



NYLAG LEGAL CLINIC FOR PRO SE LITIGANTS IN THE SDNY

First Annual Report: 10/1/2016 – 9/30/2017

I. Introduction

With critical support from the U.S. District Court for the Southern District of New York (the “Court”), the New York Legal Assistance Group (“NYLAG”) opened a free legal clinic staffed by attorneys and paralegals to aid low-income individuals who are representing themselves or planning to represent themselves in civil lawsuits in the Court. The NYLAG Legal Clinic for Pro Se Litigants in the Southern District of New York opened its doors on September 19, 2016 and recently completed its first year of operations. Funded by a grant from the Court, the Clinic provides assistance to litigants with federal civil cases including but not limited to cases involving civil rights, employment discrimination, labor law and intellectual property, and cases arising out of the Court’s diversity jurisdiction. This report summarizes the Clinic’s work in its first year of operation.

II. Clinic Background and Purpose

According to the Administrative Office of the U.S. Courts, in the S.D.N.Y, there were 2253 civil pro se cases filed during the 12 months ending September 30, 2016 (the year before the clinic opened), representing 21% of all 10,553 civil cases filed in the District during that time period.¹ Of those 2253 civil pro se cases, 1111 – or 49% – were brought by non-prisoner pro se litigants; non-prisoner civil pro se cases reflected 11% of the Court’s civil docket during that time period.²

The total volume of all civil pro se cases filed in the SDNY has been relatively steady over the past five years, and the number and the percentage of non-prisoner civil pro se filings have increased by about 2-3% during this period: there were 1086 such filings during the 12 months ending September 30, 2012 (46% of all pro se filings and 10% of all civil filings); there were 1104 such filings during the 12 months ending September 30, 2013 (49% of all pro se filings and 12% of all civil filings); there were 1199 such filings during the 12 months ending September 30, 2014 (46% of all pro se filings and 11% of all civil filings); there were 1237 such filings during the 12 months ending September 30, 2015 (56% of all pro se filings and 12% of all civil filings).³

¹ U.S. Courts Website, Judicial Business, Table C-13. Civil Pro Se And Non-Pro Se Filings, by District, During the 12-Month Period Ending September 30, 2016.

² *Id.*

³ U.S. Courts Website, Judicial Business, Table C-13. Civil Pro Se And Non-Pro Se Filings, by District, During the 12-Month Period Ending September 30, 2015; U.S. Courts Website, Judicial Business, Table C-13. Civil Pro Se And Non-Pro Se Filings, by District, During the 12-Month Period Ending September 30, 2014; U.S. Courts Website, Judicial

Litigating pro se is difficult. First, for pro se litigants with potentially meritorious claims or defenses, the complex procedural rules make it hard to assert those claims or defenses in an appropriate and timely manner. Accordingly, many pro se matters are decided on procedural grounds, which can lead pro se litigants to feel that their grievances were not really heard. Second, many pro se litigants file cases that do not belong in federal court. They do not appreciate that the federal courts are courts of limited jurisdiction, leading them to file cases that belong in other fora. Additionally, most pro se litigants have at best a limited understanding of the types of wrongs that can be redressed under federal law. And pro se litigants are often unfamiliar with bars to obtaining legal relief, such as the expiration of the limitations period.

In light of these difficulties, we are frequently asked why federal court litigants choose to proceed pro se. In most cases, the litigant has no other option. Most Clinic clients have tried to secure counsel and have been unable to do so, even if they have potentially meritorious claims. The most common reason appears to be that the claims are not worth enough money to make it economic for private firms to take these matters on in light of the high costs of litigation. Even for claims under statutes with fee shifting provisions, firms typically prefer to take on matters that have the potential for larger contingency awards. Another contributing factor to the inability of many pro se litigants to find counsel is that many of them are facing multiple legal and life issues at the same time that they are trying to pursue their federal claims, which can complicate their ability to cooperate with counsel. Public interest organizations fill the gap to a certain extent, but these organizations have limited resources and may be unable to assist individual litigants in federal court.

Beyond the challenges faced by pro se litigants, cases involving pro se litigants also raise significant issues for the federal courts. In 2016, the Board of Judges of the SDNY approved the recommendation of the Court's Pro Se Committee to authorize and fund the Clinic. The Clinic's goal is to expand legal assistance for pro se litigants who are pursuing or defending claims in the SDNY. The Clinic therefore seeks to increase access to justice for pro se litigants with potentially meritorious claims or defenses by, for example, helping such litigants file clearer pleadings and briefs. In doing so, the Clinic also decreases the burdens on the Court created by pro se litigants. To this end, the Clinic's mandate is to:

- Provide counseling to potential litigants on filing cases in federal court, including on the issue of whether a case should be filed in the SDNY or another forum;
- Provide substantive and procedural legal advice in response to questions that may arise at any stage of litigation;
- Assist in accessing additional information and/or research about relevant legal issues;
- Review and explain court orders, opposition pleadings, discovery processes and litigation strategy;
- Assist with motion practice, discovery, and litigation strategy;

Business, Table C-13. Civil Pro Se And Non-Pro Se Filings, by District, During the 12-Month Period Ending September 30, 2013; U.S. Courts Website, Judicial Business, Table C-13. Civil Pro Se And Non-Pro Se Filings, by District, During the 12-Month Period Ending September 30, 2012.

- Assist with preparation for depositions, pretrial conferences, mediations and other court appearances;
- Provide forms and instruction manuals;
- In appropriate cases, help litigants retain limited scope or full pro bono counsel; and
- In appropriate cases, provide referrals to other agencies and organizations that provide civil legal services and/or social services.

The following services are beyond the Clinic's scope:

- Assisting with state court cases;
- Assisting with cases in federal district courts other than the SDNY;
- Assisting with federal appeals, bankruptcy cases or criminal cases; and
- Assisting incarcerated pro se litigants.

Additionally, the Clinic does not conduct investigations into the facts of a litigant's case; negotiate with a litigant's opponent or the opponent's lawyer; or appear on a litigant's behalf in court or out of court.

The Clinic may decline to assist a pro se litigant if:

- NYLAG is conflicted out of the case, for example if NYLAG has already given advice to the litigant's opponent;
- Providing assistance would otherwise conflict with a provision of the New York Rules of Professional Conduct; or
- The litigant's income and/or assets are sufficient to allow him or her to retain private counsel.

III. Clinic Partnerships

In working towards the Clinic's goals, our staff regularly consults with NYLAG staff who have relevant subject matter expertise; with Court personnel; with other public interest organizations, including clinics serving pro se litigants in other jurisdictions; and with private lawyers with relevant substantive legal experience.

NYLAG lawyers have provided significant assistance to the Clinic's clients. Clinic staff has consulted with NYLAG lawyers on matters involving special education, consumer protection law, foreclosures, landlord-tenant issues, immigration issues, elder law issues, and public benefits. NYLAG has also taken on seven Clinic clients for limited scope representation (depositions or mediation).

The Clinic has developed a good working relationship with the Court's Office of Pro Se Litigation, which is a valuable source of information about Court procedures; with the Court's Pro Se Intake Unit, which frequently refers litigants to the Clinic for assistance and which provides Clinic staff with information about filing requirements; and with a representative of the Court-annexed ADR program to discuss ways that Clinic staff can assist pro se litigants in employment discrimination and other cases that are referred to mediation. Clinic staff meets

monthly with personnel from the City Bar Justice Center Federal Pro Se Legal Assistance Project in the Eastern District of New York about common issues; has met with personnel from the Court's office of pro se litigation, from the SDNY and EDNY court-annexed mediation programs and the Eastern District Pro Se Legal Assistance Project to discuss ways to assist pro se litigants in making use of the mediation programs in the SDNY and the EDNY; and has spoken with representatives of other federal pro se legal clinics around the country to learn how other clinics improve access to justice for pro se litigants.

Clinic staff has referred 19 clients with social security appeals to the New York County Lawyers Association ("NYCLA") for full representation. Clinic staff has opened a dialogue with Cardozo Law School's Bet Tzedek Legal Services about ways our clinics can collaborate, and Bet Tzedek Legal Services has taken on one Clinic client for mediation purposes and one Clinic client for full representation. Clinic staff has also opened a dialogue with Disability Rights New York, which has expressed an interest in getting referrals from the Clinic of cases implicating the rights of disabled individuals and has offered to consult with us on cases involving laws protecting the disabled.

IV. Office Hours & Staffing

The Clinic is staffed by two full-time attorneys and a full-time paralegal. The Clinic's full-time employees are assisted by attorney, law student and undergraduate volunteers. This year, Clinic staff worked with volunteers from 24 firms on intake and drafting litigation documents; and with 42 student, recent law graduate and other interns on intake, legal research and other projects. Members of the Federal Bar Council's Public Service Committee have been particularly generous with their time. It would be impossible to provide as much assistance as we do to as many clients without the Clinic's dedicated volunteers.

The Clinic's main office is located in Room LL22 of the Thurgood Marshall Courthouse in space provided by the Court. The space comprises a reception area with a public access PACER terminal; a conference room; two lawyer offices; and a station for volunteers. The Clinic has a collection of relevant treatises that are on loan from the Second Circuit Court of Appeals Library and that are available for use by pro se litigants at the Clinic's office.

Clinic personnel are present at the Clinic's main office from 9:30 am to 5:30 pm on days the Court is open. Litigants and prospective litigants are assisted by Clinic staff at in-person appointments, unless coming in to the Clinic presents a hardship (for example, when the litigant lives out of state). Appointments are available daily from 10:00 am to 4:00 pm. Litigants and prospective litigants may make appointments by stopping by the Clinic, by calling, or by e-mail, and are generally scheduled within one week. Clinic staff will, if at all possible, provide immediate assistance to walk-in litigants facing imminent deadlines. Unless NYLAG has a conflict (for example, because a NYLAG lawyer previously provided advice and counsel to the party opposing the litigant), any pro se litigant or potential litigant who is not incarcerated will be given an initial one-hour consultation with Clinic staff. Follow-up consultations are scheduled as appropriate.

The Clinic has also offered in-person services from the White Plains courthouse since April 2017. Clinic staff members are present at the White Plains SDNY courthouse on those

Wednesday afternoons that the Court is open and see litigants and prospective litigants by appointment.

V. Assistance Provided

A. Basic Statistics and Levels of Service Provided

During this reporting period, the Clinic was contacted by 923 individuals and provided assistance to 874 of them on 915 matters;⁴ 447 of the individuals we assisted had more than one consultation with Clinic staff. A typical consultation lasts an hour, but many visitors requiring ongoing assistance have consultations that last several hours.

During this reporting period, we had 2437 total client consultations, averaging about 203 client consultations per month; 71 of these consultations were in White Plains. We provided translator or interpreter services to 31 individuals (22 were Spanish speakers; 6 were Mandarin speakers; one spoke Bengali; one spoke French; and one spoke Hebrew).

During this period:

- 740 individuals received our basic level of service, advice and counsel, meaning that we discussed the case and provided information or legal advice, which could include referrals to other legal or non-legal service providers.
- 127 individuals received an intermediate level of service, brief services, meaning that we helped for a limited amount of time with specific matter-related projects, such as research, drafting or strategy.
- 48 individuals received our highest level of service, extensive services, meaning that we spent over of 10 hours on matter-related projects (the same types of projects covered by “brief services”).

In a number of cases, the Clinic has assisted litigants and potential litigants by advising them that their lawsuits did not belong in this Court. Of the 874 individuals who consulted with Clinic staff during this period, 280 were advised that they should not file or should not continue litigating in this Court, and 253 of them were referred instead to other appropriate fora or agencies, such as state courts, other federal courts, state and federal administrative agencies, law enforcement agencies, legal services organizations and/or social services organizations. Whenever possible, Clinic staff provided referrals to organizations that provide services to

⁴ We expect to provide assistance to the eight of the 49 individuals who have not received assistance, because they contacted the Clinic this reporting period but their appointments are in October. We were unable to provide assistance to the remaining 41 individuals because, for example, NYLAG had a conflict (had previously provided advice and counsel to the litigant’s adversary); or the individual was incarcerated; or because the individual’s questions related to a case that was pending in another court; or because the individual could not be reached after the initial intake (we make at least 3 attempts to contact individuals whom we cannot reach after the initial intake). Whenever possible, we provide individuals whose claims fall outside the Clinic’s scope with referrals to other appropriate legal services providers, and in those cases we consider that that we have provided assistance to the individual.

litigants in the other fora. We are aware of only 21 instances where an individual whom we advised to not file suit or continue litigating in this Court but rather to seek out an alternative forum or agency filed here or continued litigating here nonetheless. (We periodically check PACER to see whether any of these individuals has filed in this Court notwithstanding our recommendation that their matter belongs elsewhere.)

B. Types of Assistance – Statistics

During this period, Clinic staff assisted litigants and prospective litigants with the following tasks:⁵

C. Types of Assistance – Descriptions

We set forth below a qualitative description of the counsel we provided in connection with the most common questions raised by clients during this period, as reflected in the chart above.

1. Advice to Individuals Considering Filing Suit in the SDNY

Many visitors to the Clinic have not yet filed a lawsuit and seek our advice on determining the proper forum, drafting the complaint, or other pre-suit issues (including whether they have any claim at all). Indeed, counseling litigants who have not yet filed on pre-suit issues was one of the most common purposes for our consultations. With these individuals, we first determine whether the case belongs in the SDNY at this time. We assess whether there is federal jurisdiction, whether venue is proper, whether administrative remedies have been exhausted, and whether the claims would be time barred.

If there is no basis for a federal lawsuit in the SDNY at this time, we explain to the litigant why we believe this to be the case. For example, if a Clinic visitor has a housing-related complaint, we recommend that she take the issue to state court. If a Clinic visitor believes he has been the victim of a crime, we direct him to the police or to an appropriate prosecutor. If required administrative remedies have not been exhausted and there is still time to do so, we explain the steps the individual would need to take. Whenever we refer a Clinic visitor to another forum, we make every effort to provide the Clinic visitor with appropriate referrals to other groups at NYLAG, other legal services organizations, private attorneys and/or social services organizations that may be able to assist the Clinic visitor with her issues.

If there appears to a basis for federal jurisdiction, if administrative remedies have been exhausted as required, if venue is proper and if the claims seem timely, we assess whether the case seems to raise non-frivolous legal issues. If we conclude that the claims are legally frivolous, we explain our thinking to the potential litigant. In that situation, we recommend that she not proceed with her claim in any forum. Similarly, if the alleged facts seem extremely implausible, such as if the claim is that the police are forcing the potential litigant's physician to poison him, we advise him not to proceed, explaining that the case will pose nearly insurmountable problems of proof.

⁵ Any given client may have been assisted with more than one task.

We make a recommendation not to proceed in any forum in very limited circumstances only. During this period, we made this recommendation to fewer than 30 individuals. In each of these matters, the potential claims had clear incurable defects (a suit against parties with immunity) and/or were so implausible as to present nearly insurmountable problems of proof.

Of the clients we advised during this period not to proceed in any forum, most indicated that they planned to proceed anyway. With respect to those who indicated an intention to accept our advice and not file, we followed up by checking the docket to see whether they later decided to file in the SDNY anyway; a few did in fact file in this Court.

In those instances when the client decided to proceed in spite of our recommendation to the contrary, we provided a brief explanation of the necessary elements of a complaint and helped the client format the complaint and prepare the relevant forms correctly so that the case could be reviewed efficiently. In these situations, to conserve limited resources, we did not provide additional extensive substantive advice.

2. Advice to Individuals in Connection with Motions to Dismiss/Amending the Complaint

The Clinic assisted a significant number of pro se plaintiffs in connection with motions to dismiss and/or amending the complaint. We typically reviewed moving papers with pro se plaintiffs, providing a summary of the defendants' strongest arguments. We then explained how to draft an opposition. If the complaint had curable flaws, we discussed with the plaintiff the ability of pro se plaintiffs to include in her opposition papers allegations that the Court may treat as supplementing the complaint.

We also assisted a number of litigants with amending their complaints, typically in response to a Court order explaining the flaws in the initial pleading. We worked with the litigants to make sure that they understood the order and what they would need to do to cure the problems in the prior versions of the complaints. Several litigants were convinced to voluntarily dismiss from their complaints parties against whom they did not have viable legal claims; in other instances, the litigants felt strongly about keeping parties in the case even in the absence of viable legal claims. We also took the opportunity to suggest to litigants facing severe hurdles, such as a statute of limitations problem, that litigation may not be a viable option for them. Even though only three cases were dropped as a result of this counsel, we believe this advice will be helpful in managing litigants' expectations about the likely outcome of their cases.

3. Advice to Individuals in Connection with Motions for Summary Judgment

The Clinic helped several pro se litigants respond to motions for summary judgment. In these situations, we tried to convey to litigants what summary judgment means and what the legal standard is for granting a summary judgment motion, with particular emphasis on the difference between material and non-material facts. We also explained the Rule 56.1 statement and how to respond to one. Most of the summary judgment motions on which we assisted remain sub judice, but on two such motions, some of the plaintiffs' employment discrimination claims survived.

4. Advice Concerning Discovery

A significant number of pro se litigants came to the Clinic for assistance with discovery. We explained potential discovery tools and reviewed and revised drafts of document requests, interrogatories, and depositions on written questions. We discussed strategic discovery-related issues with clients, helping them identify the evidence that would support their claims and frame discovery requests that would lead to the production of that evidence. We informed clients of their options when a discovery dispute arises, and prepared clients for what to expect at discovery-related conferences or hearings.

5. Advice Concerning Settlement

The Clinic facilitated 24 settlements during this period, either by directly advising clients in connection with possible settlements or by referring the clients to limited scope pro bono counsel who advised them on settlement.

In some of the cases where we directly advised the client on settlement, the litigant had been referred to mediation or to a settlement conference by the Court. In other instances, we raised with the litigant the possibility of either proposing mediation to the adversary or making a settlement demand. We helped the litigants understand the settlement process as well as what a realistic range of settlements might look like. In at least two instances, we advised a client who had received a Rule 68 offer of judgment. In those cases, we explained the risks associated with rejecting the offer. In virtually all cases where we counseled a client in connection with a potential settlement, the case ultimately settled.

We view our facilitation of settlements – both directly and by referring clients to limited scope pro bono counsel – as one of our most significant contributions to helping pro se litigants achieve meaningful access to justice. Many of the pro se litigants whom we assisted with settlement expressed their great appreciation for having had an opportunity to share their story with a neutral party (a magistrate judge or mediator). While all of the plaintiffs who settled had undoubtedly hoped to recover more, most of them understood that a higher recovery was very unlikely and that continuing to litigate entailed significant costs in terms of time and effort and also posed substantial risks. And almost all of the settling litigants with whom we spoke indicated that they felt relieved to put their case behind them, so that they could focus on matters other than their case.

6. Explanation of Case Status, Federal Court Procedures or Court Orders

The most common topics discussed at our consultations are the status of the case, the nature of federal court procedures and the meaning of orders issued by the Court.

Many of the litigants who come into the Clinic, particularly for an initial consultation, have no pending deadlines and merely wish to understand the current status of their cases and what to expect in the future. We explained to these clients what had happened in their cases in the past, where matters currently stood and what developments were likely to occur in the near future. We also provided a general overview of the federal litigation process as relevant to the

particular matter. In addition, we assessed the strength of the client's claims or defenses, in order to manage expectations about likely outcomes.

Other litigants came in after receiving a Court order that they did not understand. In those situations, we explained the order and its significance to the case, answered any questions, and discussed the client's next steps.

Still other litigants came in after a Court hearing without fully understanding what had transpired. As a result, we recently began sending volunteers to observe proceedings involving certain Clinic clients in order to be in a better position to explain the Court's rulings to those clients.

7. Ancillary services

In the course of speaking with clients about their federal court cases, we have on several occasions learned of additional issues (some legal and some not) facing these individuals, and in those situations, we attempted to provide appropriate referrals to other groups at NYLAG, other legal services organizations, private attorneys and/or social services organizations. These referrals are distinct from situations where a Clinic client was referred to another NYLAG attorney or to another organization or firm for limited scope representation in connection with their SDNY case.

For example, we referred six clients facing serious financial problems to financial counselors at NYLAG; we referred 47 clients having difficulty obtaining government benefits to single stop locations around the city; we referred 12 clients to employment training programs; in at least eight instances we provided a client with referrals to free mental health service providers; and in numerous instances we have explained how pro se litigants with grievances against their former counsel can file complaints with the Bar Association.

8. Pro Bono Referrals

The Clinic has placed many pro se litigants with pro bono counsel for limited scope and full representation.

We seek to find limited scope pro bono counsel for a significant proportion of pro se litigants who are being deposed and who can benefit from a productive relationship with counsel.⁶ At a minimum, having counsel at deposition helps pro se litigants better understand the process, which leads pro se litigants to have more positive perceptions of the judicial system. There is a large number of junior lawyers who seem eager to take on such representations in order to gain valuable professional experiences earlier in their careers than would otherwise be possible. During this period, drawing on NYLAG's extensive network of pro bono lawyers, the Clinic placed 32 matters with limited scope pro bono counsel from 22 different firms and organizations (including NYLAG) for purposes of depositions, although in three such matters the client declined to work with counsel and in one such matter the firm withdrew before the depositions took place. The cases we placed included employment discrimination cases, civil

⁶ In taking on this task, we supplement the placements of pro se cases with limited scope pro bono counsel made at the request of the Court by the Court's Office of Pro Se Litigation.

rights cases, contract and fraud cases, labor law and ERISA cases, an ADA case and a voting rights case. In several of the matters placed with pro bono counsel for deposition purposes, the lawyer later agreed to expand the representation to include exploring the possibility of settlement. There are currently five additional matters we are seeking to place with pro bono counsel for purposes of depositions.

The Clinic also tries to find limited scope pro bono counsel for Clinic clients in connection with mediations or settlement conferences.⁷ While Clinic staff can and does assist pro se litigants in connection with settlement efforts behind the scenes, having an attorney present during a mediation or settlement conference can make pro se litigants more comfortable with the process. Placing matters for mediation purposes, however, is more challenging than placing matters for deposition purposes. Many of the Clinic's pro bono partners seem to prefer taking on depositions to taking on mediations; others have a policy against taking on plaintiff-side employment matters. We secured limited scope pro bono counsel from 4 different firms and organizations (including NYLAG) to assist with mediation in 12 cases, although in two of these cases, counsel was unable to reach the client and enter into a retainer agreement, and in one case, counsel withdrew from the representation before the mediation was held. This figure does not include the six matters where deposition counsel expanded the representation to include assisting with settlement or the eleven matters where Clinic staff assisted with settlement efforts behind the scenes.

The Clinic attempts to place a significant proportion of non-prisoner pro se trial-ready cases with pro bono counsel.⁸ The Clinic will also seek to find pro bono counsel for pro se litigants where the litigant appears to have a meritorious claim or defense, meets NYLAG's income guidelines, and can communicate and cooperate with counsel. In addition to the 19 social security appeals referred to NYCLA for full representation, we successfully placed eight matters with pro bono counsel for full representation:

- Attorneys from Quinn Emanuel Urquhart & Sullivan agreed to represent a pro se defendant and the company of which he was the principal in a claim for breach of contract. After reviewing the evidence, they contacted the counsel for the plaintiff company and convinced plaintiff to dismiss their individual client voluntarily. They secured voluntary dismissal of the corporate client after several days of trial.
- Attorneys from Cravath, Swaine & Moore agreed to represent a pro se defendant in a trial-ready employment discrimination case; the case settled on the eve of trial.
- Attorneys from Davis, Polk & Wardwell agreed to represent a pro se defendant in a trial-ready tax case; the case settled on the eve of trial.
- Attorneys from Cravath, Swaine & Moore agreed to represent a pro se plaintiff in a civil rights case involving prison conditions; this case is currently in expert discovery.
- Attorneys from Kramer Levin Naftalis & Frankel took on a trial-ready employment discrimination case for a pro se plaintiff and represented the client in a bench trial.

⁷ In taking on this task, we supplement the placements of pro se cases with limited scope pro bono counsel made at the request of the Court by the Court's Office of Pro Se Litigation.

⁸ In taking on this this task, we supplement the placements of trial-ready pro se cases with pro bono counsel made at the request of the Court by the Court's Office of Pro Se Litigation.

- Attorneys from Park Jensen Bennett agreed to represent a pro se defendant in connection with a suit for breach of contract arising out of her failure to pay her late husband's medical bills; this case is in the early stages of litigation.
- Attorneys from Cozen O'Connor agreed to represent a pro se plaintiff who is a Holocaust survivor in a case to recover funds from the IRS; this case is in the early stages of litigation.
- Attorneys from Cardozo Law School's Bet Tzedek Legal Services agreed to represent a pro se plaintiff in a case alleging employment discrimination due to disability; this case is in the early stages of litigation.

In addition, pro bono counsel took on the following other representations:

- Attorneys from Quinn Emanuel Urquhart & Sullivan represented a pro se plaintiff in a civil rights case seeking temporary injunctive relief.
- Attorneys from Cleary Gottlieb represented a pro se defendant in a labor law case in connection with an application for relief from a judgment under Rule 60(b).
- Attorneys from Park Jensen took on an appeal to the Second Circuit from a decision granting in part a Clinic client's summary judgment motion in a matter involving special education law.

We are continuing to look for pro bono counsel for full representation in four matters, all in the early stages of litigation; such cases are typically more difficult to place with pro bono counsel for full representation than trial-ready cases.

Clinic clients for whom we have secured limited scope or full representation are almost all delighted to have the help and very pleased with the assistance provided. Likewise, most of the pro bono attorneys who have taken on limited scope or full representation at the Clinic's request report that they have found the experience to be rewarding. The few situations where pro bono placements have not worked out have been matters where the attorney-client unexpectedly deteriorated over the course of the representation.

VI. Types of Cases⁹

A. Basis for Jurisdiction

During this period, 92% of clients' filed cases raised federal questions and 8% of clients' filed cases involved diversity jurisdiction.

B. Party

During this period, 86% of clients with filed cases were Plaintiffs and 14% were Defendants.

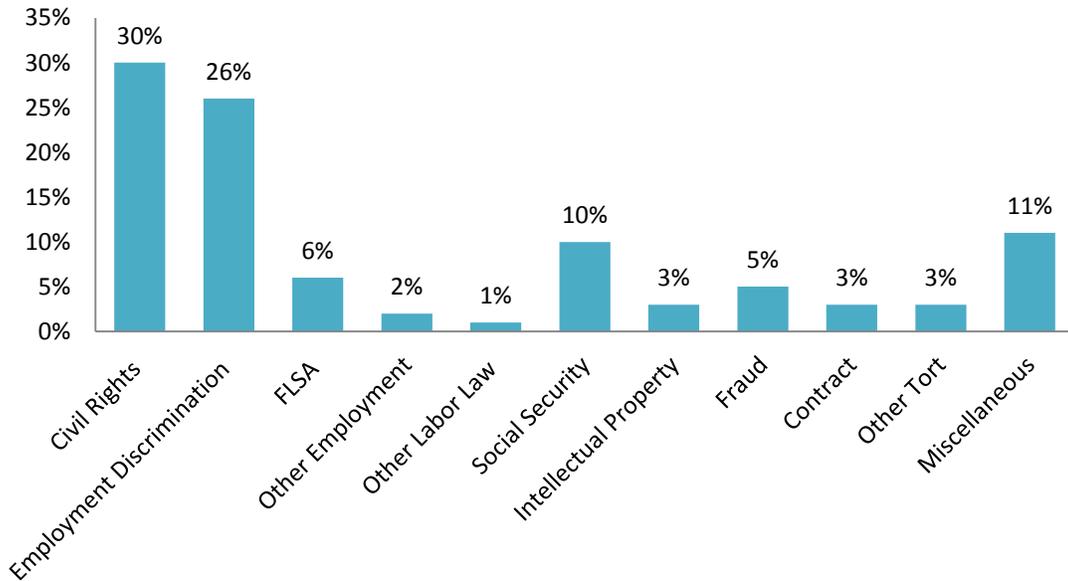
C. Location of Court and of Services Provided

⁹ Data on each of the categories in this section are derived from matters where the client has a case pending in this Court. In those instances where the client has more than one type of claim, Clinic staff identifies the one that predominates.

During this period, 8% of clients with filed cases had cases pending in White Plains and 92% had cases pending in Manhattan; 3% of the Clinic’s in-person services were provided in White Plains and 97% of the Clinic’s in-person services were provided in Manhattan.¹⁰

D. Nature of Claim

During this period, the Clinic provided assistance with the following types of cases:



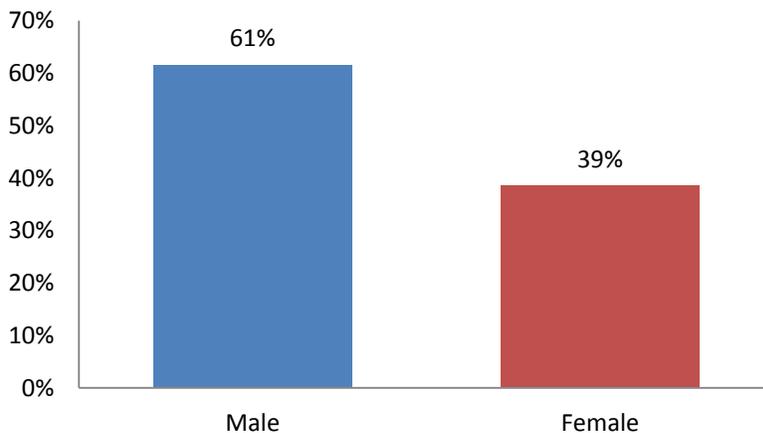
Type of Claim	Percentage of Clients
Employment Discrimination	26%
Other Employment (ERISA)	2%
Civil Rights	30%
FLSA	6%
Other Labor Law	1%
Intellectual Property	3%
Breach of Contract	3%
Fraud	3%
Other Tort	3%
SSA Appeal	10%
Miscellaneous ¹¹	11%

¹⁰ Note that NYLAG expanded into White Plains nearly seven months after we began offering services in Manhattan.

VII. Demographics¹²

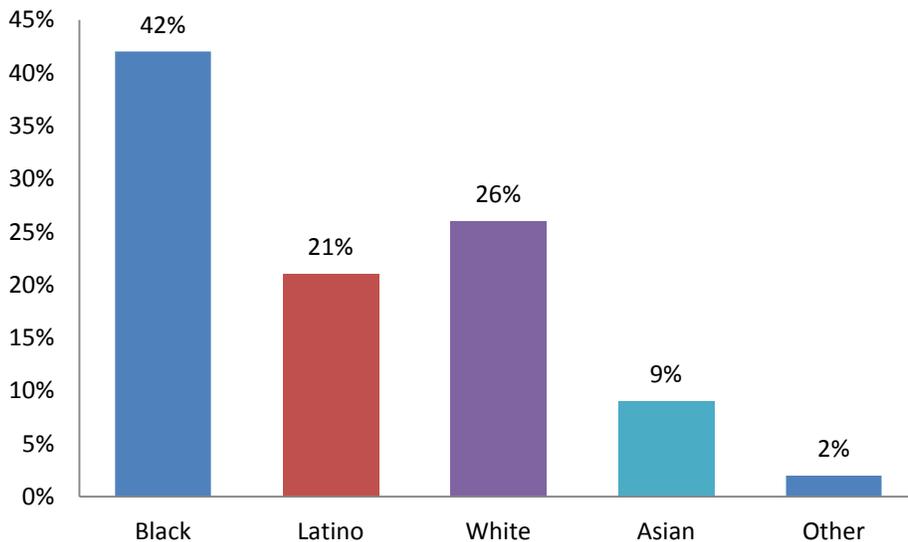
A. Gender

During this period, 61% of Clinic visitors were male and 39% were female.



B. Race

During this period, 42% of Clinic visitors were Black; 21% were Latino; 26% were White; 9% were Asian; and 2% were Other.

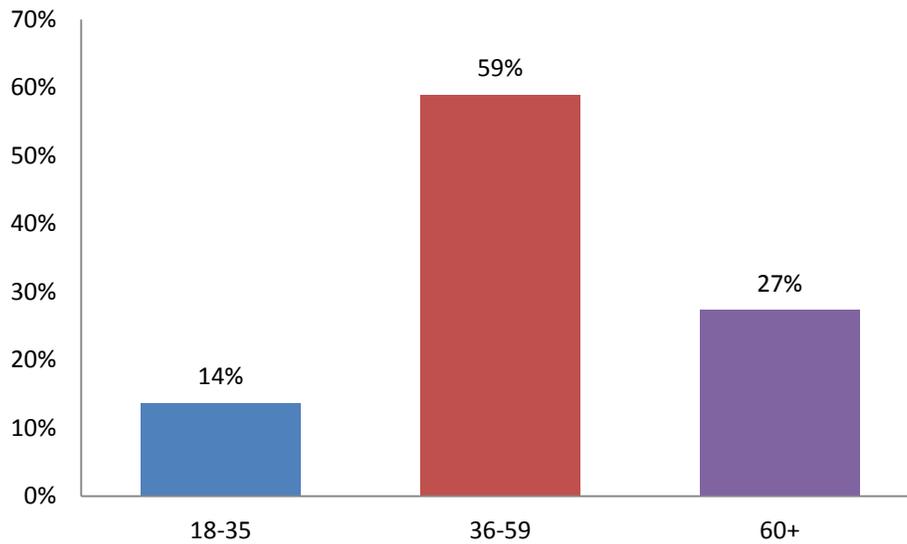


¹¹ These matters involved claims relating to foreclosures; education law; immigration law; the Federal Arbitration Act; consumer issues; and suits against federal agencies.

¹² Data on the categories in this section reflect information, where available, for all individuals who contacted the Clinic.

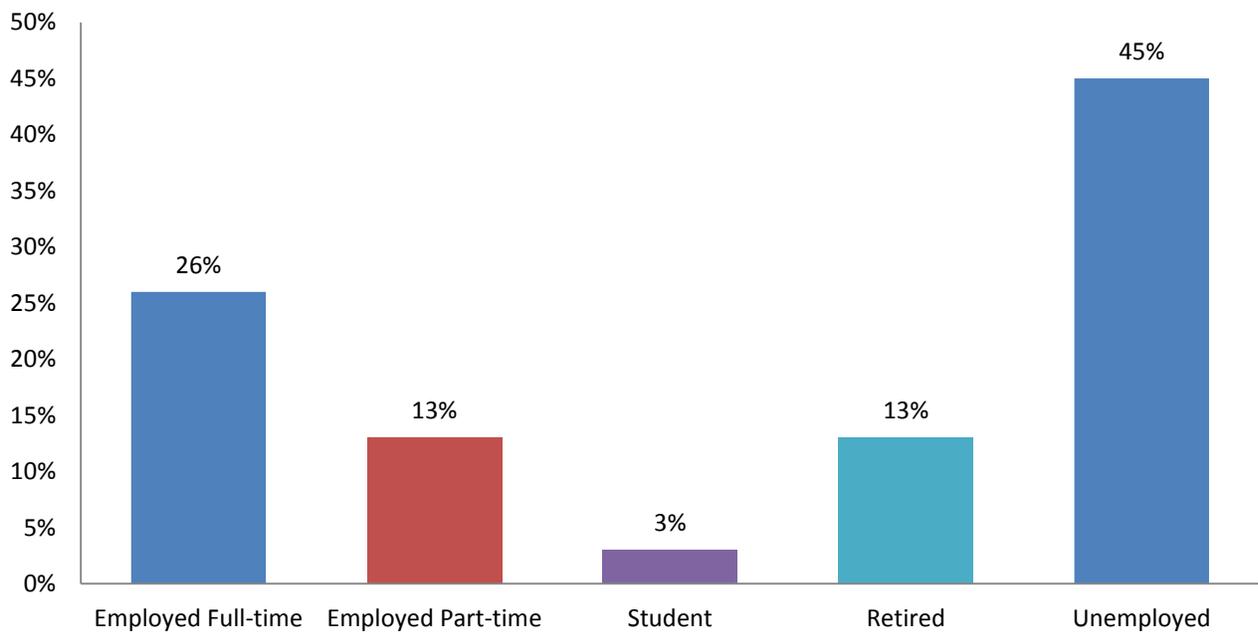
C. Age

During this period, 14% of Clinic visitors were 18-35, 59% were 36-59 and 27% were 60 or over.



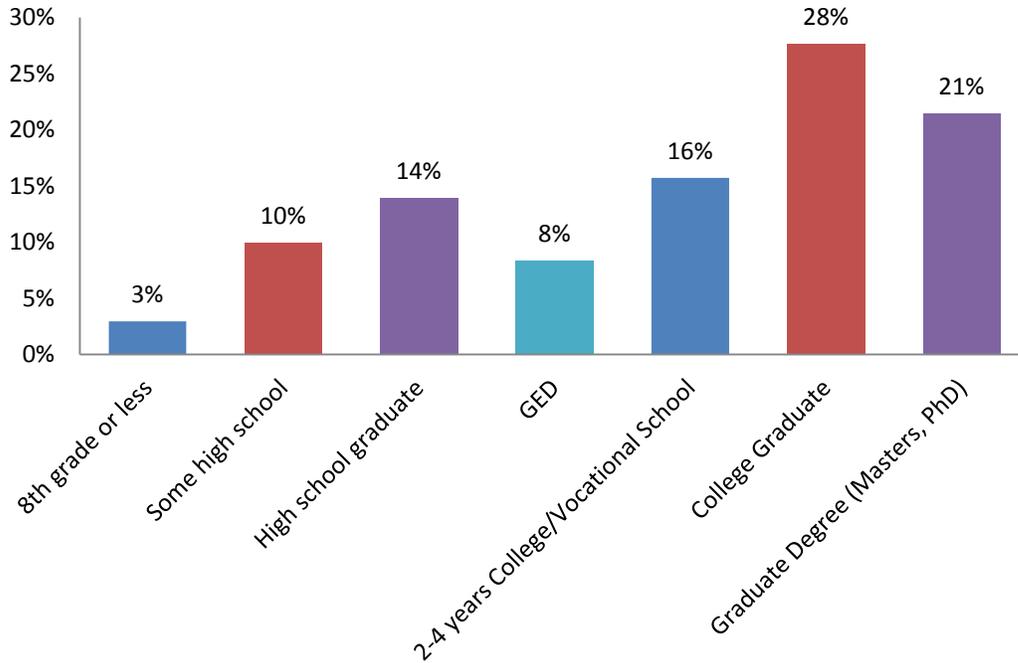
D. Employment Status

During this period, 3% of Clinic visitors were full time students; 13% worked part time; 26% worked full time; 45% were unemployed and 13% were retired.



E. Highest Education Level

During this period, 3% of Clinic visitors were educated to 8th grade or less; 10% had some high school; 14% were high school graduates; 8% had GEDs; 16% had some college or attended vocational school; 28% had a college degree; and 21% had a graduate degree.

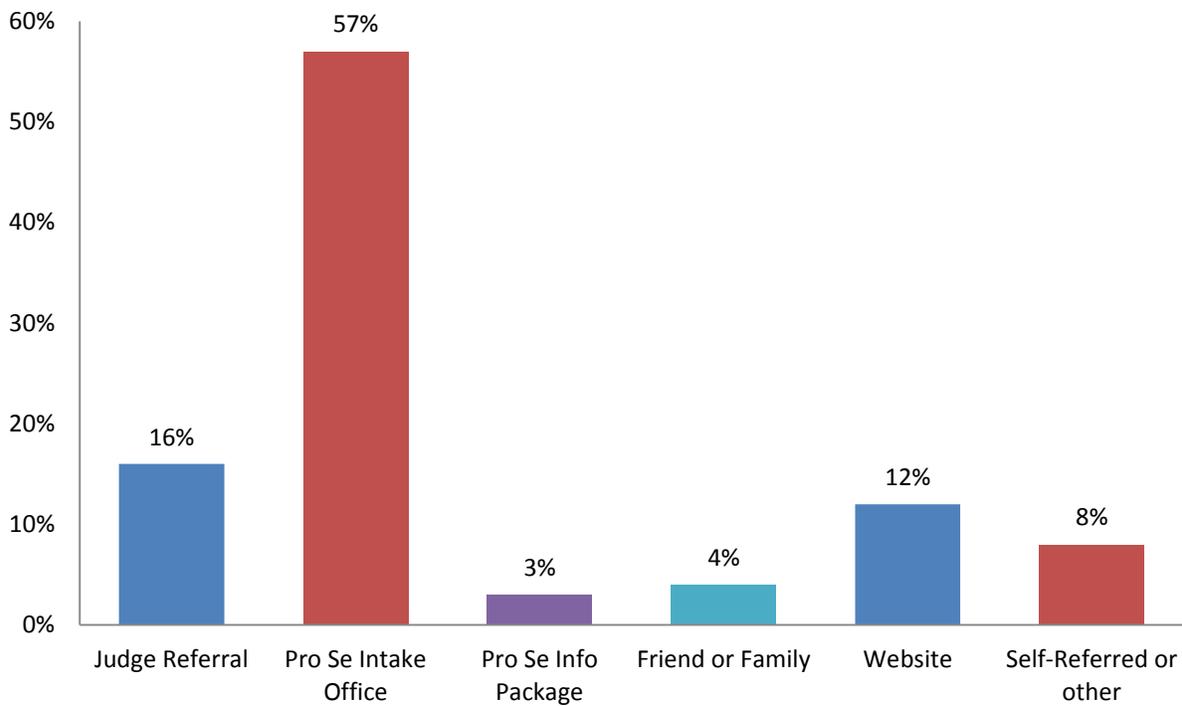


F. Domiciles of Clinic Visitors

During this period, individuals seeking the Clinic's services have come from all of the 8 counties within the SDNY's geographic area (Manhattan, the Bronx, Westchester, Rockland, Orange, Sullivan, and Dutchess), as well as from Brooklyn, Queens, Staten Island, Nassau, Suffolk, New Jersey, North Carolina, Florida, Texas and California.

G. Referral Source

The Court has developed a form of order recommending that a pro se litigant in a particular case consult with the Clinic; we have translated this order into Spanish. During this period 16% of individuals who visited the Clinic were initially referred by a judge (43% of these referrals – 7% of total referrals – were made at a conference and 47% – 9% of total referrals – by court order); 57% of individuals who visited the Clinic were initially referred by the Pro Se Intake Unit; 3% of individuals who visited the Clinic initially learned of the Clinic from the pro se information package provided by the Clerk’s office; 4% of individuals who visited the Clinic learned of the Clinic from a family or friend; 12% of individuals who visited the Clinic initially learned of the Clinic from the Court’s webpage or NYLAG’s webpage; and 8% of Clinic visitors were self-referred or referred by another source.



VIII. Conclusion and Goals for the Future

The Clinic greatly appreciates the opportunity to partner with the Court to assist pro se litigants, thereby increasing access to justice for low-income pro se litigants with potentially meritorious claims or defenses and improving pro se litigants' confidence in the judicial system. An ancillary benefit of our work is a reduction of the burdens placed on the Court as a result of pro se filings.

Looking ahead, we are investigating ways that we can provide additional support to pro se litigants in connection with settlement conferences and mediation. We are also considering whether it would be feasible to take on limited scope representation of some pro se litigants in connection with depositions in matters that cannot be placed with pro bono counsel, and whether it would be feasible to try cases on behalf of Clinic clients if those cases that cannot be placed with pro bono counsel.

We expect to improve our efficiency in providing services to pro se litigants by revising the Court's pro se manuals; developing form pleadings and templates tailored to the Local Rules of the Court; providing note-taking forms that clients can use during hearings; and creating reference materials on relevant substantive and procedural legal issues that will be available both in paper form and on our web page.

We will work to increase the number of matters we place with both limited scope and full pro bono counsel. We will consider whether we can improve the level of service provided to pro se litigants by deepening our current relationships and forming new relationships with law school legal clinics and public interest organizations. We will continue to look for, train and supervise qualified volunteers to assist with our work.

New York, New York
October 24, 2017