-wage workers are represented in each industry, the highest concentration of low-wage workers is found in retail, restaurant, and home health and domestic service work.¹⁰ Women, especially immigrants

⁵ UC Berkeley Labor Center, *Low-Wage Work in California Data Explorer*, UC BERKELEY LABOR CENTER (May 12, 2022), <https://laborcenter.berkeley.edu/low-wage-work-in-california-data-explorer>.

⁶ Sarah Bohn et al., *Poverty in California Fact Sheet*, PUBLIC POLICY INSTITUTE OF CALIFORNIA (July 2021), <https://www.ppic.org/publication/poverty-in-california>.

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

and women of color, are concentrated in these jobs.¹¹ Low-wage industries also have rampant wage violations. Nearly 20 percent of low-wage workers were not paid the minimum wage.¹² Much of the Clinic's docket has focused on helping low-wage workers recover their earned wages. Since 2000, the Clinic has recovered over \$10 million dollars for workers. Besides the significant monetary recoveries, the Clinic has significantly expanded workplace rights for all California workers.

Garment Worker Advocacy

California has long held the distinction of being the garment sweatshop capital of the nation. Garment manufacturers, who sell and distribute finished garments, contract out their in-house production work to sewing contractors. These contractors staff their factories with unskilled and cheap labor, often immigrant, non-English-speaking women. WERC and other legal and community organizations in the 1990s and 2000s worked tirelessly to broaden liability to reach manufacturers, who have historically been shielded from liability for noncompliance with wage and hour laws. For several years, WERC was part of a coalition working on a legislative solution that resulted in the passage of AB 633, the garment accountability bill that imposed liability on manufacturers. The Clinic was a key player in the implementation of AB 633, drafting and commenting on regulations and, in collaboration with other community groups, published a comprehensive report on the implementation of AB 633. Thanks to the Clinic and the statewide coalition's advocacy, California has one of the toughest and broadest joint liability laws in the garment industry.

The Clinic was at the forefront of litigation in Northern California on behalf of garment workers. In the spring of 2001, the Wins garment factories, the largest in the Bay Area, declared bankruptcy and closed their doors. Approximately three hundred garment workers, all monolingual Chinese immigrants, found themselves out of work. They were owed nearly \$1 million dollars in unpaid wages. It was the most egregious case of

¹¹ Kaitlyn Henderson, *The Crisis of Low Wages in the U.S.: Who Makes Less than \$15 in 2022?*, OXFAM (Mar. 21, 2022), at <https://www.oxfamamerica.org/explore/research-publications/the-crisis-of-low-wages-in-the-us>.

¹² David Cooper & Teresa Kroeger, *Employers steal billions from workers' paychecks each year*, ECONOMIC POLICY INSTITUTE (May 10, 2017).

sweatshop abuse in Northern California. The Clinic represented the workers and, first and foremost, the Clinic recognized that the garment workers needed immediate relief. California has a state fund set up for garment workers who have unpaid wage claims, but the fund did not have enough money to satisfy these workers' claims. So, with the help of community and other legal organizations, the Clinic successfully lobbied the California Legislature to earmark additional funds to satisfy the workers' claims.

The Clinic also intervened in the California Labor Commissioner's lawsuit against the Wins garment companies and the individual owners. The litigation lasted more than seven years and involved complex legal theories, competing federal and state regulatory agencies, and monolingual clients. The litigation culminated in a four-month bench trial in San Francisco Superior Court, with the Clinic and the students playing a central role in preparing the workers to testify. The law students got first-hand experience in cross-cultural lawyering, spending many weekend hours with interpreters and workers as they overcame their fear of facing their former employer. The workers' testimony was crucial in securing a tentative decision in their favor. The trial court found the owners of the factory personally liable to the workers for \$1.4 million in unpaid wages and penalties. Unfortunately, the victory was short-lived, as the California Supreme Court issued a decision in a similar case that drastically limited personal corporate liability.¹³ That decision denied the workers a judgment in their favor. The Clinic appealed the decision but ultimately did not prevail against the employers. Fortunately, the workers recovered most of their wages through the state garment fund. Today, thanks to low-wage worker advocates, personal corporate liability is enshrined in the Labor Code,¹⁴ precisely to avoid the type of injustice faced by the Wins workers.

The Clinic also cooperated with the U.S. Department of Justice in pursuing criminal charges against the owners of the factories, which led to convictions and to the sentencing of the owners on federal criminal charges. Throughout this period, the students met with the workers to keep them informed of the litigation and joined the workers in solidarity when they engaged in community action to raise awareness of their issue. While

¹³ Reynolds v. Bement, 36 Cal. 4th 1075 (2005).

¹⁴ Cal. Lab. Code § 558.1 (Jan. 1, 2016).

the state court refused to hold the owners civilly liable, the federal criminal indictments validated the workers' struggle to bring justice to their case. "During the *Wins* trial, a marriage fell apart, a member of our trial team was diagnosed with cancer, and another member found out she was pregnant. But despite it all, the Clinic never lost its focus on the workers' struggles," said Attorney Pam Kong, Clinic student ('02) and 2003–2004 WERC graduate fellow and member of the *Wins* trial team.

Domestic Worker Advocacy

With the move of most of the garment industry out of the Bay Area, the Clinic redirected its resources to assist another group of vulnerable workers — domestic workers.

Domestic workers play a vital role in our society, caring for our homes and loved ones and freeing us to participate in the workforce. In California, more than 300,000 domestic workers serve as housecleaners, nannies, and caregivers in private homes.¹⁵ The majority of domestic workers are immigrant women who work to support their own families as primary breadwinners. Nearly two million households in California rely on domestic workers.¹⁶ Domestic workers historically have toiled in obscurity. Until recently, they were categorically exempted from most employment laws and fundamental wage and hour protections.¹⁷ Domestic workers have built a national, grassroots, worker-led movement for dignity and justice by addressing the systemic exclusion of domestic workers from basic wage and hour laws.

Domestic workers face unique challenges. Domestic work remains a low-wage and largely under-regulated industry. Domestic workers usually work alone, behind closed doors, and out of the public eye, leaving them isolated, vulnerable to abuse and exploitation and unable to advocate

¹⁵ UCLA LABOR CENTER, PROFILE OF DOMESTIC WORKERS IN CALIFORNIA 3 (2020), <https://www.labor.ucla.edu/wp-content/uploads/2020/12/Profile-of-Domestic-Workers-in-California.pdf>.

¹⁶ UCLA LABOR CENTER, PROFILE, PRACTICES AND NEEDS OF CALIFORNIA'S DOMESTIC WORK EMPLOYERS 3 (May 2016), https://www.labor.ucla.edu/wp-content/uploads/2018/06/UCLA_domesticworkers_report_final.pdf.

¹⁷ Hina Shah & Marci Seville, *Domestic Worker Organizing: Building a Contemporary Movement for Dignity and Power*, 75 ALBANY L. REV. 413, 424 (2012), <https://digitalcommons.law.ggu.edu/cgi/viewcontent.cgi?article=1481&context=pubs>.

collectively for better working conditions. Four in ten employers pay low wages, defined as two-thirds of the median full-time wage in California. One in six domestic-work employers fail to pay minimum wage.

For over a decade, the Clinic has played a critical and significant role in the fight to expand and enforce legal rights for domestic workers in California. The Clinic represents domestic workers in individual and group cases before the California wage and hour enforcement agency, the Division of Labor Standards Enforcement (referred as the “Labor Commissioner”) and in court litigation. The cases are either referred to the Clinic by grassroots, community organizations such as *Mujeres Unidas y Activas* and *Filipino Advocates for Justice* or through the Clinic’s hotline. The Clinic supports the community organizing campaigns, in conjunction with the legal cases. Through this direct representation, the Clinic identifies critical gaps in legal protection as well as areas that need further legal advocacy.

Because the Clinic had built an expertise in litigating domestic worker cases, the California Domestic Workers Coalition (“Coalition”) asked the Clinic to serve as its legal counsel for its legislative advocacy campaign. The Coalition is a statewide umbrella organization of grassroots immigrant-rights organizations. They mounted a nearly six-year battle to expand overtime protections to certain domestic workers who were excluded from this basic protection. The Clinic played a critical role as legal counsel to the Coalition in its efforts to remove the exclusion. The Clinic faculty and students helped decipher the existing complex regulatory coverage for domestic workers, dug into the history of why a large majority of domestic workers were excluded from basic labor laws, and translated the wishes of the Coalition into legislative language. Throughout the campaigns, the Clinic provided guidance and counseling as the Coalition made strategic decisions. WERC students and faculty helped train and educate the members of the Coalition (many of them worker leaders) to understand the law and the impact of legislative compromises on existing rights so that they could make informed decisions.

In 2013, after several failed attempts, the Coalition succeeded in passing the greatest expansion of overtime protection in California since the 1970s. The bill extended overtime to nannies and caregivers who spent a significant amount of time caring for children, older adults and people with disabilities. The bill was set to sunset in three years and in 2016, the

Coalition, with the Clinic's legal support, made the overtime protections permanent through SB 1016.

After these legislative victories, the Clinic collaborated with the Coalition in developing Know Your Rights materials, which are critical to outreach and to educate domestic workers. The Clinic also supported domestic worker employers in understanding their obligations under the new law. Finally, the Clinic met with regulators at the Labor Commissioner to make sure the new overtime bill was properly enforced.

Another critical aspect of the Clinic's domestic worker advocacy was weighing in on a significant case before the California Supreme Court that would directly impact domestic workers. Home care agencies had for years been shortchanging domestic workers who worked 24-hour shifts by not paying for up to 8 hours of work time because the employees could theoretically sleep during that time. On behalf of low-wage worker advocates, the Clinic submitted a friend-of-the-court brief in *Mendiola v. CPS Security Solutions, Inc.*,¹⁸ a case that concerned sleep time for security guards. The brief focused on the legislative history of California's wage protections as well the realities of low-wage workers on 24-hour shifts. The Clinic argued before the California Supreme Court on this important issue and the Court unanimously agreed that workers must be paid at least the minimum wage for all hours worked, including so-called sleep time.

After the *Mendiola* decision, on three occasions, home care agencies introduced bills to exempt domestic workers from sleep-time compensation. Each time, the Clinic director testified before the Legislature about the dangers of the bill and helped prepare worker leaders to testify before the Legislature.

The Clinic is an ongoing resource for worker centers and legal service providers in making sense of the complex California regulatory scheme governing domestic workers so that they can effectively organize and represent domestic workers..

Residential Care Advocacy

Concurrently with domestic worker advocacy, the Clinic focuses on caregivers who work in small residential care facilities. Despite doing work

¹⁸ 60 Cal. 4th 833 (2015).

similar to domestic workers, caregivers in facilities are governed by a completely different set of legal rules. While these caregivers are protected under labor laws, compliance remains elusive for them. There are rampant wage and hour violations, including paying flat rates that do not meet minimum wage and overtime obligations. This is particularly concerning given the industry will experience unprecedented growth as Americans live longer and cope with chronic health conditions.

In collaboration with community-based campaigns to reform residential care facilities, the Clinic represents workers before the Labor Commissioner and in court. In some cases, the Clinic represents the entire workforce at a facility. These cases often arise out of organizing campaigns spearheaded by community groups, especially Filipino Advocates for Justice in Oakland and the Filipino Community Center in San Francisco.

Recognizing that the problems were intractable to solve one case at a time, the Clinic brought together a statewide coalition of legal service providers, worker centers, unions, community-based nonprofit organizations and consumer advocates — the Coalition for a Fair and Equitable Caregiving Industry. The first task of the coalition was to create a comprehensive policy paper, documenting the extent of wage and hour problems in the residential care facility sector. The Clinic took on the researching and writing of the report. Law students spearheaded the research, which resulted in the report, “Understaffed and Overworked: Poor Working Conditions and Quality of Care in Residential Care Facilities for the Elderly” (June 2017).¹⁹ The report explores how the structural and exploitative nature of working conditions in Residential Care Facilities for the Elderly (“RCFE”) in California contributes to poor quality of care and life outcomes for residents. The report found that abuse, neglect and overall poor quality of care and life for residents in RCFEs are results of structural systemic problems. The report also led to a three-part investigative series by Reveal, the Center for Investigative Reporting, that was featured in the *New York Times*, *Washington Post* and *PBS News Hour*. The Labor Commissioner invited the Clinic director to train its investigators on issues in residential care facilities. The training was part of the strategic enforcement efforts in the residential care industry.

¹⁹ <https://digitalcommons.law.ggu.edu/cgi/viewcontent.cgi?article=1789&context=pubs>.

Gender Discrimination and Harassment

The Clinic has also been at the forefront of challenging gender discrimination and harassment. Women workers face myriad forms of discriminatory and harassing conduct at the workplace. Forty-two percent of women workers have faced gender discrimination in the workplace, including earning less than their male counterparts doing the same job, not getting the same opportunities, and rude or dismissive remarks based on their gender.²⁰ Sexual harassment, a form of discrimination, is even more rampant, with one in five women experiencing it at work.²¹ The Clinic represents both cisgender and transgender women workers in their discrimination/harassment claims.

The Clinic was part of one of the first large sexual harassment cases in the agricultural industry, joining California Rural Legal Assistance in representing an immigrant farm worker. The client was subjected to quid pro quo sexual harassment (required sexual favors as a condition of employment and the receipt of job benefits). The Equal Employment Opportunity Commission, after investigating the client's matter, sued the largest lettuce grower/distributor in the United States. The case resulted in a \$1.85 million settlement and substantial injunctive relief.

Recognizing the entrenched discrimination that still exists for women who work in nontraditional occupations such as electrical and construction work, the Clinic along with Equal Rights Advocates represented six female electricians, most of whom are women of color, in a lawsuit against an East Bay electrical contractor. The women were all laid off on the same day from the same job, while less-experienced male employees were retained. After successfully defeating the defendants' motion for summary judgment, the Clinic negotiated a successful settlement with monetary relief and training to address discrimination and harassment issues.

²⁰ Kim Parker & Cary Funk, *Gender Discrimination comes in many forms for today's working women*, PEW RESEARCH CENTER (Dec. 14, 2017), <https://www.pewresearch.org/fact-tank/2017/12/14/gender-discrimination-comes-in-many-forms-for-todays-working-women>.

²¹ Hailey Lee, *One-fifth of American adults have experienced sexual harassment at work*, CNBC survey says, CNBC (Dec. 19, 2017), <https://www.cnbc.com/2017/12/19/one-fifth-of-american-adults-have-been-sexually-harassed-at-work.html>.

Over the years, the Clinic has recovered millions of dollars in discrimination and sexual harassment lawsuits on behalf of vulnerable women workers, including factory workers, entry-level sales clerk and domestic workers. These cases were often the first of their kind to expose the abuse in these industries.

TRANSFORMATIVE LEARNING

The Clinic has made a difference in each student's life and, in some cases, has changed the very trajectory of that student's career. Clinic students learn first-hand the tools that will make them excellent and thoughtful practitioners. Because of their experience representing low-wage women workers, clinic students have gone on to pursue public interest careers especially in labor and employment law. Edna Garcia Earley ('98), currently assistant chief counsel at the Labor Commissioner, credits her success as a trial and appellate attorney to the "practical skills training [she] received as a student and Graduate Law Fellow at WERC under the direction of the clinic professors and supervising attorneys." This is echoed by many other Clinic alumni. Yaromil Velez Ralph ('07), a native Spanish speaker who grew up in Puerto Rico, is a field attorney with the National Labor Relations Board. She says, "Without a doubt, the most enriching experience of my legal education was the year and a half I spent as a clinic student and then a teaching assistant with the Women's Employment Rights Clinic. The breadth of cases and the interaction with clients equipped me with tools I use everyday in my job. My clinic experience was one of the primary reasons my employer hired me for my position." Julie Cummings ('16), a veteran of the U.S. Army, credits her experience at the Clinic for "helping [her] become a better version of [herself] in the legal profession."

In addition to gaining practical legal skills, the Clinic's community lawyering model has shaped the careers of many of our alumni. Chriselle Raguero ('15) was born in the Philippines and immigrated to the United States when she was in high school. In law school, she interned at various legal non-profits serving the Asian-American community, was a Clinic student, and was incredibly engaged in the school and local community. After law school, she went overseas to work for international human rights organizations in Thailand focusing on asylum, refugee and trafficking issues. She currently

is the executive director of the Filipino Community Development Center in San Francisco, an organization focused on preventing the displacement of the Filipino community in San Francisco neighborhoods through affordable housing advocacy. Chriselle reflected on her time at the Clinic:

While I am not in a traditional “lawyer” role, my work is rooted in movement and community lawyering, which I first experienced through the Clinic. The Clinic taught me how to have a collaborative relationship with my clients and the community. One memory that stands out for me was when a client, who reminded me of my uncle, asked me to decide how to proceed with his case. My professor advised me that our role as attorneys is not to make the decision for the clients, but to help them understand their options so that they are empowered to make the best decision for themselves. I’ve carried that advice with me throughout my legal career.

Rocío Alejandra Ávila (’04) was born and raised in San Francisco’s Mission District. Her parents immigrated from Zacatecas, Mexico. Drawing on a rich legacy of activism and resistance from her community, Rocío became a community organizer and eventually an immigrant and workers’ rights leader due in part to seeing first-hand her parents’ struggles as low-wage workers. At the Clinic, Rocío brought an understanding of how to integrate community organizing with legal strategies. Rocío was not only a Clinic student but came back twice to work as a graduate fellow and was integral to the Clinic’s domestic worker advocacy. Rocío equally credits WERC for the training and mentorship she received. She says:

There are not enough words to describe how WERC shaped both my personal and professional life. The opportunity to be trained, mentored and inspired by lawyers/professors who were committed to both social justice issues and the law, as well as invested in cultivating my vocation and professional skills was life changing. This was and continues to be especially important in my life since I am a first-generation child of immigrants and woman of color who, before being a clinical student at WERC, had no access to lawyers or mentors in the law.

She is currently the policy director at the National Domestic Workers Alliance, where she advances and raises standards for domestic workers

nationwide. Rocío's close work with the Clinic's clients using a community-lawyering model has led to transformative change for her. She reflected, "While for the workers and for me, the Movement has been a profound life changing experience nourished by our commitment to social and economic justice. From the 'Mujeres' (Women), I've learned that community-centered organizing is an act of love for humanity and with it we can achieve the unthinkable."²²

Katherine Smith ('12) is a trailblazing employment lawyer at Levy Vinick Burrell Hyams LLP, the women-owned plaintiffs' employment firm in Oakland. The Clinic helped connect Katherine to her firm. She said:

WERC was instrumental in my trajectory. I enrolled in the clinic because I was considering pursuing employment law. By the end of the semester, I was committed to the field. From both the clinical work and course work, I came to see employment law as a way to work toward meaningful change in individual lives, but also combat some systemic societal problems.

Katherine did outstanding work in the clinic and, upon the Clinic faculty's recommendation, she became Levy Vinick's first fellow, a distinction awarded to talented new lawyers committed to representing workers. Katherine's deep commitment to social justice and her zealous advocacy representing workers in harassment, discrimination, retaliation, wage theft, and whistleblower lawsuits has landed her repeatedly on the *Northern California Super Lawyers* list.

Dana Oviedo ('21), a recent graduate, has started his own practice focusing on representing individuals impacted by the War on Drugs, focusing on civil rights, criminal law, family law, small business, and cannabis law. He was motivated to create a different type of law firm, based on the community lawyering model of the Clinic. Dana reflected:

The Women's Employment Clinic opened my eyes to activist lawyering and the idea that you can work for change on the macro level on state and federal policy down to the individual level of

²² Rocío Alejandra Avila (posted by Chaumtoli Huq, ed.), *Domestic Workers Movement: "Transformational Social Change" One Worker at a Time*, LAW @ THE MARGINS (Sept. 3, 2014), <https://lawatthemargins.com/perspectives-domestic-workers-movement-transformational-social-change-one-worker-at-a-time>.

helping a person solve their legal issue. In my practice, I follow this same ethos of policy reform at the state capital and helping real people who are impacted daily by War on Drugs and the criminal justice system. I know that my experience at WERC showed me that I could make a difference even if it was just one client at a time.

Students also found personal transformation at the Clinic. They forged close bonds with their fellow clinical law students and got individualized mentoring from the clinical faculty. For many first-generation law students, having a trusted person who helped them navigate the intricacies of the legal profession was invaluable. The Clinic helped Schyler Cothias ('19), currently an attorney in New York, find “the courage and confidence to stand up for others and fight against the odds.” Josue R. Aparicio ('17), an associate at Hanson Bridgett LLP, similarly credits the Clinic for giving him the confidence “to walk into any courtroom knowing that I am capable of competing against any attorney regardless of experience level. Any litigator, no matter how inexperienced, is capable of obtaining positive results through preparation, due diligence and hard work.”

The Clinic’s supportive community, especially for many first-generation law students, gave them a safe space to be themselves. Rocío found law school “extremely challenging and isolating” but found in the Clinic “an invaluable community” that supported her. She acknowledged that the Clinic experience “helped my self-esteem and allowed me to feel empowered and better prepared to take the bar exam.”

Finally, the Clinic reaffirmed for many students of color the importance of joining the legal profession. Josue, a first-generation American and native Spanish speaker, whose parents immigrated from Nicaragua, pursued a legal education because his family encouraged him to become a role model for the Latinx community. He said, “The Clinic showed the importance of working toward diversifying the legal profession. Many of our clients at the Clinic were immigrants that spoke little to no English. They needed lawyers/law students like us that spoke Spanish, came from immigrant or low-income backgrounds and/or empathized with their situation.”