

SUPREME COURT OF THE STATE OF NEW YORK
APPELLATE DIVISION: SECOND DEPARTMENT

-----X

In the Matter of the Application of
TOURO COLLEGE
JACOB D. FUCHSBERG LAW CENTER,

PETITION

Petitioner,

Index No.

For a Student Practice Order pursuant to §§ 478 and 484
Of the Judiciary Law

-----X

STATE OF NEW YORK)
) ss.:
COUNTY OF SUFFOLK)

LAWRENCE RAFUL, being duly sworn, deposes and says:

1. I am the Dean of Touro College, Jacob D. Fuchsberg Law Center, Petitioner herein. Touro College, Jacob D. Fuchsberg Law Center is fully approved and accredited by the New York State Board of Regents and the Education Department of the State of New York. It is accredited by the American Bar Association and is a member of the American Association of Law Schools. I make this application to renew a Student Practice Order previously granted to Touro College, Jacob D. Fuchsberg Law Center on July 1, 1997, renewed on May 17, 2001, January 31, 2005 and renewed again on January 31, 2007.
2. I am familiar with the clinical education courses involving student practice which have been developed at Touro College, Jacob D. Fuchsberg Law Center,

the legal services which have been provided, and the faculty supervision which is given the students in these courses.

3. The clinical programs are designed to prepare students to practice law in conformity with the highest standards of the legal profession and the Code of Professional Responsibility. The clinical programs represent clients who are indigent or face substantial obstacles in obtaining representation. The legal profession benefits by the enhancement of law students' skills and appreciation of the nature and importance of public interest law practice and pro bono service. The public good is served by providing legal services to a population which would otherwise not receive representation. The operation of these clinics furthers the recommendations of the American Bar Association Task Force on Law Schools and of the Profession: Narrowing the Gap, "Legal Education and Professional Development – An Educational Continuum" (1992) (McCrane Report), which criticized law schools for their failure to provide actual training for future lawyers. The operation of these clinics also promotes the goals outlined in the report of the Sullivan Commission, entitled "Report of the Professional Education Project: Legal Education and Professional Development in New York State" which specifically recommended expansion of clinical offerings in the state's law schools.

4. Touro College, Jacob D. Fuchsberg Law Center initially received two grants to start clinical legal education programs: (1) a grant from the United States Department of Education to establish a program for the representation of persons applying for Social Security disability benefits; and (2) a grant under the

Protection and Advocacy for Mentally Ill Individuals Act of 1986, Pub. L. No. 99-319, 100 Stat. 478 (the “PAMII Act”), to provide legal assistance for protection and advocacy on behalf of mentally ill individuals who are current or former inpatients or residents in facilities providing care and treatment. The legislation was subsequently re-named the Protection and Advocacy for Individuals with Mental Illness (PAIMI) Act. Since that time the Law Center has operated clinical programs permitting students the opportunity to work under the close supervision of faculty members and in accordance with the rules governing student practice in the federal district courts and in the Court of Appeals for the Second Circuit and the student Practice Order first issued by this Court July 1, 1997. The initial clinical offerings have expanded to include a variety of substantive areas and Petitioner seeks renewal of an order from this Court permitting certain activities of student practice as authorized by § 478 and § 484 of the Judiciary Law.

5. Each law student providing legal representation in the clinical program acts only under the direct supervision of a member of the faculty of Touro College, Jacob D. Fuchsberg Law Center. The resumes of the clinical professors supervising “live-client” clinics have previously been filed with this Court. . These resumes demonstrate that each of the professors has an extensive practice background in the subject area covered by the clinic, that each is well familiar with the need to expand legal services to those unable to afford or contract for them and that each is suitable to supervise and educate students who are receiving legal training through clinical activities.

6. Six live-client clinical courses are currently offered by Touro College, Jacob D. Fuchsberg Law Center: the Elderlaw Clinic, the Civil Rights Litigation Clinic (formally the Mental Disability Law Clinic), the International Human Rights, Asylum Clinic and the Family Law Clinic and the Non-for-Profit Clinic.

7. The Elderlaw Clinic represents senior citizens in a variety of legal matters, such as Social Security, pensions, estate planning, age discrimination, guardianship, housing, Medicaid, Medicare and other public benefits. The work of Legal Interns for the Elderlaw Clinic has been primarily before federal courts and administrative agencies and state courts and administrative agencies. Clients have been or will be represented in state courts, including eviction proceedings, debt collection and consumer matters, Article 78 reviews of administrative hearings, guardianship and estate proceedings in Supreme and Surrogate Courts, grandparent visitation issues in Family Court and other issues related to the purpose of the clinic. In matters not covered by the Practice order, students assist the supervising attorney, who makes all court appearances in those matters. In addition to advice and representation on behalf of such persons, the Clinic may engage in related legislative and administrative advocacy and educational and advisory activities. The Clinic is taught by Professor Marianne Artusio.

8. The Civil Rights Litigation Clinic represents clients in litigation and other activities to protect and advocate the rights of mentally ill individuals and investigate incidents of abuse and neglect of such individuals in accordance with the purposes of the Protection and Advocacy for Individuals with Mental Illness Act. Persons who have been diagnosed as mentally ill and now are inpatients or

residents of facilities providing care or treatment or persons who were formerly inpatients, are represented or assisted by the Clinic. The work of legal interns for the Clinic is primarily before federal courts and administrative agencies. The clinic also represents clients in New York State Courts due to the nature of the civil rights violations alleged. In addition to investigation, negotiation, and litigation on behalf of such persons, the Clinic represents clients in related legislative advocacy, educational and advisory activities. The Civil Rights Litigation Clinic is taught by Professor William M. Brooks.

In New York, we are fortunate to have available the Mental Hygiene Legal Service, which for many years has provided outstanding representation for inpatients in psychiatric facilities. Petitioner cooperates with the Mental Hygiene Legal Service in the Second Department to coordinate the provision of legal services. The activities of the two programs are mutually beneficial. Similarly, the Clinic takes full advantage of the Mental Hygiene Legal Service's acknowledged expertise and experience in matters in which cooperative efforts are undertaken.

9. The International Human Rights and Asylum Litigation Clinic provides law students with experience representing clients both in Federal Court and administrative hearings before the U.S. Department of Justice. Students represent individuals who have applied for political asylum and refuge in this country. Clients come from all parts of the world and fear returning to their home country because of past or future persecution. This clinic was cited in the Sullivan Commission Report, because it is designed to be available for students in our

evening division and provides them a meaningful clinical opportunity despite schedules which would normally preclude such an educational experience. This clinic is taught by Adjunct Professor Neil Afran.

10. The Non-Profit Law Clinic offers students the experience of working with a member of our adjunct faculty advising and assisting community groups and non-profit legal organizations. Under faculty supervision, students meet with low-income community groups and advise on the most appropriate form of organization to accomplish the group's goals and then assist Professor Byrd in representing the group to create the most appropriate organizational structure, such as creating a Not-for-Profit Corporation. They also assist on other matters, such as drafting by-laws and applications for tax exempt status. This Clinic has been taught by Adjunct Professor William Byrd, Esq.

11. The Family Law Clinic is designed to teach students many facets of matrimonial and family law. Under the supervision of Nassau/Suffolk Law Services, Inc. (and pursuant to its established Student Practice Order) and the attorneys in the Family Law Clinic, students spend one day per week in Suffolk County Family Court representing victims of domestic violence to obtain temporary and permanent Orders of Protection and other relief under Article 8 of the Family Court Act. The Clinic also represents clients in divorce proceedings. Clients are referred to the Clinic by the Suffolk County Bar Pro Bono Foundation, which reviews the applications for assistance and verifies the client's indigence. That such a service is needed is shown by the fact that before the establishment of the Family Law Clinic, the Pro Bono Foundation's waiting list for divorce

plaintiffs was about five (5) years long. Students in this Clinic, under faculty supervision, are also involved in child support enforcement and modification proceedings in Suffolk County Family Court. Students are required to interview clients, conduct all discovery, prepare necessary agreements and papers for filing in Supreme and Family Court and conduct inquests and hearings as appropriate. The Family Law Clinic currently receives funds from the Suffolk County Department of Social Services to provide legal representation pursuant to Social Services Law §111-g. Under this grant the Clinic represents indigent and low-income custodial parents in child support matter. The Family Law Clinic is taught by Professor Lewis A. Silverman.

13. The Law Center also offers four additional clinical courses, which offer students clerkship and externship experiences. Students in these courses do not perform duties which require authorization pursuant to the Student Practice Order and they do not practice under this Court's Order authorizing student practice. The Civil Externship Clinic places students in law firms, public interest organizations or government law offices. This Clinic is currently taught by Professor T. Kevin Murtha. The Criminal Law Clinic, is generally taught by Professor Peter Davis. Students are placed in a local prosecutor or defender offices. The Business Law and Technology Clinic, taught by Professor Jonathan Ezor, places students in law firms or corporate counsel offices, where the legal work involves issues related to advanced technology. The Judicial Clinic, currently taught by Justice Kenneth L. Gartner, places students as Law Clerks to federal and state judges throughout the metropolitan area. The U.S. Attorney's

Rotation Clinic is being taught by Adjunct Professor Joseph Ryan, students in this clinic are placed in the Criminal and Civil Divisions of the U.S. Attorney's Office.

14. Our clinical programs have a special mission to serve the indigent and lower income clients who would otherwise be unable to afford private counsel. The divorce clients in the Family Law Clinic, for example, are all certified as indigent by the Suffolk County Bar Pro Bono Foundation and most are recipients of public assistance or other forms of public benefits. Our Elderlaw Clinic represent indigents or people of modest means over the age of 60; most have income limited to Social Security or some form of public benefit and have no financial resources to obtain and compensate private counsel. Many are confined to home and have great difficulty obtaining legal advice and representation. Touro Law Center is one of the few law schools in the country to impose a requirement that all students participate in pro bono service as a way to participate in the professional obligation to make legal services to indigent persons. The pressing need for these services is exacerbated by funding cutbacks over the last few years and restrictions imposed on the types of clients and cases that may be handled by organizations, funded by the national Legal Services Corporation.

15. The proposed Order accompanying this Petition is identical to the Student Practice Order originally granted by this Court on July 1, 1997, renewed effective May 17, 2001 , January 31, 2003 and again on January 31, 2006. It includes all areas where it is expected that Touro's clinical programs may represent clients in the Courts of the State of New York.

WHEREFORE, Touro College, Jacob D. Fuchsberg Law Center
respectfully requests that the proposed Order be granted as requested herein.

Dated: December 20, 2007
Central Islip, NY

LAWRENCE RAFUL
Dean
Touro College,
Jacob D. Fuchsberg Law Center,
300 Nassau Road
Huntington, NY 11743
(631) 421-2244 x 301

STATE OF NEW YORK)

)SS.:

COUNTY OF SUFFOLK)

I, the undersigned, being duly sworn, depose and say: I am petitioner in this proceeding; I have read the foregoing Petition and know the contents thereof; the same is true of my own knowledge, except as to the matters therein stated to be alleged on information and belief, and as to those matters I believe it to be true.

LAWRENCE RAFUL

Sworn to before me on
December 20, 2007

Notary Public