

# HOW SERVING JOBLESS WORKERS DURING THE PANDEMIC'S ECONOMIC RECESSION GROUNDED STUDENTS: A REFLECTION FROM MICHIGAN'S WORKERS' RIGHTS CLINIC

RACHAEL KOHL AND NANCY VETTORELLO\*

*The COVID-19 pandemic drastically changed the delivery of legal education. Many courses switched to remote instruction, and that change was particularly complicated for clinical courses. For Michigan's Workers' Right Clinic (WRC), however, the pandemic brought more than a change in course delivery – it brought a huge influx of new cases and community need with rapidly and continually changing laws. This article describes how the WRC navigated and thrived, despite the rapid changes brought about by the pandemic, and how the clinic provided an opportunity for students to engage in more complex work that benefited students both academically and mentally. This article first describes the structure of the WRC, which includes first-, second- and third- year students. It then describes how the WRC adapted to the challenges of COVID-19, including how the clinic fostered a substantive and engaging experience despite its remote nature, how the clinic responded to rapidly changing unemployment laws and regulations, and what the instructors learned from students. The third section describes the human and financial impact the WRC had on unemployed Michigan residents during the pandemic. The article ends with reflections of what changes WRC will keep in future semesters and how other clinicians may be able to implement this article's findings into their courses.*

## INTRODUCTION

Leaving Michigan's State Capitol building with my students on March 10, 2020, I<sup>1</sup> felt on top of the world. I had just experienced one

---

\* Rachael Kohl is a Clinical Assistant Professor and the Director of the Workers' Rights Clinic at the University of Michigan Law School. She joined the clinic as a fellow in 2017 and became the Director in 2019. Prior to working at the law school, Professor Kohl worked at a civil rights and employment law firm focusing on serving workers. Nancy Vettorello is a clinical professor of law in the Legal Practice Program at the University of Michigan Law School. We'd like to thank Bella Book, a recent graduate of Michigan Law and a student who served in the Workers' Rights Clinic every semester of her law school career, who provided excellent research assistance for this Essay.

<sup>1</sup> This personal account is from Professor Kohl.

of those moments a clinical professor hopes for, where the many hours of working together with students produced direct and substantial benefits for the community. My students, despite having only just returned from their spring break, pulled off an incredible feat. Together, we prepared our own testimony for the Senate Oversight Committee regarding how the Michigan Unemployment Insurance Agency needed to repair the damage it had done during its False Fraud Scandal<sup>2</sup> and what else it should do to improve its services going forward. My students had also prepared a client to testify alongside us and tell his story about the ongoing harm the False Fraud Scandal had caused him. All their hard work came together to create a remarkable moment. Using the different skills we had developed in the clinical course—client interviewing, storytelling, compelling written and oral advocacy—the students showcased their ability to advocate in different ways. With our testimony and our prepared packet of recommendations in hand, the Committee praised the students and agreed that the testimony showed how much more work was needed to improve the system for their constituents.

After the meeting, we shook hands and took photos with the legislators—each of whom were well within six feet of each other. Looking back now, these things that used to feel so normal, now feel alien. At the time, it was unconfirmed that COVID-19 was spreading in our community, so none of us were really thinking of public health implications. We considered the event a win, and the car ride home was filled with excitement over their amazing work. I was bursting with pride. The plan was to meet with the legislative committee again the next month for further testimony. Little did we know that this meeting would never be scheduled as the world was about to turn upside down.

When we were almost back to the law school, one of the students

---

<sup>2</sup> The False Fraud Scandal refers to a time in Michigan's history where the Unemployment Insurance Agency used a computer system to charge fraud without any human oversight, and the system wrongly charged innocent Michigan workers at a 93% error rate. In October 2013, the Michigan Unemployment Insurance Agency implemented "MiDAS" – a system designed to automate all unemployment insurance claims without any human oversight. Despite its promise, MiDAS created grave issues for the state. From October 2013 to August 2015, the MiDAS system issued over 60,000 fraud determinations with a 93% error rate. In total, these false fraud determinations wrongly accused over 40,000 Michiganders of committing fraud. For context, MiDAS was directly responsible for adjudicating more cases of fraud in two years than the Agency had in either of the preceding two decades. Johnathon Ousting, *Michigan Settles Federal Unemployment Case Fraud Case*, DETROIT NEWS (Feb. 2, 2017, 11:05 AM), <https://www.detroitnews.com/story/news/local/michigan/2017/02/02/michigan-settles-federal-unemployment-fraud-case/97395906/> ; Ryan Felton, *Michigan Unemployment Agency Made 20,000 False Fraud Accusations*, THE GUARDIAN (Dec. 18, 2016), <https://www.theguardian.com/us-news/2016/dec/18/michigan-unemployment-agency-fraud-accusations>.

received a news alert on his phone that Michigan had its first confirmed case of COVID-19. The next day, all in-person classes at the University of Michigan were cancelled for the rest of the term. By Monday, restaurants and stores were closed, the governor had expanded state unemployment benefits, and we were on lockdown.<sup>3</sup> In the following few weeks, the Workers' Rights Clinic would receive more inquiries for help than we had in the last three years combined.

Unemployment insurance exists to provide life-saving financial support to workers who have been displaced from their jobs, but it also provides economic stabilization.<sup>4</sup> The program began in 1935 in response to the severe joblessness crisis during the Great Depression.<sup>5</sup> The benefits are one of the only tools the government has in place to directly serve workers and prevent families from falling into poverty during times of unemployment and economic downturns.<sup>6</sup> Unemployment programs have not been updated much since 1935, which in turn prevents many workers from accessing the benefits. As the country moved to lockdown to slow the spreading of the new disease, millions of workers lost their jobs overnight. Michigan, and Detroit specifically, was hit particularly hard.<sup>7</sup> The rapid turn of events created a rate of job loss unlike anything this country has ever experienced—including during the Great Depression or Recession.<sup>8</sup>

---

<sup>3</sup> See Mich. Exec. Order No. 2020-09 (March 16, 2020), [https://www.michigan.gov/whitmer/0,9309,7-387-90499\\_90705-521789--,00.html](https://www.michigan.gov/whitmer/0,9309,7-387-90499_90705-521789--,00.html) (“Beginning as soon as possible but no later than March 16, 2020 at 3:00 pm, and continuing until March 30, 2020 at 11:59 pm, the following places of public accommodation are closed to ingress, egress, use, and occupancy by members of the public: Restaurants, food courts, cafes, coffeehouses, and other places of public accommodation offering food or beverage for on-premises consumption”).

<sup>4</sup> Gabriel Chodorow-Reich & John Coglianesi, *Unemployment Insurance and Macroeconomic Stabilization*, in RECESSION READY: FISCAL POLICIES TO STABILIZE THE AMERICAN ECONOMY, 153, 154 (Heather Boushey, Ryan Nunn, & Jay Shambaugh eds., 2019), [https://www.brookings.edu/wpcontent/uploads/2019/05/Automatic-Stabilizers\\_FullBook\\_web\\_20190508.pdf](https://www.brookings.edu/wpcontent/uploads/2019/05/Automatic-Stabilizers_FullBook_web_20190508.pdf); Alan S. Blinder & Mark Zandi, *The Financial Crisis: Lessons for the Next One*, CTR. ON BUDGET & POL’Y PRIORITIES (Oct. 15, 2015), <https://www.cbpp.org/research/economy/the-financial-crisis-lessons-for-the-next-one>.

<sup>5</sup> Nicholas Crafts & Peter Fearon, *Lessons from the 1930s Great Depression*, 26 OXFORD REV. ECON. POL’Y 285, 291 (2010).

<sup>6</sup> *Id.*

<sup>7</sup> In May of 2020, one of the early peaks of the pandemic in Michigan, 43% of Detroiters who were employed before COVID-19 were unemployed, either temporarily or permanently. The overall unemployment rate skyrocketed to 48%, double the state of Michigan’s unemployment rate and three times the national unemployment rate at the time. See Meredith Spelbring, *Nearly Half of Detroiters Have Lost Their Job During the Coronavirus Pandemic*, DETROIT FREE PRESS (May 26, 2020, 1:40 PM), <https://www.freep.com/story/news/local/michigan/detroit/2020/05/26/nearly-half-detroiters-unemployed-coronavirus/5258690002/>.

<sup>8</sup> Aaron Sojourner & Paul Goldsmith-Pinkham, *Coronavirus Job Losses For The Past Two Weeks Could Match Two Years Of The Great Recession’s Job Losses*, ECONOMIC POLICY INSTITUTE: WORKING ECONOMICS BLOG (April 3, 2020, 5:05 PM), <https://www.epi.org/blog/coronavirus-job-losses-for-the-past-two-weeks-could-match-two-years->

Outside of public health, the temporary expansion of the unemployment insurance (“UI”) system marked the government’s most intensive response to the needs of the individual citizen. COVID-19 placed a magnifying glass on this complex social safety net, revealing deep cracks in a system that rarely receives public scrutiny. In 2018, 34.79% of UI applications across the country were improperly denied.<sup>9</sup> As applications for UI skyrocketed in response to COVID-19 lockdowns, improper denials emerged as an unanticipated barrier to economic stability.<sup>10</sup> As of May 2020, 44% of those who had applied for UI reported that they had been denied or were still waiting.<sup>11</sup> Federal and state-run UI systems across the country have not been able to keep pace with the exponential increase in demand.<sup>12</sup>

Michigan’s Workers’ Rights Clinic (WRC), with its focus on accessing UI benefits, became overwhelmed by the mass need for help at the start of the pandemic. The WRC has always been full of opportunities for students. The clinic allows budding lawyers to cut their teeth in a litigation setting through direct representation of workers who have been denied benefits. The clinic also allows students to grapple with policy considerations as they identify and try to solve the systemic limitations and flaws of the UI system. One such flaw is that those who are most often cut out from receiving unemployment benefits include Black and minority workers, primary caregivers, who are most often women, and gig and part-time workers.

In fact, the UI system is not exempt from the systemic racism that has left many Black Americans with fewer economic resources. A recent study by Working America revealed that roughly 52% of Black Americans were uncertain of their eligibility to receive UI during COVID-19, even with the recent federal expansion.<sup>13</sup> Further, with the closures of schools and daycare facilities, many women—who

---

of-the-great-recessions-job-losses-estimates-of-new-claims-filed-are-10-million/.

<sup>9</sup> Calculations completed by author and an Economics Ph.D. and JD candidate who is affiliated with the clinic. Please contact the authors for further information. See U.S. Dep’t of Labor, Emp. & Training Admin., *Benefit Accuracy Measurement State Data Summary Improper Payment Information Act Performance Year 2018* (2018), [https://oui.doleta.gov/unemploy/bam/2018/IPIA\\_2018\\_Benefit\\_Accuracy\\_Measurement\\_Annual\\_Report.pdf](https://oui.doleta.gov/unemploy/bam/2018/IPIA_2018_Benefit_Accuracy_Measurement_Annual_Report.pdf).

<sup>10</sup> Abigail Johnson Hess, *Study Finds 44% of U.S. Unemployment Applicants Have Been Denied or Are Still Waiting*, CNBC (May 15, 2020, 4:52 PM), <https://www.cnbc.com/2020/05/15/44percent-of-us-unemployment-applicants-have-been-denied-or-are-waiting.html>.

<sup>11</sup> *Id.*

<sup>12</sup> Michigan Advance, *Michigan’s Jobless Benefits Are Dated. The Claims System Is Plagued with Problems. So What Can Be Done?*, PATCH (July 31, 2020, 8:48 AM), <https://patch.com/michigan/across-mi/michigan-s-jobless-benefits-are-dated-claims-system-plagued-problems-so-what-can>.

<sup>13</sup> *Increasing Utilization of Unemployment Benefits Among Black Workers*, WORKING AMERICA (August 4, 2020), <https://workingamerica.org/BlackWorkersUI>.

often serve as the primary caregivers—were unable to continue their employment. And before federal legislation expanded unemployment benefits during the pandemic, these caregivers would have been excluded from benefits in most states.<sup>14</sup> With the pandemic’s economic recession and the additional federal and state UI expansions, the WRC had nearly limitless possibilities for new learning opportunities in both direct representation and policy work.

While many clinics faced difficulties finding work for their students due to court closures and adjournments at the start of the pandemic, the WRC operated in full swing to address the economic impacts of the pandemic. The students, despite handling enormous stress in their own lives, recognized that they had specialized knowledge and training that was suddenly needed more than any other time in recent history. They rose to the occasion to meet community needs. While the students in this clinic have always been passionate advocates, their response to the pandemic exceeded all of our expectations. Shortly after lockdown began, both current and past WRC students reached out to find ways to assist meeting the increased demand for WRC services. The pandemic-driven economic recession forced the WRC into the public eye, as one of the only resources that provides help navigating the unemployment system.<sup>15</sup>

The onset of the pandemic and the related economic crisis also meant that we needed to find new ways to deliver the clinical experience. In this Essay, we discuss the year they spent teaching virtually and how the WRC fostered not only substantial learning experiences, but also a way for students to better engage with each other and their community in the new reality of remote communication. Professor

---

<sup>14</sup> Many states have facially-neutral laws that do not recognize childcare or family care responsibilities as good cause for refusing to accept work or as good cause for voluntarily leaving a position. Because data collected by the Department of Labor is not disaggregated based on gender or caregiving status, the gendered impact of these facially neutral provisions is hard to ascertain. But we know that a significant number of families no longer conform to the traditional family model that was the assumed norm when UI was initially conceived. U.S. DEP’T OF LABOR, EMP. & TRAINING ADMIN., OFFICE OF UNEMPLOYMENT INS., *Chapter 5: Nonmonetary Eligibility, in COMPARISON OF STATE UNEMPLOYMENT INSURANCE LAWS*, tbl. 5-15 (2019), <https://oui.doleta.gov/unemploy/pdf/uilawcompar/2019/nonmonetary.pdf> ; see also Rebecca Smith, Rick McHugh and Andrew Stettner, *Unemployment Insurance and Voluntary Quits How States’ Policies Affect Today’s Families*, 46 CHALLENGE 3, 89 (2003) (“From its earliest days, the nation’s UI programs reflected a “male breadwinner model”).

<sup>15</sup> While some states have legal services devoted to representing jobless workers, that is not the case in Michigan. This clinic, which was a non-profit only a few years ago, is the state’s largest resource to help jobless workers navigate the unemployment insurance system for free. As we describe later, the legal services community also knew it needed to respond to the workers’ needs stemming from the economic recession, so the clinic took on the role of training other lawyers to respond to the pandemic.

Kohl reflects on her experience directing the WRC as the COVID-19 pandemic forced unemployment insurance benefits into the public's consciousness. And Professor Vettorello reflects on her experience incorporating a discrete WRC clinical experience into her year-long Legal Practice class.<sup>16</sup>

Our biggest takeaway from teaching in 2020 and 2021 was that WRC students were more engaged than ever in our law school community because of the clinic's work in the greater community. Building a community within a clinic is much easier when everyone is physically in the same place. However, our model increased engagement and allowed students to thrive, despite being physically remote because they directly assisted community members trying to survive the economic crisis. What's more, the collaborative nature of the clinical work itself gave students a chance to work towards a common goal with other students, even if they had never met in person. Some of our 1Ls in the 2020-2021 school year never came to campus or met a fellow student in person, having spent a full academic year learning remotely in different areas across the country, and the WRC gave them a built-in community both within and beyond the law school.

This Essay first describes the structure of the WRC. The second section describes how the WRC adapted to the challenges of COVID-19, and specifically, how we adjusted to the remote semesters to ensure a substantive and engaging experience. The second section also details how we adapted our clinic to address once static, but now ever-changing, unemployment laws, and what we learned from our students. The WRC's structure made it particularly adaptable for providing the same level of representation and learning opportunities for our clients and students even while we all worked remotely. The third section describes the impact the WRC had on the community during the pandemic. We end with our reflections of what changes we plan to keep in future semesters and how other clinics may be able to implement some of our findings into their courses. Clinical pedagogy has taken many lessons from troubled times,<sup>17</sup> and learning from COVID-19 will bring many new insights on how to best serve our students.

---

<sup>16</sup> The WRC already had a working partnership with the Legal Practice (Research and Writing) department, through a collaboration with Professor Vettorello. For the five years prior to the pandemic, Professor Vettorello's first-year law students, working in teams during their second term of Legal Practice, prepared an unemployment case for a hearing before an ALJ, with most teams conducting the hearing as well.

<sup>17</sup> Rachel A. Van Cleave, Davida Finger, Laila Hlass, Anne S. Hornsby, Susan S. Kuo *Engaging the Legal Academy in Disaster Response*, 10 SEATTLE J. SOC. JUST. 211 (2011); Nathalie Martin and Max Weinstein, *Addressing the Foreclosure Crisis through Law School Clinics*, 20 GEO. J. ON POVERTY L. & POL'Y 531 (2012-2013); Judith Fox, *Consumer Law Clinics: Community-Based Lawyering - A Social Justice Response to the Financial Crisis*, 20 GEO. J. ON POVERTY L. & POL'Y 517 (2012-2013).

## I. CLINIC'S STRUCTURE

The WRC has two primary goals. First, it is designed to provide law students a direct, live-client advocacy experience earlier in their legal education than traditionally thought possible. Second, the WRC seeks to engage law students in representing unemployed workers in their claims for Unemployment Insurance (UI) benefits to impact our community for good – the clinic was the center of a larger effort to provide more than 15,000 hours of free legal services each year to economically disadvantaged communities in Washtenaw County and beyond. This latter goal became even more important to us and our students as the pandemic uprooted everything we had in place.

The WRC's structure to accomplish these goals is unique since it involves working with 1Ls and upper-level students, and includes a collaboration with the Legal Practice (Research and Writing) Department. This structure stems from its origins with a grant intended to infuse live-client work into 1Ls' law school experience. In 2015, the University of Michigan Law School began a pilot program designed to create opportunities for 1L students to work with real clients and conduct substantive legal work. The clinic provided a stand-alone, elective class for 1L students in their second semester, and a 6-week unit that was integrated into sections of the required, year-long 1L Legal Practice class taught by Professor Nancy Vettorello.<sup>18</sup> The program led to the creation of the Workers' Rights Clinic,<sup>19</sup> which provides multiple educational opportunities for students at each phase of their legal education. For example, during the Winter of 2020<sup>20</sup> and the 2020-2021 academic year, the clinic had multiple iterations that were all operating simultaneously: a 1L stand-alone course (with 24 1Ls),

---

<sup>18</sup> The clinic was later integrated into sections of Legal Practice taught by Professors Sammy Mansour and Mark Osbeck. Professor Kohl joined the clinic as a teaching fellow soon after it became a course at the law school. In June 2019, Professor Kohl became the clinic's director.

<sup>19</sup> The origins of the WRC were a unique blend of necessity, chance, and demand. The WRC started as an independent non-profit in 2010 in response to the overwhelming unmet need for unemployment insurance representation created by the financial crisis and record setting unemployment in Michigan during the Great Recession. At that time, the non-profit was called the Michigan Unemployment Insurance Project (MiUI). MiUI was a cooperative venture with University of Michigan law students to provide pro bono assistance to displaced workers. Within a couple of semesters MiUI became a very popular pro bono project at the law school, especially with 2nd semester 1Ls. We discovered early on that 1Ls, who were not yet allowed into the traditional clinics, were eager for this chance to represent a real client and put their fledgling legal skills to good use in the community. So eager in fact that they would take on the extra 3-10 hour per week time commitment required on top of their already busy academic schedule. After several successful semesters and growing demand among the student body a group of students petitioned the Dean of the law school to turn the popular pro bono project into a unique 1L clinic course.

<sup>20</sup> At the University of Michigan, the January to May term is called the "Winter Term."

an infusion with the Legal Practice Program (40 1Ls),<sup>21</sup> an upper-level clinic (8 2Ls and 3Ls), and an advanced clinic devoted generally to policy work (6 2Ls and 3Ls).

Under faculty supervision, and in all of the iterations described above, WRC students represent recently unemployed workers in their claims for state unemployment insurance benefits. In this role they have significant opportunities to interview and counsel clients, conduct fact investigations, conduct administrative trials, and write and file briefs. Unemployment hearings allow students to perform direct and cross examination, enter evidence into the record, make objections, and deliver closing statements—all in front of an administrative law judge. Because worker claims for UI are typically contested by the former employer and employers often bring counsel, hearings provide a relatively low-key, classic adversarial environment introduction to real-world lawyering. These hearings also work well for students because the trials generally take place over the phone. The most ubiquitous unemployment cases relate to job separation, which tend to have a “closed universe” of legal research for the students to review and analyze to prepare their client’s case. Described below are the WRC options available to 1Ls students, followed by a description of the advanced clinical options available to upper-level students.

#### A. *The 1L Options*

WRC is unique as it offers an area of law where first year law students can get a live-client litigation experience without running afoul of the student practice rule. Traditionally, law schools have not offered experience-based courses such as clinics for 1st year students. This is in part because common wisdom had been that law students were not ready until they completed their first year and in part because of state court rules. Most states have a student practice rule that allows law students to represent a client in court under the supervision of an attorney but only after they have completed their first year.<sup>22</sup> Since UI is an administrative system, non-attorneys are allowed to represent clients in Unemployment Insurance administrative proceedings in Michigan. There are two clinical options available to 1L students – a stand-alone course that the students can elect, and a clinical component that is integrated in to the students’ 1L Legal Prac-

---

<sup>21</sup> The University of Michigan’s Legal Research and Writing program is called Legal Practice.

<sup>22</sup> Yale Law School also has a 1L clinical option. The state of Connecticut (where Yale is located) has a special court rule that allows first-year students to appear in court. See SEC’Y OF THE STATE, STATE OF CONN., OFFICIAL 2021 CONNECTICUT PRACTICE BOOK, Section 3-14, 170 (2021).



tice class.

### *1. The 1L Stand Alone Course*

The WRC offers a unique opportunity for second-semester, first-year law students to quickly develop key lawyering competencies in a stand-alone course. Developing a 1L clinic curriculum that supports students but also allows them autonomy is an even more precarious balance when students have little, if any, legal experience. To respond to the 1Ls' need for more support, we built in an extra layer of supervisors – their senior peers in the upper-level clinic. In a normal year, this helps the 1Ls feel more connected to the law school, as their senior peer supervisors also serve as their mentors. Beyond the upper-level students' guidance,<sup>23</sup> the peer designation helps students to feel comfortable immediately asking questions to help set themselves up for success. Students in the stand alone 1L course work in teams of two to handle multiple cases throughout the term. Student teams may have between two to five cases depending on the case's complexity and procedural posture, but at least one case will go to a live administrative trial during the semester.

Students can elect to take this course for either 2 or 3 pass/fail credits.<sup>24</sup> Depending on how many clinicians are teaching in the clinic, the course has had differing student caps.<sup>25</sup> Students apply for the clinic with their resume and statement of interest if they want to add it to their winter schedule, and students are selected based on their applications. There has always been significant demand for the clinic, and every year we must waitlist, and eventually not accept, dozens of students.

Given that there are 24 1Ls in this clinic concurrently with 40 1Ls from the Legal Practice Infusion and eight students in the upper-level clinic, enacting peer supervisions provides more capacity for our field-

---

<sup>23</sup> Peer supervisors do not make any substantive decisions on the 1Ls' cases. Rather, they help the students to think through their cases and help them come up with deadlines. Further, the peer supervisors meet with faculty weekly to get on the same page about the 1Ls' cases and what needs to be done. All legal decisions and final review of work is examined and approved through the faculty attorney.

<sup>24</sup> At Michigan Law, 1Ls in their second semester can take an elective in addition to their 1L curriculum. If students take the 2-credit option, it is treated as an "add-on" course for the semester, and they can still elect to take an elective. If they take it for 3 credits, the students will not have room for another elective. Students make up the work for the extra credit through handling an additional case or research assignment.

<sup>25</sup> For the 2018-2019 school year, we had three Legal Practice sections amounting to 135 1Ls, so we limited the stand-alone course to 12. In 2019-2020, we reduced the Legal Practice students to one section (40 students), so we increased the cap to 24 students in the stand alone but accepted 30 due to high demand. Demand was even higher the next year, but we accepted 24 given the extra pressures on the clinic.

work supervision.<sup>26</sup> The 1L teams meet with their faculty supervisor every other week. On the off week, they meet with their peer supervisor. The peer supervisor works with the 1L students to keep them on pace with their case and to help them think through their case preparation.<sup>27</sup> Because the 1Ls are generally only handling one active case at a time, having a week between meetings with faculty is feasible. What we have noticed from adding peer supervision is that students turn in significantly better work products as first drafts when they are able to use the guidance of a more experienced student. As both the student and the supervisor, the peer supervisors also become more reflective in their own work and what they notice in themselves as budding attorneys. Adding this component created rich discussions in both class and supervisions about the clinic's work and the students' growth.

## 2. *The Legal Practice Infusion*

As described above, the WRC was born from a five-year pilot program (that later expanded to seven years) designed to create opportunities for 1L students to work with real clients and conduct substantive legal work. The WRC offers a clinical elective to 1L students in their second semester as one way of meeting that goal. The pilot program also experimented with creating live-client experiences for 1L students through incorporating such work into the required, full-year Legal Practice (LP) course. The WRC-LP course provides the most extensive live-client work because it provides an opportunity for students to conduct a hearing. Other Legal Practice sections provide more discrete live-client work, such as intake interviews in landlord-tenant workshops and assistance to clients completing naturalization applications. Some, but not all professors incorporate live-client work into their classrooms.

One variation, the one involving the most extensive live-client experience for the 1L Legal Practice student, was designed through collaboration with the Workers' Rights Clinic. In this variation, Professor Vettorello's LP students, working in teams of three, represented clients who had been denied unemployment insurance benefits. Each team of three works with a single client in preparation for a single hearing. These students interview their client, prepare their cases, and in most instances, represent the clients in a hearing before an administrative law judge. That work requires the students to engage in trial preparation, which includes researching and developing a theory of

---

<sup>26</sup> This student breakdown is divided between Professor Kohl and the clinical fellow.

<sup>27</sup> Any case decision or outside action must be approved by the faculty supervisor.

the case, drafting opening and closing statements, drafting direct and cross-examination questions, and anticipating and preparing for possible objections to the evidence offered by the employers in each case. They also prepare their clients for the hearing and for providing testimony, and the students learn how to enter documents into evidence when necessary. The students learn to work together, to divide the work and provide feedback to each other, and to manage disagreements, all with an eye toward providing excellent representation to their client. In short, it provides a meaningful dose of professional responsibility and development.

In most instances, the students conduct the hearing itself and counsel the client when a decision is rendered. The hearings typically last less than one hour, but in more complex cases, the hearing may be continued for an additional hour-long period scheduled around one week later. Even before the pandemic, these hearings took place over the phone.

Within the yearlong LP course, this work takes place over the first six weeks of the second semester. The preparation for the work, however, begins in the fall semester. The fall semester of Legal Practice has always focused on legal research and objective legal analysis, with most professors assigning research projects and two, substantive objective memoranda. Professor Vettorello's students also write two memoranda in the fall, but the second involves a simulated but typical unemployment insurance issue—whether or not a client who had been denied UI benefits because they were terminated for “misconduct” had viable defenses to the accusation by the employer. Focusing on a UI issue for that second memo allows students to begin learning how to research UI issues, and allows them to read, research, and analyze the Michigan Employment Security Act. Toward the end of the fall semester, WRC professors also conduct several training sessions with the LP students, focusing on interviewing skills, as well as relevant substantive and procedural law and regulations.

In the winter term, during the six-week period in which the LP students prepare for and conduct their hearings, the LP class runs more like a clinic. The students meet in class less frequently, and those classes focus on evidentiary issues and hearing preparation. Students all participate in a mock UI hearing and receive feedback from their judges, most of whom are actual Michigan ALJs. Students attend weekly supervision sessions in which they are supervised by both their LP professor and a professor from the WRC. They also attend supervisions with “peer supervisors,” as described above. As the hearing date nears, students meet with their supervisors as much as necessary, and check in often via phone or email.

When students prepare their hearing plans, they start with a template that was designed by their WRC and LP professors, and they are encouraged to review past hearing plans, especially plans focused on similar legal issues. Their hearing plans go through multiple rounds of critique, starting with their peer supervisor, then their LP professor, and finally their assigned WRC supervisor, the person who would ultimately be with them during the hearing itself.

Pre-pandemic, the supervisions were conducted in a professor's office, with all team members and professors together. Because Professor Vettorello's students did not engage with the WRC work until their winter semester, we were lucky to have the summer and fall of 2020 to determine how to adjust the WRC work given the switch to remote learning. We were also lucky enough to not have to make major adjustments. For example, we switched our in-person supervisions to supervisions conducted via Zoom, which allowed everyone to be "present" together. Although we missed seeing our students in person, we quickly discovered that the Zoom meetings allowed us to share screens and view various documents together, as if we were sitting next to each other. With five of us together in one "room," sharing documents via a screen share was easier than if we had been in person, as everyone has the same access to the document. We also found that the Zoom room seemed to make it easier for all students to contribute to the conversation. More so than in past years, we found all three students eager to participate and add to the conversation.

### *B. The Upper-Level Options*

#### *1. Litigation v. Supervision Litigation*

Upper-level students have two different WRC options available to them: Litigation and Supervision Litigation. The case work that students handle in the two courses is the same, but Supervision Litigation course adds the peer supervision component to the course.

WRC Litigation is offered in the fall. Prior WRC experience is a preferred qualification for the Litigation course. When students start with the same vocabulary and general understanding of the UI structures in place, the students are able to take on more advanced work.

Since the WRC options available to 1Ls only occur in the winter term, WRC Supervision Litigation is only offered in the winter term as the supervision component of the class is only possible when there are 1Ls to supervise.<sup>28</sup> Because we want the peer supervisors to be excellent mentors for the 1Ls, we handpick the students for Supervision Litigation from those who excelled in the elective 1L WRC

---

<sup>28</sup> Our students affectionately renamed these courses "Lit" and "Super Lit."

course (WRC I) or the LP-WRC in their first year.

Upper-level students handle more challenging cases, including hearings, appellate work, impact litigation, and policy projects. Some cases involve complex hearings and others are in appellate stages ranging from the administrative system to the Michigan Supreme Court. Complicated cases that upper-level students work on include cases in which the Agency alleges that the claimant engaged in unemployment insurance fraud.<sup>29</sup> Typically, the state sends Assistant Attorneys General to litigate the case for the Agency, so the students practice against seasoned attorneys. These hearings tend to be in person, though it was not the case since COVID-19 spread.

In addition to their work representing claimants at the administrative hearing level, students also work on precedent-setting cases at the Court of Appeals and the Michigan Supreme Court. There is relatively little binding case law regarding unemployment, mostly because unemployment cases are generally resolved in the administrative system by people representing themselves *pro se*. It is rare for claimants to appeal their cases outside of the administrative courts. Because of this, most of our cases are those of first impression. Students conduct oral arguments at the Circuit Court, which serves as the first court of appeal from the administrative hearing system, and the Michigan Court of Appeals. Appeals to the latter require the court to grant leave. Both the Michigan Court of Appeals and Michigan Supreme Court have granted leave on many of the students' briefs.<sup>30</sup> We have had great success making better law for Michigan.<sup>31</sup> Students also draft amicus briefs for important workers' rights cases and they work with community partners to act as parties for these amicus briefs.

In the winter term, the students enrolled in Supervision Litigation

---

<sup>29</sup> As discussed *supra* note 2. In Michigan, the state employed a computer system that wrongly charged fraud to innocent claimants at a 93% error rate. Because of this, there continue to be many people who reach out to the clinic for help resolving a bogus fraud charge. See Ryan Felton, *Michigan Unemployment Agency Made 20,000 False Fraud Accusations*, THE GUARDIAN (Dec. 18, 2016, 6:00 PM), <https://www.theguardian.com/us-news/2016/dec/18/michigan-unemployment-agency-fraud-accusations>.

<sup>30</sup> Over the last two years, the Michigan Court of Appeals and the Michigan Supreme Court have granted leave on seven of the clinic's cases. Students draft the application for leave as well as the briefs on the merits. While the Michigan Supreme Court does not allow students to make oral arguments, students are able to argue before the Court of Appeals pending the Court granting the motion, and WRC students have conducted each one available to them. Regardless of who is making the argument, the students also participate in the moots and act as opposing counsel and the judges to prepare the arguer.

<sup>31</sup> *Barnowski v. Cleary Univ.*, No. 344917, 2021 WL 2026154 (Mich. App. May 20, 2021); Ed White, *Woman Wins After Court Admits Mistakes in Jobless Aid Case*, U.S. NEWS & WORLD REPORT (May 22, 2021, 4:53 PM) <https://www.usnews.com/news/best-states/michigan/articles/2021-05-22/woman-wins-after-court-admits-mistakes-in-jobless-aid-case>.

also act as peer supervisors to their 1L teams—both in the stand-alone clinic and the LP infusion. While the peer supervision model was created initially to support 1Ls, the upper-level students benefit significantly from the program as well. Professor Kohl added a “Supervision” class to the syllabus for upper-level students. This class teaches the role of supervision by exposing them to various supervision scenarios. As we simulate these scenarios, students recognize the value of reflection and feedback as they supervise their 1L teams. They engage in mock exercises delivering feedback, developing communication skills to explain why another choice is stronger or should be changed. The peer supervisors also learn how to help without doing the work themselves. By directly experiencing the nuances of non-directive teaching methods as the supervisors, they begin to recognize the most common question of clinical teaching: “what do you think?” They also learn from their positive and negative interactions with their mentees, which later helps them to be more prepared and engaged in our supervisions and class. Peer supervisors also review the 1Ls’ work first and provide feedback, which transforms and improves their own work.

## 2. *The Advanced Clinic*

The Advanced Clinic invites particular students who have demonstrated strong passion for the clinic’s work and a desire to further expand their impact on their community. This course is structured as research credit(s) where students work with Professor Kohl directly on specific projects. Some students choose to stay with a client or two whose case is still ongoing, but all students also take on additional policy projects. The whole team meets once a week to check in on the projects and to see which project could use additional support.

The goal of adding the policy component was to help students explore the range of their roles as advocates while also further highlighting the injustices our clients face on a systemic level. This birds’ eye view of the system is a unique way for students to see how the WRC’s individual cases have impacted the community while also further expanding how they think about the law working on the ground. Because each student has had two semesters in the clinic, they become well-versed in the WRC’s work. Their newly acquired expertise allows them to think beyond just one UI claimant’s needs and recognize systemic problems with the UI system. UI work, even before the pandemic, provides rich opportunities for policy work. The system has generally been underfunded and ignored across the country unless

there is an economic crisis.<sup>32</sup> As the workforce changed, unemployment laws remained stagnant.<sup>33</sup> Students explored, for example, the marginalization of workers from the system. This injustice inspires students to want to find innovative ways to improve the system.<sup>34</sup>

The policy initiatives that resulted from this course have included testifying before the Michigan Legislature, drafting amicus briefs, drafting legislation, drafting and proposing administrative rule changes, conducting know-your-rights trainings for workers, and more. Adding the policy work allowed the WRC to have influence over all three branches of law-making: executive (administrative courts and working with the Agency), legislative (drafting legislation and testifying before the Legislature), and judicial (taking the cases on appeal to Michigan's courts).

Professor Kohl usually has two to three students in her Advanced Clinic who take the course for between one to three credits of work. However, in Winter of 2020, the class was larger than usual. This is because Professor Kohl taught an interdisciplinary Problem-Solving Initiative course in the Fall of 2019 where students from different graduate programs came together to find solutions to a thematic problem – in particular, repairing the Unemployment Insurance safety net. After this course, many of the students wanted to continue their projects into the winter term. Because of this, Professor Kohl's Advanced class amounted to eight students. Having this many students devoted to policy work became crucial during the pandemic as it enhanced the clinic's ability to educate the public about the frequent changes in unemployment benefits laws. The next section describes

---

<sup>32</sup> Stephen A. Wandner, *Options for Unemployment Insurance Structural and Administrative Reform: Proposals and Analysis*, (W.E. Upjohn Inst. for Emp. Rsch., Policy Paper No. 2020-020, 2020) (“The last major reform of the UI program occurred more than four decades ago, in 1976, and even then was not comprehensive. Congress considered a large number of issues that members could not agree upon, so it left many controversial issues for a UI study commission. In 1991, Congress authorized yet another UI study commission. The findings in the reports of these two commissions, however, were never adopted or acted on by Congress. Many of the issues identified by the commissions related to coverage, eligibility, and benefit adequacy and still need to be addressed by the federal government”).

<sup>33</sup> *Id.*

<sup>34</sup> Christopher O’Leary & Stephen A. Wandner, *An Illustrated Case for Unemployment Insurance Reform* (W.E. Upjohn Inst. for Emp. Rsch., Working Paper No. 19-317, 2020); see Stephen A. Wandner, *Options for Unemployment Insurance Structural and Administrative Reform: Proposals and Analysis* (W.E. Upjohn Inst. for Emp. Rsch., Policy Paper No. 2020-020, 2020); see also Hank Winchester, *Law Clinic at University of Michigan Helps Residents Resolve Unemployment Claims*, CLICK ON DETROIT, (January 27, 2021, 6:30 PM), Ryan Cummings, *Law Group Providing Free Unemployment Assistance in Michigan*, <https://www.clickondetroit.com/consumer/help-me-hank/2021/01/27/law-clinic-at-university-of-michigan-helps-residents-resolve-unemployment-claims/>; FOX 17 WEST MICHIGAN (April 29, 2020, 2:29 PM).

how we modified the clinics described above to respond to the changes dictated by COVID-19.

## II. RESPONDING TO THE PANDEMIC'S CURVEBALLS

As in-person work ended abruptly to attempt to quell the spread of this virus, so did millions of jobs.<sup>35</sup> With an overnight recession, everyone had questions about unemployment, workers, employers, reporters, legislators, and even us. Michigan's Governor, Gretchen Whitmer, immediately responded to the closing of in-person businesses (and thus the dramatic increase in people needing unemployment) with a series of executive orders that temporarily expanded unemployment benefits.<sup>36</sup> The federal government also responded through Congress's negotiation of the CARES Act,<sup>37</sup> which was a \$2.2 trillion stimulus package that directly extended and expanded unemployment benefits to millions more workers who were typically excluded from state benefits.<sup>38</sup> In the span of a few weeks, hundreds of thousands of Michiganders went from gainful employment to nothing, and they were in need of the government's social safety net.<sup>39</sup> And with the federal expansion, millions of workers were now entitled to

---

<sup>35</sup> Stephanie Soucheray, US Job Losses Due to COVID-19 Highest Since Great Depression, *CTR. FOR INFECTIOUS DISEASE RSCH. & POL'Y, UNIV. OF MINN.*, (May 8, 2020), <https://www.cidrap.umn.edu/news-perspective/2020/05/us-job-losses-due-covid-19-highest-great-depression> ("The country has lost 20.6 million jobs since mid-March, resulting in an unemployment rate of 14.7%, a level not seen since the Great Depression in the 1930s. The number of jobs lost more than doubles the number seen in the 2007-2009 Great Recession, when 8.7 million Americans lost jobs").

<sup>36</sup> In a series of Executive Orders, the Michigan Governor temporarily waived some of the more onerous bureaucratic hurdles to accessing UI. *See* Mich. Exec. Order No. 2020-09 (March 16, 2020), [https://www.michigan.gov/whitmer/0,9309,7-387-90499\\_90705-521789-.00.html](https://www.michigan.gov/whitmer/0,9309,7-387-90499_90705-521789-.00.html), ("effective immediately, an individual must be considered to have left work involuntarily for medical reasons if they leave work because of self-isolation or self-quarantine in response to elevated risk from COVID-19 due to being immunocompromised, displaying the symptoms of COVID-19, having contact in the last 14 days with someone with a confirmed diagnosis of COVID-19, the need to care for someone with a confirmed diagnosis of COVID-19, or a family care responsibility as a result of a government directive. Effective immediately, and continuing until April 14, 2020 at 11:59 pm, an individual must be deemed laid off if they became unemployed because of self-isolation or self-quarantine. . ."). These orders, which were issued just days after the first cases of COVID-19 were detected in Michigan, allowed workers who would normally not be entitled to unemployment suddenly eligible.

<sup>37</sup> When the federal government passed the Coronavirus Aid, Relief, and Economic Security (CARES) Act, it expanded benefits during the pandemic to part-time workers, independent contractors, and other workers who are typically excluded from the state administered program. 15 U.S.C. § 9001.

<sup>38</sup> Tara Siegel Bernard & Ron Lieber, F.A.Q. on Stimulus Checks, Unemployment and the Coronavirus Plan, *NY TIMES*, March 17, 2020, at A6.

<sup>39</sup> Jonathan Oosting, Michigan Unemployment Surges; Record 1 In 10 Workers Have Filed Claims, *BRIDGE MICHIGAN* (April 2, 2020), <https://www.bridgemi.com/michigan-government/michigan-unemployment-surges-record-1-10-workers-have-filed-claims>.



apply for benefits.<sup>40</sup>

With the massive surge of people filing for benefits, unemployment agencies were unable to answer all the calls coming into them. In Michigan, the agency started getting hundreds of thousands of calls each day.<sup>41</sup> Michigan started the economic crisis with about 600 employees, who in 2019 processed a total of about 300,000 claims.<sup>42</sup> During the first few months of the pandemic, Michigan was receiving between 50,000 to 400,000 claims per week.<sup>43</sup> Because the recession happened almost overnight, the surge on the unemployment system caused significant delays for the Unemployment Insurance Agency (UIA) to process claims.<sup>44</sup> With the addition of other federal programs from the CARES Act<sup>45</sup> and millions of applications, state unemployment agencies were pushed to the brink, and their ability to adjudicate claims significantly stalled.<sup>46</sup>

With all hands-on deck everywhere, people were desperate for

---

<sup>40</sup> Andrew Stettner & Elizabeth Pancotti, 12 Million Workers Facing Jobless Benefit Cliff on December 26, THE CENTURY FOUNDATION (Nov. 18, 2020), <https://tcf.org/content/report/12-million-workers-facing-jobless-benefit-cliff-december-26/?agreed=1&agreed=1>.

<sup>41</sup> Jonathan Oosting, Michigan Unemployment Surges; Record 1 In 10 Workers Have Filed Claims, BRIDGE MICHIGAN (April 2, 2020), <https://www.bridgemi.com/michigan-government/michigan-unemployment-surges-record-1-10-workers-have-filed-claims>.

<sup>42</sup> See DOUG A. RINGLER, OFFICE OF THE AUDITOR GEN., STATE OF MICH., CLAIMANT SERVICES: FOLLOW-UP REPORT ON PRIOR AUDIT RECOMMENDATIONS (2020) (“From October 1, 2018 through June 30, 2019, UIA reported that it received 234,406 new claims and paid UI benefits totaling \$602.1 million to 200,740 unduplicated claims. . . as of June 30, 2019, UIA had 635 employees”).

<sup>43</sup> Miriam Marini, Weekly Unemployment Claims Drop as Michigan Seeks Additional \$300 Per Week in Benefits, DETROIT FREE PRESS (Aug. 20, 2020, 1:54 PM), <https://www.freep.com/story/news/local/michigan/2020/08/20/michigan-unemployment-claims-jobs/5618165002/> (“Michigan’s claims peaked in early April, with nearly 400,000 new claims the week ending April 4”).

<sup>44</sup> Tony Romm, *Unemployed Workers Face New Delays and Paused Payments as States Race to Stamp Out Massive Nationwide Scam*, THE WASHINGTON POST (June 12, 2020), <https://www.washingtonpost.com/business/2020/06/12/unemployment-benefits-fraud-delays/>; Paula Gardner, *Michigan Jobless Claims Top 1.1 Million as State Streamlines Approvals*, BRIDGE MAGAZINE (May 7, 2020), <https://www.bridgemi.com/business-watch/michigan-jobless-claims-top-11-million-state-streamlines-approvals>; Paula Gardner, *Frustrations Rise Over 340K Frozen Jobless Claims, Michigan’s Lack of Answers*, BRIDGE MAGAZINE (June 10, 2020), <https://www.bridgemi.com/business-watch/frustrations-rise-over-340k-frozen-jobless-claims-michigans-lack-answers>.

<sup>45</sup> *Unemployment Insurance Provisions In The Coronavirus Aid, Relief, And Economic Security (Cares) Act*, NATIONAL EMPLOYMENT LAW PROJECT (March 27, 2020), <https://www.nelp.org/publication/unemployment-insurance-provisions-coronavirus-aid-relief-economic-security-cares-act/> (“The CARES Act creates three new UI programs: Pandemic Unemployment Compensation, Pandemic Emergency Unemployment Compensation, and Pandemic Unemployment Assistance. All three programs are fully federally funded”).

<sup>46</sup> Tracy Samilton, *Experts Say Michigan’s Unemployment Claims Computer System Causing Backlogs*, MICHIGAN’S NATIONAL PUBLIC RADIO (June 12, 2020), <https://www.michiganradio.org/post/experts-say-michigans-unemployment-claims-computer-system-causing-backlogs>.

answers. Being one of the few unemployment experts in Michigan, news outlets frequently interviewed Professor Kohl to answer general questions, and the WRC was in the news frequently. While the news was able to disperse answers regarding frequently asked questions, the unintended press made even more people call the clinic, hoping we could help them understand their claim.

#### A. *Handling the Increased Demand on the Clinic*

The people contacting the clinic with questions started immediately, but nothing prepared us for what would happen after the CARES Act passed.<sup>47</sup> Professor Kohl remembers logging into the clinic's inbox the day after the CARES Act passed and watching the voicemails and emails grow. In the span of 15 minutes, we received over 100 inquiries. And the numbers continued to multiply before her eyes. In one single day, the clinic received over 700 calls or emails. For context, before the pandemic, the clinic typically received between 10 to 20 inquiries a week.

Professor Kohl started to wonder how the clinic could respond to this need given that the WRC team was so small, including just one clinical administrator, one clinical fellow, and herself, generally handling these questions.<sup>48</sup> Her mind was racing with so many questions: How am I going to be able to respond to every person? How do I help guide people to correct resources? How am I going to be able to keep this clinic functioning with this new onset of need? How are my students going to be able to do the work from across the work and without the clinic's office space? What if my students or their families become ill? How do I teach my classes remotely? How do I focus this flood of need into comprehensive and concrete work for my students? But most importantly, how can I bring students in to turn the community's need into a learning opportunity for my students?

Fortunately, WRC students started answering some of those questions. Alumni of the clinic, both current and graduated students, reached out to ask how they could help. Some of them were practicing attorneys in the area, and they offered to volunteer to respond to messages and help with cases we could not take. The clinic's alumni who were still students offered to help the clinic develop synthesized material that could be shared publicly, explaining how the state and federal programs worked.

---

<sup>47</sup> This is Professor Kohl's first-person reflection in this section.

<sup>48</sup> The WRC's team includes two other very devoted members: Diane Kotze, the clinical administrator, and Andrea Van Hoven, the clinical fellow. Both were instrumental as we planned how to restructure the clinic's processes to provide a needed resource for the community and rethink additional learning opportunities for our students.

And then we felt like we truly witnessed magic: One of Professor Kohl's current 1L students, Maiya Moncino, started an initiative called COVID Corps, a group of volunteer students to help organizations and businesses respond to the needs of the pandemic.<sup>49</sup> This student organized dozens of law students to help us develop materials for the WRC, including a comprehensive *Frequently Asked Question Guide* that synthesized dozens of state and federal resources to include on-line citations for workers to visit to learn more as unemployment laws continued to update and change. This guide grew to over 100 pages only after a few months of the pandemic.<sup>50</sup> But this amazing 1L did not stop there. She and Professor Kohl developed a system to help the clinic manage our new intake demands, and she recruited students to join the team. Student volunteers who had not taken the clinic before were assigned to process the calls and emails. They split the callers into two groups - people who needed help with their cases and people who had general questions. For those with general questions, students called back and provided information on legal resources to call and/or guided them to online resources to help them find the answers.<sup>51</sup> Students with previous experience in the clinic handled full intake interviews for us to continue to take on new cases. As each week brought something new in the UI world, intake became a valuable tool to keep tabs on emerging issues so we could find ways to respond as a clinic.

Even with the extra help of dozens of students staffing our intake team, it was not enough to respond to the incredible number of people in need of help navigating the unemployment insurance system. Realizing that we did not have the ability to respond to hundreds of inquiries a week, Professor Kohl sought out connections with other legal services organizations. In Michigan, legal services do not generally handle unemployment insurance cases.<sup>52</sup> However, with evictions stayed, they had more availability. Additionally, other clinics at Michigan Law still had a month of working with students but very few substantive things for them to work on since the courts were generally closed. Seizing this opportunity, Professor Kohl coordinated with

---

<sup>49</sup> Associated Press, *Law School Students to Help With Legal Issues Around Virus*, U.S. NEWS AND WORLD REPORT (May 16, 2020), <https://www.usnews.com/news/best-states/michigan/articles/2020-05-16/law-school-students-to-help-with-legal-issues-around-virus>; Chelsea Liddy Pivtorak, *Michigan Law Students Provide a Corps of Community Support During COVID-19*, UNIV. OF MICH. (July 28, 2020), <https://engaged.umich.edu/news-features/michigan-law-students-provide-a-corps-of-community-support-during-covid-19/>.

<sup>50</sup> Andrea Van Hoven, the WRC's clinical fellow, deserves a huge shout out here. She managed this project and the many students working on it.

<sup>51</sup> These calls were purely providing people connections to available resources, and the students were not providing legal advice.

<sup>52</sup> Before the pandemic, legal services in Michigan did not have designated funding to take on UI cases.

these various groups to see whether they had any interest in helping the WRC meet the needs of jobless workers. They did.<sup>53</sup>

This connection-building presented another educational opportunity for some of the students. A few of the WRC 2L students had relayed that they had dreams of one day also becoming clinical professors, so I selected them to assist in developing and executing training sessions with the legal services organizations and other Michigan clinics so that they could, at least temporarily, help us tackle the swarm of inquiries and take on these matters. The students developed exceptional training materials, and were thoroughly impressive during their presentations, especially when they deftly answered the other lawyers' difficult questions. Moreover, it was a gratifying experience to watch the students grow through this experience. Both were already excellent students, but their confidence and poise skyrocketed after they realized that they could become experts in a field. Moreover, these connections with the other organizations further connected the WRC and the students to our community.

After this teamwork venture with legal services, Professor Kohl also initiated weekly meetings with new and old claimant advocates across Michigan to help them work together and stay on top of the needs of the jobless workers. Students also came to these meetings. A student who graduated in May of 2020 came to these meetings and later became employed with legal services doing unemployment benefits work. Professor Kohl still runs these meetings over a year later, though the meetings are now bi-weekly, and the prior student is now Professor Kohl's colleague.

Fortunately, although the increased demand for the clinic was daunting, the clinical structure provided to be invaluable when the need to move to remote learning became necessary.

### *B. WRC's Model was Ideal to Move to Remote Learning*

University of Michigan Law faculty transitioned to remote teaching and clinical work overnight. The first week of March was Michigan Law's Spring Break. Professor Vettorello's students had just finished with the clinical component of the Legal Practice class the week prior. Tuesday, March 10, 2020 was the first documented case of the coronavirus in Michigan.<sup>54</sup> By Thursday, the school cancelled in-per-

---

<sup>53</sup> Because of this increased UI need, some of prior public interest students were able to obtain jobs with Michigan's and other states' legal services because of their experience with the clinic and the connections we made in the winter of 2020.

<sup>54</sup> Ken Haddad, *Michigan Coronavirus Timeline: Key dates, COVID-19 Case Tracking, State Orders*, CLICK ON DETROIT (April 27, 2020), <https://www.clickondetroit.com/health/2020/03/24/michigan-coronavirus-timeline-key-dates-covid-19-case-tracking-state-orders/>.

son classes for the rest of the term.<sup>55</sup> Professor Kohl had multiple hearings on Monday of the next week with three teams of 1L students in the stand-alone clinic, and most of these hearings were the 1Ls' very first hearing of the semester. On Thursday, Professor Kohl and her students still planned to meet in person on Monday to be in the same room for the hearing. By the end of day on Friday, the school was closed entirely to in-person work. There was no longer an option to do the hearing in-person with the students.

Because unemployment cases generally were already on the phone, this made moving to a remote semester a fairly seamless transition.<sup>56</sup> That doesn't mean that we were not terrified of how things would work. One of our goals, especially with 1Ls, is to ensure the students feel supported. Since it is the 1Ls' first time ever acting as legal representation, providing support while being in physically different places was paramount. Working with the students to develop our remote learning strategy was a wonderful way for us to learn together.<sup>57</sup>

Over the weekend, Professor Kohl and the clinical fellow, Andrea Van Hoven, met with the WRC 1L students over Blue Jeans<sup>58</sup> for the first time. Together with the students, they figured out ways to make them feel supported in the virtual space. While they could not physically be there next to them, we decided that the following would help the students feel supported:

- We would meet on Blue Jeans 30 minutes before the hearing to discuss last minute questions.
- We would stay on the Blue Jeans call together for the hearing.
- Everyone would call into the phone hearing from our separate locations.
- The students would integrate strategic pauses at select parts of their hearing plan, typically before they rested or at any point where they wanted to talk to me, where they ask the judge,

---

<sup>55</sup> Ken Haddad, *University of Michigan Cancels In-Person Classes, Events Amid Coronavirus Outbreak*, CLICK ON DETROIT (March 11, 2020), <https://www.clickondetroit.com/all-about-ann-arbor/2020/03/11/university-of-michigan-cancels-in-person-classes-amid-coronavirus-outbreak/>.

<sup>56</sup> See *Mich. Admin. Code* r. 792.10121 (2015) (“Rule 121. (1) The administrative law judge may conduct all or part of a hearing by telephone, video-conference, or other electronic means. (2) All substantive and procedural rights apply to all hearings under this rule”).

<sup>57</sup> And the students reported that they felt very supported. One student reported, “I was able to feel like an active and engaged first chair while trusting that Rachael was there to intervene on behalf of my clients when I made a newbie mistake.”

<sup>58</sup> An online platform similar to Zoom, Teams, or Google Meet. At this time, the law school had a contract with Blue Jeans that protected our clinics' sensitive client's information. By the Fall, the law school moved to Zoom.

“Can I have a minute please?” In that moment, everyone would ensure their phone is muted and unmute Blue Jeans to chat about any outstanding issues in the case.

- We also developed hand signals: thumbs up meant they are doing great, and frantically waving meant to ask the judge for a moment.<sup>59</sup>
- We would use the chat function for smaller discussion in between.

We tried speaking on both platforms, synchronizing when we needed to mute our phones and muting ourselves on Blue Jeans to simulate being on the call with the judge and avoiding audio feedback. This process became a staple for every hearing for the next year.

While we were still getting used to working remotely, we practiced muting and unmuting the correct platforms while on the phone and Blue Jeans with students for a few minutes before each hearing. The few times that we did not do this in the Winter 2019 term, inevitably, someone forgot to mute and terrible feedback occurred. But, by the Fall 2020 semester, everyone was so used to online platforms that we no longer needed to practice this beforehand. Instead, the meeting before the hearing was used solely for last minute questions and some encouragement.

Despite our fears, this change to remote learning made many aspects of the hearing experience better. One major takeaway for the students was their ability and the importance of asking for a moment from the judge. While in person, students often felt rushed to finish their hearing plan and did not realize that they could take a minute to gather their thoughts to ensure they have a complete record. Building in this moment of reflection before resting was a critical development that not only helped the students in the moment, but it is also one that we plan to use every time, regardless of whether we are in person or remote.

In many ways, moving to remote learning did not affect the clinic’s ability to handle its large docket or the experience of its many students. In particular, students in the Winter 2019 term reported that the transition to remote case work was easy, and they thoroughly enjoyed having the clinic’s work to anchor them during the turmoil of the pandemic.<sup>60</sup>

---

<sup>59</sup> While a thumbs up seems obvious, students reported that they loved that encouragement as they navigated their phone trials. There is a lot of doubt that surrounds students as they are doing something new for the first time, and that doubt feels a lot stronger when you are alone in a secluded room.

<sup>60</sup> One student reflected: “I really appreciate the support of the clinic. I feel so grateful for the WRC faculty’s extra support and looking out for their students during the unprecedented challenges this semester — I also think that the WRC team handled the transition

### C. *Changing How We Approach the Clinic's Work*

While the transition to remote learning in the winter of 2019 went fairly well, the transition to a new set of unemployment insurance laws and benefits presented a different set of challenges. One of the reasons the WRC has worked so well as a 1L clinic was because the laws were fairly static. It was a “closed universe” of law for the first-year students to research and analyze. But, this too changed with the pandemic, as suddenly, there were new laws in the form of Executive Orders along with state and federal legislation. These additions had no precedential case law to explain or interpret them. Everything was brand new. The Department of Labor and state agencies were working as quickly as they could to develop guidance, but even that began to change. Then in October 2020, the Michigan Supreme Court struck down Governor Whitmer’s power to issue emergency Executive Orders, which greatly affected the state benefits allowed.<sup>61</sup> Despite this substantial change, we were able to readily adapt the clinic and found students were not only unphased by the new reality, but they were able to tackle more complex issues, were more engaged, and were more productive.

For the first time, in the Winter 2020, Professor Kohl added policy research and work to the 1Ls in the stand alone clinic. With everything changing on what felt like a daily basis, she had her 15 1L teams (30 students) work together on multiple research projects. One of the projects was a review of how every state responded to the pandemic, including what laws legislatures were passing, whether other states were using executive orders, and how well were their agencies able to process and pay out claims. Two Advanced Clinic students paired with a student in the Supervision Litigation course to chair this project, and they assigned different states for investigation to their fellow students in all other clinic iterations. Because we were already remote, this project served as a great opportunity for students to work together as an entire class despite being physically apart.<sup>62</sup> For the first time, students from across the WRC’s courses were working together on projects beyond direct representation. Moreover, as students were moving back

---

to remote work so well that I really have to commend everyone for their hard work, patience, and flexibility.”

<sup>61</sup> Rachael Kohl & Bella Book, *Lawmakers Must Act to Protect Unemployed Michiganders into 2021*, BRIDGE MAGAZINE (Dec. 18, 2020), <https://www.bridgemi.com/guest-commentary/opinion-lawmakers-must-act-protect-unemployed-michiganders-2021>.

<sup>62</sup> This project also turned into a much bigger report that the clinic published in March 2021 through the continued work of the Advanced Students. See Rachael Kohl, *Lessons from a Pandemic: The Need for Statutory Reform to Michigan’s Unemployment System*, MICHIGAN POVERTY SOLUTION (March 1, 2021), <https://poverty.umich.edu/research-funding-opportunities/publications/working-papers/>.

to their homes in other states and countries, this project expanded their knowledge of the system to a national level, giving them a panoramic view of a rapidly changing legal landscape.

Together, these students coordinated work with the various 1L teams and their peer supervisors to gather real-time information from across the country so we could publicize these updates in one place and be aware of the important changes in this field. Having this giant project united the dozens of students in the WRC's courses, even though we were all working separately from home across the world. Students reported that they loved the clinic's response which further connected them to each other while they worked for the community.

After implementing policy work into the clinic, students became even more invested in their clients' cases. As COVID-19 turned the economy upside down, students clamored for opportunities to address the high need for unemployment claimant advocates. As students connected to the policy work, their clarity in understanding the issues affecting our clients was demonstrated through remarkable improvement in their oral and written advocacy. For example, because our students research unemployment law and policy at a national level, students learned that the Minnesota Attorney General filed an amicus brief in support of claimants receiving benefits.<sup>63</sup> This inspired us to work with the Michigan Attorney General's office to explore ways it could support jobless workers. Our expertise in how the Agency worked plus our up-to-date knowledge of the changing laws meant that our students were well-positioned to recognize glitches in the Agency's programming of the new federal programs and state laws. We developed a strong working relationship with the state to address these issues and promote quick system updates.

In the fall 2020, the upper-level students who joined the WRC were among the most driven the clinic has had. Many of them had just spent the summer working alone, and the WRC's cases and policy projects reconnected them to the community, both inside and outside of the law school. Generally, students in WRC Litigation and Supervision Litigation work on cases by themselves unless it is an appellate brief or extraordinarily complicated case. But without the clinic's space to unite students as they did their own case work, Professor Kohl did not want students to feel isolated working remotely. She focused on building more team assignments so that students could still work together even though we were remote. Because of this, some of the projects allowed students to work not only with their partners but with additional students for their casework. Since there were still

---

<sup>63</sup> Brief of Amicus Curiae Minnesota Att'y Gen., *Matter of Muse*, 956 N.W.2d 1 (Minn. App. 2021) (No. A20-1330).



fewer hearings, the students took on writing additional amicus briefs on some important unemployment issues pending at the Michigan Supreme Court along with new pandemic-related unemployment questions in various administrative and appellate levels.

Students who started with the clinic in the beginning of the pandemic continued on throughout the following semesters as advanced students in the fall 2020 and winter 2021 terms. They were so committed to the work we were doing to support jobless workers during the economic recession that they insisted that they return to the clinic's advanced work. They wanted to continue their projects, and they had additional ideas of their own to continue to serve as the legal experts in the field. Students did not want to leave the WRC while the pandemic's effects were still ravaging workers' lives. Because of this, we were able to take on advanced projects because the students themselves could pick up right where they left off.

In addition to publishing a 50-state report grading every jurisdiction's unemployment program, these students also worked with the Governor's office and the Legislature to write reports on how various unemployment laws affect workers, published op-eds about timely unemployment issues, and created a Pandemic Unemployment Toolkit for advocates across the country to synthesize the Department of Labor's guidance. Most of these projects came purely from the students' drive to propel this work forward and support the community. The WRC always had exciting policy work each term, but this was the first time we could be working on issues that the whole world was discussing.

Finally, the winter 2021 was also when 1Ls rejoined the clinic. Fortunately, the Agency started adjudicating more cases so that we were able to obtain enough hearings to provide each team with valuable litigation experience. However, some of the assigned cases were not the typical cases that were reserved for 1Ls because they were outside of the "closed universe" of static law. In fact, since so much of the law had changed—the CARES Act, Executive Orders, and evolving state legislation—we were forced to give them slightly more complicated cases. And what we found was that they were more than up for the challenge.

It is important to remember that many of the 1Ls in the winter 2021 had not attended law school in person.<sup>64</sup> Many of them had not worked with anyone before, and some were still working on finding law school friends. They were yearning to develop a community. Be-

---

<sup>64</sup> While a few 1L classes were offered in person in a masked, socially-distanced setting, many students were living across the country and attending law school completely remotely.

tween working with a partner and having a peer supervisor built into their weekly life after a semester of remote learning and few outside engagements, 1Ls flocked to the WRC. More students than ever applied to join the clinic, and all of their statements of interest showed how much students truly craved working with others and for a purpose. It was next to impossible to sort through the candidates, because so many demonstrated strong interest and experiences. For those who joined the clinic, all of them reported that a main motivation for joining the clinic was to meet others who cared about these issues and form friendships in our virtual clinic. Their passion to help the unemployed in Michigan brought them together.

This desire for a community was also present in the LP sections. Professor Vettorello's LP students do not elect to participate in the WRC clinic through their LP course. Rather, they are randomly assigned to their section at Michigan Law, and those who are assigned to Professor Vettorello's two sections are assigned a UI case by virtue of being in her class. This means, unsurprisingly, that students have varied reactions to being assigned the UI live-client work, with many excited students who feel lucky to be able to do the work, and others who are less enthusiastic, nervous, or simply neutral. A survey of one year's students, for example, found that 62% were somewhat or very excited, 10% were neutral or unsure, and 28% were somewhat or very nervous when they first heard about the live-client work they would be doing during an orientation session in August.

The lack of choice also means that the level of student engagement in the live-client work has traditionally varied. Although students must work together as a team, in prior years there were always a small number of students who seemed less engaged or enthusiastic, and their work product needed significantly more encouragement, critique and heavy-handed editing than the work-product of their more enthusiastic peers. And often but not necessarily relatedly, some teams were more cohesive and worked more smoothly together than others.

The year of the pandemic, however, saw a significant change in these variations. Students seemed more eager than ever for the live-client work. Teams worked smoothly, every single one. All students dug into the work, and no student seemed to be doing significantly less work, or significantly less polished work, than their teammates. And more so than in the past, students were openly and enthusiastically praising the work of their teammates, even writing to Professor Vettorello privately to make sure that she knew about a teammate's particular contribution. And this was true despite the fact the ever-changing UI laws in Michigan made the cases the most complex we

had ever taken on as a LP class.

When asked about how they felt about the live-client work and the impact it had on their year, students' responses fell into several categories. The most common positive statement came from students who recognized that their work was coming at a critical moment in history. Although the WRC has always represented clients who dearly need their UI benefits, that need was highlighted in the news and politics almost daily. Students felt part of something necessary, topical, and important.

Coming in a close second, however, were comments about the closeness fostered by their teamwork. Although each Legal Practice section includes only 20 students, and Professor Vettorello offered opportunities to work in smaller groups of four or five most classes, the WRC work offered a significant, prolonged working relationship with just two other students. And that working relationship intensified in both time together and excitement as the hearing drew near. In the year of the pandemic, that time together was unlike anything else they were doing through the law school. Although conducted over Zoom, there were often just three of them in the Zoom room as they worked together, and because they were not constrained by a professor or class time, it offered a time to get to know each other while guided by a common goal.

### III. THE WRC'S IMPACT

Seeing how our students thrived working for our clients, it was important to use our position in the law school to harness the learning opportunities of the economic crisis so that we could best respond to the community. One dollar of unemployment benefits has a huge return on the government's investment, returning nearly two dollars to the community.<sup>65</sup> But our goal with this was also to support the law students to build their own community together. Students appreciated this concerted effort to use the needs from the pandemic as a time to do the most good. One student reported, "They are focused on building a community along with producing excellent work product. Both of these shine through in their approach towards the students and generate a tight-knit and compassionate group."<sup>66</sup>

---

<sup>65</sup> Andrew Stettner, *What's at Stake As States Cancel Federal Unemployment Benefits*, THE CENTURY FOUNDATION (May 13, 2021) <https://tcf.org/content/commentary/factsheet-whats-stake-states-cancel-federal-unemployment-benefits/?session=1>.

<sup>66</sup> See also this pragmatic point about why clinics ground law students: "Law school is (to be honest) a little horrible sometimes—people are cut-throat and competitive. The focus is not always on building up your peers. WRC was a wonderful escape—I feel like I learned how to work in a team; I got great supportive and constructive feedback; and I got to meet some brilliant people who are super passionate about workers' rights!"

In a “normal” year, the WRC handles about 200 cases with a 90%-win rate at the ALJ level, consults with about 400 additional people in intake, and returns about \$1 million dollars in benefits back to Michigan’s working families. Our pandemic year’s impact generated a substantially higher impact. From March 2020 to May 2021, the WRC:

- returned over \$4 million in benefits to the community,
- handled over 400 cases with a 91%-win rate at the ALJ level,
- consulted with over 5,500 workers in intake,
- enrolled over 100 students,
- filed 69 administrative briefs with the Appellate Commission, and
- filed 67 briefs on appeal and amicus briefs with Michigan’s courts.

Slightly over 200 of these cases went to a hearing during this timeframe, and a majority of them were handled by 1Ls. The unique structure of the clinic helped us to have this outstanding community impact and to meet this economic crisis head on. The sheer number of 70+ eager 1L students allowed us to handle so many hearings each year. Further, the devoted upper-level students, who keep returning to the clinic after their 1L experience, bring substantive and administrative knowledge to start the work at a higher level. It is truly the students’ commitment to help that allowed the WRC to rise to this level of service.

Responding to the community’s needs is an important role of a clinic, and it was a condition of the grant establishing the WRC. When a clinic fills a gap in legal services, like the WRC has done, students gain expertise, which boosts their confidence in their ability to be lawyers. But even more, the students recognize that they are doing something special to help others. Many of them came to law school for that exact reason. The WRC harnesses the students’ passion and energy so that the students find meaning and purpose in their work. This was even more apparent as we responded to the economic recession caused by COVID-19. As one 3L put it:

I joined Super Lit because I was having a really hard time remembering why I went to law school in the first place, and I got encouraged to make space for the things I had loved instead of the things I felt obligated to do. My 1L experience was certainly one of the things I loved and I’m so grateful I held fast to it and got to be a part of Super Lit. It was deeply enriching and now I know again what I’m doing all of this work for!

As everyone struggled to adjust to our new reality of doing every-

thing from home, the stress of the pandemic drove students to seek ways to connect and serve to one of the highest degrees we have seen. A 1L explained, “The WRC was a great way to make [a] widespread impact with a group of equally excited and motivated people.” Another reported, “I love the person to person interactions; they fuel my motivation for doing great legal work.”

Overall, our students were engaged in the work at an unprecedented level, more than what we had seen in prior semesters. And we want to be clear, those students were already engaged in the work before.<sup>67</sup> But the onset of the unemployment crisis as a result of a pandemic seemed to produce an extreme drive from our students to work with and for others. Students from far and wide, both alumni and current students, reached out to see how they could help. The WRC allowed the students to serve the community, which in turn created a stronger clinical community.

#### CONCLUSION

Our lessons over the last year of teaching remotely during a pandemic arise out of a very specific event but are broadly transferrable. We know this experience will help both of us going forward as clinical teachers and are applicable to other clinics. We learned that adding policy work to the clinical course directly advanced our direct representation of clients, and we learned that clinical work that focuses on the community helps students engage in their work and feel satisfied by that work even during, and perhaps especially during, a national crisis.

Grounding policy work in each course along with direct case representation was remarkably rewarding and will be something we continue to do in the future.<sup>68</sup> Students felt even more connected to the work when able to review the issues from a broader level. Further, they appreciated trying on an additional role beyond direct representation. This work also helps the clinic remain a leader among outside organizations to further the reach and impact the students can make during their time in the course. Even more importantly, these relationships allow the clinic to coordinate larger-scale work, work that is rich with diverse learning opportunities. Exploring these ventures with

---

<sup>67</sup> 100% of the 1Ls of the Winter 2019 term from both LP and the stand-alone clinic reported at the end of the term that they either were “very happy to have had the chance” or “glad to have done it.”

<sup>68</sup> For further discussion regarding this combined model, see Marcy Lynn Karin and Robin Runge, *Toward Integrated Law Clinics that Train Social Change Advocates*, 17 CLIN. L. REV. 563 (2011); Archer, Deborah, *Political Lawyering for the 21st Century*, 96 DENV. U. L. REV. 399 (2019).

outside organizations also can help public interest law students network and find employment.<sup>69</sup>

We often hear how students are disillusioned by law school. But the students' response to the pandemic in the WRC tells us that many students attend law school looking for ways to connect to the community and to give back. Connection to social justice work is a perfect interception for clinical work. And the WRC's focus on serving the public good generated additional student support. With the students, the WRC was able to have an incredibly profound impact.

The WRC allowed students to not only engage with the community, but with each other. Some Michigan 1Ls never made it to campus, and never met another 1L student in person. Others saw each other in person but had limited opportunities to socialize. The group work required in the WRC provided students a structured, regular, and required time to work with each other in small groups, to work with the 2L or 3L student assigned as their peer supervisor, and to work with their professors on a nearly one-on-one basis. In a year in which they felt separated from each other, the WRC provided a space to be together and work together toward a common goal. It also allowed them to work on their skills to help someone's desperate need, rather than to work on their skills toward a grade. That switch in the objective allowed a temporary reprieve from the pressures of the 1L year and the intense focus on their individual performances in other courses.

In short, the WRC work grounded our students. It allowed them to contribute to their community in a time of crisis, and to do so in a way that brought them closer to their law school community. By serving the community, we created a stronger community both inside and outside of the law school.

---

<sup>69</sup> Just as one of the WRC students was able to do by attending Professor Kohl's UI claimant advocate meetings.