
FOR A DECADE, FRANKLIN PIERCE LAW CENTER'S PUBLIC INTEREST COALITION has awarded fellowships to selected law students for summer internships with public interest organizations and agencies. This year, fourteen students received fellowships to work with a wide variety of public interest organizations throughout the United States and abroad.

Three fellowship recipients, Rosemary Wiant '03, Barbara Dawson '03 and James Kennedy '03, had the opportunity to work last summer for New Hampshire nonprofit organizations. Each describes their experiences in the article that follows.

Funding for fellowships is raised at Pierce Law's annual Public Interest Coalition Auction, held each year in Concord. Please contact Brigette Siff Holmes, director of the Social Justice Institute and chair of the Public Interest Auction, for information regarding fellowship opportunities or to make a donation to the upcoming 2003 Public Interest Coalition Auction.

IN THE PUBLIC INTEREST

STUDENTS EXPERIENCES AT NONPROFITS

Yeah, This Is Why I'm Here!

BY ROSEMARY WIANT '03

Franklin Pierce Law Center's
Public Interest Coalition
Fellowship

Disabilities Rights Center
Summer Internship

Rosemary Wiant, Class of 2003
rwiant@piercelaw.edu

My first several weeks at the Disabilities Rights Center were, at best, a time when I said to myself, "yikes, what am I doing here?" My summer ended, however, with a feeling of accomplishment, satisfaction, and eagerness to do more.

For three of the first four or five weeks, I did the initial intake interviews. Every half-hour I called a new person for a previously scheduled phone appointment. At that point, I did not know enough to give them any direction or advice. Also, my job was simply to get the information so we could determine whether and how we could help them. At times I felt like I was a spectator at a parade of New Hampshire's sick, crippled, poor, deranged, and generally hopeless citizens. It was wrenching, and I was powerless. At those times I resisted the urge to throw myself in front of traffic (thanks, in part, to the pervasive number of "stop for pedestrian" signs along Main Street which would likely reduce my suicide attempt to a mere mangling). What those weeks gave me, however, was a strong sense of the very personal nature of law and a sense of the breadth and scope of issues relating to people with physical, mental, and developmental disabilities.

After the initial shock, I participated with awe in the process of addressing people's concerns and issues. I was amazed at the number of questions and issues that are resolved at the intake level. Many times, the issue can be resolved with a few phone calls and letters ("this is the DRC and we are 'concerned' about..."). Sometimes it requires educating someone on the laws and regulations that must be followed or educating a person on their rights and how to get what they need. Occasionally, it merely requires listening; sometimes a person just wants a chance to tell his story. Not only did I hone my inter-

viewing skills and quickly learn how to get a person's story in a half-hour or less, I also realized that this is where many people develop their sense of justice.

The breadth of issues also continues to surprise me. Who could have guessed I would come away with some knowledge of capuchin monkeys as retriever service animals, the cancer causing particulates in diesel fuel, and the impact of 11th Amendment claims raised against a § 1983 official capacity action brought in state court?

As the summer progressed, I began to feel like an advocate. I did not intentionally seek out this role ("I'm just a 1L doing research"). I felt it take over me. The example that stands out in my mind involved a woman with a form of multiple sclerosis. As a result, she is quadriplegic and unable to swallow food. For nutrition, she is fed intravenously (total parenteral nutrition, or TPN). In her case, the process is particularly delicate because the IV is in the carotid artery in her neck and is a process that takes 10 hours. The smallest glitch in administration process could be fatal. Yet, the insurance company decided to reduce her nursing care to only two hours per week. According to the insurance company, personal care attendants (unskilled in IV therapy and paid for by the patient) could adequately serve the patient's needs.

After the hearing, we were given a last chance to provide information showing that TPN administration requires skilled nursing care. This task was put to me. How do I do this when there is no law to turn to? Also, nursing standards do not specifically address the issue. However, I was able to pull together general IV nursing standards and regulations pertaining to IV training. I spoke with the Board of Nursing, the Infusion Nursing Society, the supplier of the TPN equipment and nursing schools. I gathered internal e-mails from the insurance company and letters from her doctor. While writing the document, I began to feel myself being pulled into the topic and the goal. I sincerely cared about the outcome, but this was something more. What I was doing would directly impact a person's life.

I felt like an advocate. I really helped someone (we won!). And, I really believe in this. Yeah, this is why I'm here!

Quite a change from my first few weeks; now I think back and say, "wow, I love this!"



This year's 2002 Public Interest Coalition Fellowship recipients are pictured here with Dean John Hutson: (l to rt) Rosemary Wiant '03, Jeffrey Kobulnick '03, Brooke Meyer '03, Suzanne Ketteridge '03, Bridget Heffernan '03, Jocelyn Kennedy '03, Jeffrey Reisner '03, Joshua Jones '03, Heather Logan '04, Dean John Hutson, Julia Bazaldua '03, Mia Poliquin '04, Melina Wright '04 and Dan Trickel '03. (James Kennedy is not pictured.)

Will You Accept the Challenge?

BY BARBARA A. DAWSON '03

I decided to go to law school because I wanted to be part of something that would ultimately provide a way to implement change in our society. Our first-year constitutional law professor challenged us, "It is up to your generation to tackle the next set of issues." Sexual orientation and what it means from a legal perspective in our society was one of those issues. I accepted this challenge by working for a grassroots organization known as The New Hampshire Freedom To Marry Coalition.

It is apparent, as you listen to the radio, watch television and read the paper that there have been several recent efforts to redefine marriage in our society. Marriage is a gateway to over a thousand rights and responsibilities on the federal level and hundreds on the state level.

Vermont has legally redefined marriage through their civil union law. A civil union, in Vermont, is a comprehensive legal status parallel to civil marriage for all purposes under Vermont state law. According to the Vermont civil union law, spouses in a civil union will enjoy the same state law protections and responsibilities as are available to spouses in a marriage. Thus, under Vermont law, all legal rights which apply to "family," "immediate family," "dependent," and "next of kin" also apply to spouses in a civil union. Our neighbors in Vermont have a legal protection that New Hampshire does not. Our basic freedoms as Americans do not expire when we cross state lines. A state line is a painful and unfair reality to many New Hampshire citizens.

The New Hampshire Freedom To Marry Coalition's mission is: "To provide the grassroots effort and support necessary to successfully advocate for and pass legislation that will provide same gender couples the legal right to marry in New Hampshire." My responsibility was to read and analyze the New Hampshire Statutes in an effort to locate statutes that identified the "rights and responsibilities" of marriage. Here are a few of the identified benefits denied same gender couples: care of spouse's bodily remains upon death; exemption from the Legacy and Succession Tax, option to file joint tax returns; spousal visitation in hospitals, and family medical and bereavement leave. Same gender couples must abide by the same rules and laws as everyone else, so why should they not also benefit from certain laws? A religious marriage is an option for same gender couples where their community of faith recognizes their marriage. However, the state of New Hampshire does not recognize these marriages.

The 1990 Census listed 658 same gender "spousal" households in New Hampshire. In 2000, it was 2,703. Clearly there is a need in New Hampshire for new legislation that will provide and protect all of its citizens regarding a "legal" marriage.

Frederick Douglas wrote: "If there is no struggle, there is no progress. Those who profess to favor freedom and yet deprecate agitation....want crops without plowing up the ground, they want rain without thunder and lightning. They want the ocean without the awful roar of its waters."

The civil rights movement is long term. The experience I had this summer has deepened my commitment to the pursuit of justice and equality.

Franklin Pierce Law Center's
Public Interest Coalition
Fellowship

The New Hampshire Freedom to
Marry Coalition
Summer Internship

Barbara A. Dawson, Class of 2003
bdawson@piercelaw.edu

Reflection of Fellowship Experience with the NEA

BY JAMES KENNEDY '03

My Public Interest Coalition Fellowship position with the National Education Association – New Hampshire Chapter, (NEA-NH) began on May 15th at 9AM at the New Hampshire Supreme Court. I was there to observe my supervisor, Attorney James Allmendinger, present oral argument on a dispute relating to a collective bargaining agreement between a New Hampshire School Board and a New Hampshire Teachers Association.

James Allmendinger and Steve Sacks serve as the NEA-NH staff attorneys for 12,000 NEA-NH schoolteachers and support staff. Their caseloads consistently encompass a wide range of legal issues. When they're not representing an aggrieved public school teacher, their job requires them to give legal advice about negotiating 185 collective bargaining agreements between New Hampshire school districts and NEA-NH teachers and support staff.

During my fellowship experience I was engaged in a critical study of public education employment law. My legal research primarily focused on issues involving the First and 14th Amendments of the United States Constitution, the Law of Agency, the New Hampshire Retirement System statute, sexual harassment claims, federal tort claims as well as many other areas of law pertaining to the role of public education in society. I wrote several in-house and out-of-house legal memorandums, briefs, factual based time lines as well as a five count federal district court complaint.

Intertwined with my research and writing responsibilities, I traveled with Attorney Allmendinger and Attorney Sacks to varying public school districts throughout the state. I assisted both attorneys in conducting client interviews with aggrieved public school teachers who had been suspended, fired or simply let go by their supervisory principal or superintendent.

In cases involving the termination of a teacher's teaching contract, I quickly learned the controlling statutes governing the rights afforded to New Hampshire's public schoolteachers and New Hampshire's public school districts. RSA 189:14-a grants New Hampshire school boards the authority to fire a non-tenured (probationary) teacher without providing a reason or a hearing. This statute is based on a United States Constitutional argument that probationary teachers do not have a property right in their teaching employment until the completion of their third year with the same school district. This means that probationary teachers are not entitled to 14th Amendment procedural due process protections. RSA 189-14a further enunciates that if a tenured/veteran teacher changes from one New Hampshire School district to another, they lose their tenured status and become probationary for another two years in the new district. As I became frustrated with the plight of the probationary teacher being fired for no reason, I engaged myself in a critical study to challenge the constitutionality of RSA 189-14a.

My fellowship experience also enabled me to work as a community activist. I learned a great deal about education law, labor and employment law as well as many other areas of law. For me, this experience was a great way to put the legal concepts that I learned during my first year into a meaningful practice. More importantly, this experience heightened my self-esteem and ensured me that I had the skill and ambition to succeed as a lawyer.

Franklin Pierce Law Center's
Public Interest Coalition
Fellowship

National Education Association
at New Hampshire Chapter
Summer Internship

James Kennedy, Class of 2003
jkennedy@piercelaw.edu