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ARTICLE

CLOSING THE LEGAL AID GAP ONE RESEARCH QUESTION AT A TIME

*Samantha A. Moppett and Kathleen Elliott Vinson**

Currently, two of the hot topics in legal academia are “access to justice” and experiential learning.¹ The justice system’s failure to adequately serve all people irrespective of wealth and position has brought access to justice to the forefront. Experiential learning has made the headlines due to the recent changes in the American Bar Association (“ABA”) standards regarding the incorporation of experiential learning into the law school curriculum. Despite being hot topics, these issues are often neglected or given short shrift in the law school curriculum, particularly in the first year. Law schools grapple with how to work towards closing the legal aid gap and helping their students become practice ready.

This article discusses an exercise that the legal-writing faculty at Suffolk University Law School integrated into the first-year curriculum to address this shortfall.² Specifically, legal-writing faculty partnered with a *pro-bono* organization to introduce students to the role that they can play in closing the legal aid gap. The exercise provided students with an opportunity to collaborate and research real-world problems under time-pressured conditions. This article explains our experience integrating real-world legal research into a legal research and

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1. See AM. BAR ASS’N, ABA STANDARDS AND RULES OF PROCEDURE FOR APPROVAL OF LAW SCHOOLS 2016-2017, § 303(a)(3) at 16 (2016) (requiring six credits of experiential learning). In addition, Standard 303(b)(2) mandates that “[a] law school shall provide substantial opportunities to students for: . . . (2) student participation in *pro bono* legal services, including law-related public service activities.” *Id.*

2. This exercise was the idea of Professor Gabe Teninbaum, a legal writing professor at Suffolk University Law School.

writing class in a social justice context. It discusses why to incorporate the exercise as well as how to implement it. Finally, it examines the benefits and challenges involved.

WHAT: PROVIDE ACCESS TO JUSTICE WHILE INTEGRATING REAL-WORLD LEGAL RESEARCH INTO THE 1L CURRICULUM

In 2016, the American Bar Association's Standing Committee on *Pro Bono* and Public Service instituted a new project titled ABA Free Legal Answers.³ In essence, it is a "virtual legal advice clinic" that provides a forum for low-income people to seek advice and counsel on civil legal questions from a volunteer lawyer within their state.⁴ Local attorney-volunteers log into the state-specific website, select questions within their expertise to answer, and reply with legal information and advice. Lawyers can answer questions anytime in any location with internet access. This ABA program partners with states to increase "access to legal services to low-income communities . . . and also provide[] significant *pro-bono* opportunities for lawyers."⁵

The ABA program is now nationwide as numerous states have joined its Free Legal Answers program.⁶ Currently, approximately twenty-nine states use the same free legal answers program through the ABA. See Appendix A for a list of the states and corresponding websites for each.

The Massachusetts partner to the ABA on this project is the Massachusetts Law Reform Institute ("MLRI"), "a statewide nonprofit poverty law and policy center."⁷ MLRI's "mission is to advance economic, racial and social justice through legal action, policy advocacy, coalition building, and community outreach."⁸ MLRI launched its legal advice website, Mass Legal Answers

3. Am. Bar Ass'n, FREE LEGAL ANSWERS, <https://abafreelegalanswers.org> (last visited May 2, 2017) [hereinafter *Free Legal Answers*]. The ABA Free Legal Answers project is based on a Tennessee pilot program that reported providing help to 12,500 people over the past five years. Gary Blankenship, *ABA's Free Legal Answers Provides Information to Low-income Consumers*, FLA. BAR NEWS, January 1, 2017 at 1, available at <https://www.floridabar.org/news/tfb-news/?durl=DIVCOM/JN/jnnews01.nsf/cb53c80c8fabd49d85256b5900678f6c/BF78DBB9DDB43FA5852580900069AF82!opendocument>.

4. See *Free Legal Answers*, *supra* note 3.

5. Victor Li, *ABA Launches Free Virtual Legal Advice Clinic*, ABA J., Sept. 22, 2016, available at http://www.abajournal.com/news/article/aba_launches_free_virtual_legal_advice_clinic (last visited June 16, 2017).

6. See Appendix A for a list of states partnering with the ABA.

7. *Welcome to the Massachusetts Law Reform Institute*, MASS. LAW REFORM INST., <http://www.mlri.org/> (last visited June 16, 2017).

8. *Id.*

Online, in November of 2016.⁹

WHY: STUDENTS HAVE THE OPPORTUNITY TO PROVIDE CITIZENS
WITH ACCESS TO JUSTICE WHILE PERFORMING REAL-WORLD
RESEARCH IN THEIR 1L CURRICULUM

With law school curriculum already overloaded, why incorporate this type of exercise into a class? We found multiple reasons to justify its inclusion. First, while first-year law students are taught how to research, they generally engage in solitary research for fictitious clients with a generous amount of time to complete it. Second, the missions of many law schools incorporate a social justice aspect. Nevertheless, how the justice system can adequately serve all people, irrespective of wealth and position, is rarely discussed in the 1L curriculum. Thus, after students have received a solid foundation of research instruction and the focus has shifted to efficient research strategies, students can engage in collaborative research for a real client under realistic time constraints. Moreover, students can receive an introduction into the role that their research can play in closing the legal aid gap and providing access to justice.

HOW: “RESEARCH IN PRACTICE” CLASS WHERE STUDENTS
RESEARCH QUESTIONS POSED ON MASS LEGAL ANSWERS ONLINE

For this in-class exercise, the legal-writing faculty had their 1Ls serve as research assistants for MLRI. Specifically, prior to the “Research in Practice” class, two members of the legal-writing faculty met with representatives¹⁰ from MLRI to pre-select sample questions that the students would work on that were based on the types of questions MLRI receives. The questions covered civil matters such as child support, tenant rights, and divorce. Each legal writing professor was then assigned a question his or her class would work on.

Prior to Class

Prior to class, students received an email that introduced them to the project and reminded them to bring their laptops to

9. *Get Free Legal Answers, MASS. FREE LEGAL ANSWERS*, <http://mass.freelegalanswers.org/> (last visited June 16, 2017); see Pat Murphy, *New Website Provides Convenient Option for Pro Bono Service*, MASS. LAW. WKLY., Feb. 9, 2017, at 4, available at <http://masslawyersweekly.com/2017/02/09/new-website-provides-convenient-option-for-pro-bono-service/> (discussing how busy lawyers can volunteer to answer questions posed by low-income Massachusetts residents on civil matters via the legal advice website).

10. We met with Rochelle Hahn and Barbara Oro (Access to Justice Fellow) from MLRI.

class.¹¹ They were given a link to a video to watch to give them a sense of the project and what they would be working on.¹² Providing them with some context and background prior to class allowed the legal-writing faculty to hit the ground running at the beginning of the class, without having to set up the exercise.

During Class

When the students came to class, they were placed into small groups of two to three students and presented with the research question that had been pre-selected for the class. Due to confidentiality concerns, any identifying information about the client was removed from the question and students had to hand in the question at the end of class. In addition, students were provided with a sample answer to a question that had been submitted to Mass Legal Answers Online in the past.

During class, the legal writing professors circulated and helped students when they got stuck, but largely left them to work on conducting the research and drafting an email in response to the question posed. Students used laptops to research any relevant sources, both free and fee-based. Law school librarians were also invited to attend class to assist students and answer questions if needed. In addition, a few staff from MLRI came to class to introduce themselves and observe students grapple with the research questions.

At the end of the fifty-five-minute class, the student groups emailed their responses to their legal writing professor. See Appendix B for a sample student question and sample student answer.

After Class

After class, the legal-writing faculty shared the best answers with MLRI to review and, as appropriate, post as answers or as

11. The email to students read along these lines:

In class next week, we are going to do an in-class research assignment. If you have a laptop, please bring it. It will require logging into Westlaw and/or Lexis, so please make sure you have your password handy. Our assignment will involve doing legal research for a real question posed on www.masslao.org (please take a moment to familiarize yourself with the site). To give you a sense of what you'll be working on, you can watch this short video: <https://www.youtube.com/watch?v=deRSZdTGmuw> (this video was created for the Washington version of this project, but it's effectively the same as the Mass. version we'll work with).

12. *Washington State Lawyers Needed for Online Advice Clinic*, YOUTUBE (Nov. 18, 2015) <https://www.youtube.com/watch?v=deRSZdTGmuw> (video created for the Washington version of this project).

part of a FAQ page it created with responses to commonly asked questions. At the beginning of the next class, or outside of class via email or a course management system, the professor reviewed a few model answers students drafted and discussed the strengths and weaknesses that were common among the class that the examples highlighted.

Also, legal-writing faculty sent a summary of the exercise to the entire law school faculty. In addition to learning about this new collaboration and real-world experience students were getting, faculty attained information about an exercise that they could incorporate into their own case-book class, seminar, or clinic.

WHEN: INCORPORATING A “RESEARCH IN PRACTICE” CLASS INTO THE 1L CURRICULUM

At Suffolk, this exercise occurred towards the end of the spring semester. Students had a solid foundation of research instruction from the fall semester and were focusing on conducting efficient research in the spring semester. This exercise reinforced what students were trained on in the spring by our librarians, regarding cost-effective research and free research tools. Finally, this exercise at the end of the spring semester was a good transition into students thinking about how to transfer the skills they learned in the course to their summer job.

FEEDBACK: THE BENEFITS AND CHALLENGES

There were many benefits and a few challenges to the exercise for students, faculty, the *pro-bono* organization, low-income citizens, and the law school. Generally, the feedback was positive. Overall, the benefits outweighed the challenges.

Students

The students benefited from this exercise in multiple ways. Specifically, they faced the challenges of time-sensitive “real” research, used technology to solve problems in the delivery of legal services, communicated legal analysis to non-lawyers, and developed an appreciation for the importance of *pro-bono* work. Students had an opportunity to engage in legal research for a “real” client under realistic time constraints. Students were exposed to free online resources, such as a state landlord-tenant guide on the Internet. They were frequently surprised at how helpful the free online resources were and how much more cost-effective they were to use compared to immediately jumping onto Westlaw or Lexis. Moreover, many of the questions were not clear—

forcing students to work with and understand imperfectly framed questions.

The students also had to take into account their audience and determine how to communicate their legal analysis to non-lawyers in a professional email. In addition, students had to work effectively as a team. Moreover, the exercise reinforced issues regarding client confidentiality.

The exercise also introduced students to the importance of *pro-bono* work and how new technologies can expand one's ability to help people. Likewise, the exercise fostered the students' professional identity. Students appeared to leave class feeling good that they were able to assist MLRI because it, like so many legal aid organizations, is in need of help because of chronic understaffing.

Finally, the students were introduced to an organization where they may be able to do future *pro-bono* work. A state may have *pro-bono* requirements for law students and attorneys.¹³ Students at Suffolk are required to complete a minimum of fifty hours of practice-based learning.¹⁴ One way to complete the fifty hours is through *pro-bono* work. While this exercise could not count toward the fifty hours, as it was an in-class exercise and they were getting credit for the course, students may now be more inclined to assist this organization outside of class and even upon graduation.¹⁵

13. For example, in New York, candidates seeking admission into the New York bar, except admission on motion candidates, must have completed fifty hours of qualifying *pro-bono* work. N.Y. COMP. CODES R. & REGS. tit. 22, § 520.16 (2012).

14. See *Degree Requirements*, SUFFOLK UNIV. LAW SCH., <http://www.suffolk.edu/explore/61030.php> (last visited May 3, 2017).

Suffolk's Experiential Learning & Professional Development Requirements are as follows:

Prior to graduation, every student must satisfactorily complete:

- a. six credits of upper-level experiential learning courses (as defined by ABA Standards 303 and 304),
- b. two continuing legal education seminars, and
- c. a minimum of 50 hours of practice-based learning completed through any of the following ways: (i) First Year Summer Internship Program placement; (ii) 50 hours of legal work completed through the Pro Bono Program; or (iii) 50 hours of legal work completed under the supervision of an attorney. Students completing Sections b and c of this requirement must submit certification of completion to the Academic Services Office.

Part-time students in the Evening Division are exempt from section c. of the requirement, but are encouraged to complete it. *Id.*

15. See *Student Participation*, SUFFOLK UNIV. LAW SCH., <http://www.suffolk.edu/law/careers/students/22082.php> (last visited May 3, 2017) (explaining *pro bono* credit).

Pro-Bono Organization and Low-Income Citizens

MLRI and low-income communities in Massachusetts benefited as well. For example, they received needed research assistance. The exercise also introduced students to MLRI and the importance of *pro-bono* work, and hopefully encouraged the students to continue to participate in the project as law students and lawyers. In fact, for students interested in continuing to assist the organization, contact information was provided. Finally, MLRI developed a relationship with the law school.

Faculty

One benefit to faculty was that the exercise required minimal resources and time. While this exercise takes up one class period, it was incorporated into the curriculum at a time during the spring semester when there is not as much time for class preparation as legal-writing faculty are busy grading persuasive briefs. As described above, this exercise can be incorporated into the curriculum without a lot of preparation before class and it does not involve any additional grading. Although professors quickly review the student groups' answers, there is no grading or individual feedback involved, and thus, minimal work. Also, because students work in groups of two to three students, the total amount of student submissions a professor needs to review is decreased. Students still received feedback by discussing some model answers or other types of feedback such as discussing common problems or posting a handout or podcast.

While this exercise was not tied to the persuasive brief assignment students spend the majority of the spring semester working on, the exercise could be tied to a client email assignment related to the brief problem.¹⁶ This exercise could also transition well into an independent client communication unit and be part of a client email assignment.

Finally, with the need to incorporate more experiential learning opportunities into courses, case-book faculty, clinicians, and librarians can use this type of exercise in their own classes. For example, case-book faculty could incorporate questions involving divorce into a family law course and questions regarding landlord-tenant law in a property course. The integration of skills, experiential learning, and real-world legal issues into the classroom can be incorporated across the curriculum.

16. By pre-selecting the questions students will work on before class, it may be possible to pick an area of civil law related to the topic of the students' spring memo assignment.

Law School

Partnering with a *pro-bono* organization provides opportunities to connect the real world and the classroom and build relationships to provide public service, consistent with the mission of most law schools. This partnership could also lead to possible future employment for students and networking opportunities. Finally, it could encourage students to engage in community outreach and develop their professional identity, cultural competence, and soft skills, such as empathy, in addition to honing their research skills.

CONCLUSION

The overall benefits, the limited time and resource investment, and the need for access to justice and public-service oriented lawyers in society, all contribute to the value of this exercise. Legal-writing professors, case-book faculty, clinicians, and librarians can implement this exercise easily by reviewing the list of states partnering with ABA free legal answers or by using the sample student question and sample answer. This type of exercise and collaboration could be further developed in various classes and in numerous ways.

While this exercise can be completed in one class, students' efforts may have an effect beyond the classroom walls. Students learn the importance of efficient and accurate research and working with others while being exposed to the type of questions they may be expected to research and answer in practice. Overall, the exercise assisted in closing the legal aid gap by providing low-income citizens with access to justice one research question at a time.

APPENDIX A

States Partnering with ABA Legal Free Answers

Currently, a total of twenty-nine states use the free legal answers program created by the ABA.¹⁷

Alaska: <https://alaska.freelegalanswers.org/>
Arkansas: <https://ar.freelegalanswers.org/>
Connecticut: <https://ct.freelegalanswers.org/>
Florida: <https://florida.freelegalanswers.org/>
Georgia: <https://georgia.freelegalanswers.org/>
Hawaii: <https://hawaii.freelegalanswers.org/>
Illinois: <https://il.freelegalanswers.org/>
Indiana: <http://indiana.freelegalanswers.org/>
Iowa: <https://iowa.freelegalanswers.org/>
Kansas: <https://kansas.freelegalanswers.org/>
Louisiana: <https://la.freelegalanswers.org/>
Maryland: <https://maryland.freelegalanswers.org/>
Massachusetts: <http://mass.freelegalanswers.org/>
Michigan: <https://mi.freelegalanswers.org/>
Mississippi: <https://ms.freelegalanswers.org/>
Missouri: <https://missouri.freelegalanswers.org/>
Nebraska: <https://ne.freelegalanswers.org/>
New Mexico: <https://nm.freelegalanswers.org/>
New York: <https://ny.freelegalanswers.org/>
Oklahoma: <https://oklahoma.freelegalanswers.org/>
South Dakota: <https://sd.freelegalanswers.org/>
Tennessee: <https://tn.freelegalanswers.org/>
Texas: <https://texas.freelegalanswers.org/>
Utah: <https://utah.freelegalanswers.org/>
Vermont: <https://vt.freelegalanswers.org/>
Virginia: <https://virginia.freelegalanswers.org/>
West Virginia: <http://www.wv.freelegalanswers.org>
Wisconsin: <https://wi.freelegalanswers.org/>
Wyoming: <https://wyoming.freelegalanswers.org/>

¹⁷ See *Free Legal Answers*, *supra* note 3.

APPENDIX B

Sample Question

What is reasonable regarding the landlord's right to show a property?

I've notified my landlord that I'll be moving out in 3 months, when my lease is up.

He has started showing the apartment to potential tenants, but he refuses to give me any notice before showings.

I've asked for 24 hours' notice before a showing, but the landlord won't agree. He doesn't even ask whether a time is convenient for me, he just shows up and he lets himself in if I'm not there.

Is there anything in the law about what is considered reasonable notice of a showing? Is there anything I can do to make him give me at least 24 hours' notice, and to stop him from entering if I'm not there?

Also, are there any rules about how many showings to future tenants there can be? I feel like I have no privacy anymore.

I'd appreciate your advice.

*Sample Answer*¹⁸

The landlord should arrange with the tenant in advance to enter the apartment to make repairs, to inspect the condition of the apartment, or to show the apartment to prospective tenants, buyers, or real estate agents. However, the landlord may enter without notice if there is a mechanical or repair emergency or if it appears the tenant has abandoned the property. Mass. Gen. Laws ch. 186, § 15A-F.

If the landlord is unreasonable and will not cooperate with you on a mutually acceptable date or time to show the apartment to prospective tenants, you may want to file for a temporary restraining order at your local District Court.

The links below may provide additional helpful information on this topic:

- <http://www.mass.gov/ago/docs/consumer/landlord-tenant-guide.pdf>
- <https://www.malawforum.com/content/when-can-landlord-show-apartment-prospectivetenant#comments>
- <https://malegislature.gov/Laws/GeneralLaws/PartII/TitleI/Chapter186/Section15B>

18. Based on answer written by Pat McCarthy and Max Bowie (2017).