

# CIVIL LITIGATION CLINIC

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Faculty	Visiting Assistant Professor Stephanie Glaberson and Fellow; Professor David Vladeck (Of Counsel)
What do students do	Students litigate meaningful public interest cases in state and federal courts and administrative adjudicative bodies, including, in some cases, pursuing appeals
Semester or year-long	One semester, Fall or Spring
Open to	Second semester 2Ls, 3Ls, and 4Es (at least 40 credits)
Prerequisite(s)	All first-year courses.
Credits	6
Requires Student Bar Certification	No
How many students	6 students/semester
Conflicts	Handled on a case-by-case basis. Possible conflicts for students with part-time or full-time jobs with the federal government, but none should prevent participation in the clinic.
Average time commitment	21 hours/week (on average). Work may continue through breaks.
Seminar hours	2 hours/week
Orientation	First day of clinic
Information session(s)	3/29/21 7:30 – 9:00pm via zoom

## OVERVIEW

The Civil Litigation Clinic, founded during the 2017-2018 academic year, focuses on civil litigation, principally in federal district court. The Clinic aims to teach students basic litigation skills including, among others, interviewing clients, drafting complaints, conducting discovery, taking and defending depositions, drafting dispositive motions, and, on occasion, taking appeals. The Clinic does not focus on a single area of law. Instead, it takes on meaningful public interest cases that are especially good teaching vehicles, including open government cases, cases involving administrative agencies, and consumer protection cases. The Clinic's clients are public interest, civil rights, environmental and other non-profit organizations, as well as individuals in need of legal services.

Students joining the Clinic will be expected to work for at least 21 hours per week, including attending the two-hour weekly seminar. Students are also expected to participate in weekly rounds sessions, supervision team meetings for their case teams, and bi-weekly individual meetings with the faculty director and fellow. Students will engage in substantial legal and factual research, drafting pleadings, motions, and briefs, meeting with clients and opposing counsel, and attending court proceedings as the needs of the clinic's docket demand.

## CASE WORK

The lion's share of the Clinic's work is on the Clinic's cases. We expect that students will spend about 20 hours per week on Clinic work, apart from the seminars. Each Clinic student is assigned to a team (of two students) to work on one to two cases, supervised by the Clinic director or fellow. That team is responsible for moving that case forward. Make no mistake, students bear front-line responsibility for the case. That's the point of the Clinic. But we're here to help and to ensure that students don't stray far off-course. Each team reports to its supervisor during in-person case team meetings at least once per week on the progress the team is making. During these meetings, students receive extensive feedback on their work.

## SEMINAR

As part of the Clinic, students participate in a once-weekly, two-hour long seminar that focuses on the more technical issues that dominate civil litigation. The seminar covers, among other things, drafting pleadings, developing theories of the case, the mechanics of filing complaints, other pleadings, and motions, interviewing clients, discovery, motion practice, and oral argument.

In addition to case team meetings and the seminar, students participate in a weekly "rounds" session, scheduled after the start of the semester. These meetings are an opportunity for case teams to share their experiences with the larger group and to brainstorm and get advice from the class on thorny issues. At times, we also use these meetings to continue discussions begun during the seminar.

Students also meet once every two weeks individually with the clinic director and fellow, to review the student's progress and respond to any questions that the student might have. These meetings are also scheduled after the start of the semester in order to accommodate students' other commitments and classes.

## CLINIC INSTRUCTORS

### **Stephanie K. Glaberson, Director**

Professor Glaberson rejoins the clinic as its Director during the 2021-22 school year, after previously serving as its founding Fellow.

Since leaving Georgetown, Professor Glaberson has served as a staff attorney focusing on access to justice issues with Public Justice, a national non-profit public interest law firm.

Prior to helping to found the Civil Litigation Clinic in 2017, Professor Glaberson defended low-income New Yorkers against government interference with their right to parent their children, with Brooklyn Defender Services' Family Defense Practice.

She received her B.A. magna cum laude from the University of Pennsylvania, her J.D. cum laude from New York University School of Law, and her L.L.M. with honors from Georgetown University Law Center. She previously served as a law clerk to the Honorable Frank Maas in the United States District Court for the Southern District of New York. She is a member of the bars of New York and the District of Columbia, as well as several federal courts.

### **David C. Vladeck, Of Counsel**

Professor Vladeck teaches civil procedure, federal courts, a practicum on privacy and technology (taught jointly with MIT), and directs the Civil Litigation Clinic. He also serves as Faculty Director of the Law Center's Center on Privacy and Technology.

From 2002 to 2009, Professor Vladeck served as Director of the Civil Rights section of Georgetown Law's Institute for Public Representation, a student clinic that handles complex trial court and appellate litigation focused on civil rights and other public-interest litigation, while also teaching civil procedure and federal courts. From 2009 to 2013, Professor Vladeck took leave from Georgetown to serve as the Director of the Federal Trade Commission's Bureau of Consumer Protection.

At the FTC, he supervised the Bureau's 450 lawyers, investigators, paralegals and support staff in carrying out the Bureau's work to protect consumers from unfair, deceptive or fraudulent practices. Before joining the Law Center faculty full-time in 2002, Professor Vladeck spent over 25 years with Public Citizen Litigation Group, a national public interest law firm, serving the last ten years as the Group's director. He has briefed and argued a number of cases before the U.S. Supreme Court and more than sixty cases before federal courts of appeal and state courts of last resort.

He is a Senior Fellow of the Administrative Conference of the United States, a member of the National Academy of Sciences' Committee on Law, Science and Technology, and an elected member of the American Law Institute. He also serves on the boards of the Natural Resources Defense Council, the National Consumers Law Center and the Center for Democracy and Technology. Professor Vladeck frequently testifies before Congress and writes on administrative law, First Amendment, consumer protection, privacy, and access to justice issues.

## CLINIC CASES

The Civil Litigation Clinic has represented a variety of clients ranging from legislators to non-profit organizations to individuals in need of legal assistance. Below is a sample of our case load:

### **Representative Carolyn Maloney and Fifteen Additional Members of the House Oversight and Government Affairs Committee (Seven Member Rule Case)**

The Clinic represents sixteen members of the House Oversight and Government Affairs Committee in an action against the General Services Administration ("GSA") seeking information relating to the agency's implementation of GSA's lease of the Old Post Office in Washington, D.C., to a company controlled by President Donald Trump.

In August 2013, the GSA entered into a lease agreement with the Trump Old Post Office LLC, a company owned by Donald Trump and his children, permitting the company to convert the Old Post Office on Pennsylvania Avenue, NW, just two blocks from the White House, into the Trump International Hotel. To avoid conflicts of interest, the lease specifies that "No member of Congress, or elected official of the Government of the United States . . . shall be admitted to any share or part of this Lease, or to any benefit that may arise therefrom."

Prior to Trump's inauguration, GSA informed the incoming President that he would have to divest his interest in the hotel. Trump refused to do so, and post-inauguration, GSA switched its position, giving Trump a green light to retain his interest in the hotel.

The House Oversight Committee is responsible for oversight of GSA, and the plaintiffs in the case – the Democrats on the Committee – demanded that GSA provide them with information on GSA's justification for its about face on whether Trump's ownership interest violates the lease, the extent to

which the White House influenced that decision, and the extent to which the hotel is profiting from foreign governments.

The case is based on a statute called the Seven Member Rule, 5 U.S.C. § 2954, which authorizes any seven members of the House Oversight Committee, and any five members of the corresponding oversight committee in the Senate, to obtain any records from any Executive agency. The District Court for the District of Columbia dismissed the complaint on the ground that plaintiffs did not have standing. The plaintiffs appealed, and the Clinic briefed and argued the appeal before the Court of Appeals for the District of Columbia, which has not yet issued its decision.

### **Natural Resources Defense Council (NRDC)**

The Clinic represents NRDC in a Freedom of Information Act (FOIA) case seeking information about how one of President Trump's political appointees may be acting to impermissibly weaken chemical safety rules.

In April 2017, President Donald Trump appointed Dr. Nancy Beck to lead the EPA's chemical safety office. Dr. Beck is an industry insider and served for years as a senior director at the American Chemistry Council, the chemical industry's lobbying arm. Fearing that Dr. Beck was unlawfully and unethically using her position to weaken vital chemical safety rules, NRDC submitted a FOIA request seeking information about Dr. Beck's involvement in these rulemakings.

When the EPA failed to respond to NRDC's request, NRDC filed suit in federal court and enlisted the help of the clinic in litigating the case. The clinic represents the NRDC in all aspects of the litigation. The clinic succeeded in negotiating a settlement of EPA's claims that NRDC's request was impermissibly vague, and in November 2017 reached an agreement with EPA on a schedule for production of thousands of records responsive to NRDC's request.

EPA produced hundreds of documents, but withheld hundreds more, claiming that exemptions to FOIA's disclosure rule enabled it to do so. EPA moved for summary judgment and the court issued a mixed opinion, holding that EPA did not disclose all the material it should have. EPA moved for partial reconsideration of the court's summary judgment opinion, and the Clinic currently awaits the court's resolution of that motion. The case will likely involve further briefing following the court's decision on reconsideration.

### **Center on Privacy & Technology**

The Clinic represents Georgetown's Center on Privacy & Technology in a case seeking the release of information about the New York City Police Department's pervasive use of face recognition technology.

As part of a year-long project culminating in the publishing of its groundbreaking report, the Perpetual Lineup (available at <https://www.perpetuallineup.org/>), Georgetown's Center on Privacy & Technology submitted freedom of information requests to more than 100 law enforcement agencies across the country seeking information about the agencies' use of face recognition technology. The Center submitted one such request to the New York City Police Department, which was denied. The Center filed suit in New York Supreme Court, and the case is currently pending before Justice Shlomo S. Hagler.

As a result of the Clinic's efforts, the NYPD has disclosed hundreds of documents related to its use of face recognition technology to the Center. In two instances, the NYPD inadvertently disclosed documents that it subsequently "clawed back" after the Center had already reviewed them. The Supreme Court not only ordered the Center to return the inadvertently produced documents, but also prohibited the

Center from referring to the documents' existence. The Center appealed that portion of the court's order to the New York Supreme Court, Appellate Division and the Clinic is currently briefing the appeal.

The Clinic also plans to appeal the Supreme Court's order that the NYPD was permitted to make hundreds of redactions on the ground that its use of face recognition technology is not a "routine" law enforcement technique, and certain information about it is therefore exempt from disclosure under state law.

### **Tax Attorney v. IRS**

The Clinic represents a tax attorney in a Freedom of Information Act case seeking documents containing allegations about statements the attorney made during his representation of a client before the Internal Revenue Service. An IRS agent filed a report of suspected practitioner misconduct with the IRS's Office of Professional Management (OPR). Although OPR determined the report merited no further action, it informed the tax attorney that it would retain the file for 25 years and that the allegations may be used against him in the event another report of suspected practitioner misconduct is filed.

The district court granted summary judgment to the IRS, determining that an exemption in FOIA permitted the IRS to withhold the allegations. At this point, the Clinic took over the case and handled the appeal. The Court of Appeals vacated the district court's summary judgment decision and remanded the case, which is ongoing.

### **Professor Brad Snyder**

The Clinic represents Georgetown Law Professor Brad Snyder in a Freedom of Information Act case against the Department of State seeking the release of records related to associates of Justice Felix Frankfurter. Professor Snyder will use the records to research his book on the former Supreme Court Justice. Clinic students drafted and filed a complaint in district court, and the Department of State answered. This case will likely involve summary judgment briefing.

## **APPLICATION PROCESS**

The Civil Litigation Clinic has slots for six students for fall 2021 and for another six students for spring 2022. You must submit a writing sample with your general application. The writing sample should be your work, not something significantly edited by others. It may be any length. Please do not submit an excerpt.

## **MORE INFORMATION**

For more information, if you wish to contact any of the clinic's current or former students, or if you have any questions, don't hesitate to contact the clinic's fellow, Rachel Fried, at [rachel.fried@georgetown.edu](mailto:rachel.fried@georgetown.edu). She is happy to discuss the clinic with you or to connect you with the clinic's Director as needed.