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Law Clinic
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Regskliniek



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UNIVERSITY

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Letter from **THE MANAGER**

2018 was an extremely pleasing and productive year for the Law Clinic. We commenced the year operating from our new premises in Crozier Street, Stellenbosch. The premises is situated directly next to the Law Faculty, opposite the CL Marais building. The relocation from the former office in Banhoek Road has many advantages, including being situated in closer proximity to the Law Faculty and thus facilitating a sharing of resources. It also makes the Law Clinic more accessible to the community that it serves, being situated in closer proximity to the taxi rank in Bird Street, thus enabling easier access for the Law Clinic clients.



We also underwent a name-change. The Legal Aid Clinic was renamed the Stellenbosch University Law Clinic to represent increased alignment with the actual business of the Clinic, which is not only concerned with the provision of legal aid, but also includes the provision of legal education, including clinical legal education and our increased engagement with impact matters.

On 18 July 2018, the Law Clinic hosted a sit-down dinner, which coincided with Mandela Day, in celebration of the relaunch of the Law Clinic. The event celebrated the fact that the Clinic is 30 years old this year, the rebranding of the Law Clinic and the formulation of its organisational strategy for 2018-2022. The Law Clinic's new website was also launched during this event. The website contains components that are the first of its kind for a South African law clinic. These components include that the site can be translated to Isixhosa and Afrikaans with the click of a button, a geo-location function for clients to assess whether they fall within our jurisdiction and an electronic means test calculator. The website can be accessed at www.sulawclinic.co.za.

The dinner was followed by a two-day conference on contemporary challenges faced by South African university law clinics, hosted by the Law Clinic and attended by representatives from the majority of South African university law clinics. There were also international attendees. The conference proved to be a resounding success. Participants engaged in discussion on a variety of relevant and contentious issues, including the positioning of clinical legal education within the LLB curriculum, monitoring and evaluation and transformation and decolonisation. The conference has laid the platform for continued constructive discussion and debate and has assisted in entrenching sustained collaboration between South African university law clinics.

During 2018, the Law Clinic was at the forefront of landmark impact litigation which has been widely reported on. Our practitioners have also been involved in ground-breaking research. These, and other achievements, resulted in the Law Clinic being awarded the CCASA Achievement Award and being shortlisted as a finalist in the category 'Specialist Law Firm of the Year' at the 2018 African Legal Awards. It is a first on both counts for an African University Law Clinic.

The Law Clinic also received the 2018 Stellenbosch University Newsmaker of the Year award.

None of our achievements would have been possible without the support of our Law Faculty and our funders, for which we are extremely grateful.

We are confident that, by being a leading African specialist firm and the foremost African university law clinic, we will continue, and look forward, to impact significantly on our students, our Faculty, and the broader South African community.

Yours sincerely,

T Broodryk

Dr Theo Broodryk





UBUNTU says I am because you are:
our future can only be better if we work
together and help improve each other's
lives - Nelson Mandela

WHO WE ARE

The Law Clinic's vision is:

a community that is legally empowered and that possesses a strengthened capacity to exercise their rights, either as individuals or as members of the community;

law graduates who are professionally trained and are at the highest echelons insofar as their employability is concerned;

&

a broader South African community that is sensitised to their social justice responsibilities.

To bring our vision into reality the Law Clinic, through collaboration initiatives or otherwise, provides professional legal advice and representation in civil matters to members of the community who qualify for legal aid in Stellenbosch and surrounding areas and we offer legal education, including clinical legal education, to candidate attorneys, final-year law students and to members of the community, including the poor and marginalised.

The Law Clinic expects each employee to uphold the organisation's core values in its dealings with clients, colleagues and other stakeholders:

Diligence and passion

Conviction, diligence and passion are expected and are essential employee characteristics that the Clinic expects in order to achieve its objectives.

Transparency, honesty and integrity

The Clinic's reputation is largely dependent upon its employees conducting themselves with integrity and in an honest and transparent manner. It constitutes the fundamental cornerstone upon which the Clinic operates, without which no relationship of value and trust can exist.

Respect

The Clinic respects, values and encourages differences among all people where such differences are embraced within the workplace to promote and achieve the Clinic's objectives.

Strategic FOCUS AREAS

Stellenbosch University has identified the following three overarching strategic priorities that encompass its mission and the vision:

**Broaden
access**

**Sustain
excellence**



**Enhance
societal impact**

As a higher education institution, SU considers its responsibility to the country and continent as key in the quest to demonstrate corporate citizenship. This is demonstrated by aspiring to incur systemic transformative social impact as the ultimate goal, through institutional collaborative activities with internal and external role players, while upholding the values of shared responsibility, empathy and leadership in service of others. Societal impact is ingrained in the culture of the university where societal well-being is a core goal and social justice is a commitment.

The Law Clinic has incorporated these overarching systemic and organisational strategic priorities into its key objectives, which are as follows:

- To inform and empower qualifying persons through fair and equal access to quality and cost-effective legal services and support;
- To inform and empower the appropriate persons through the dissemination and provision of relevant, quality legal information and training;
- To enable the professional and personal development of candidate attorneys and other Law Clinic staff, through mentoring, training, supervision and exposure to the practice of law;
- To provide education, including Clinical Legal Education, to law students through teaching and exposure to the practice of law (in cooperation with the SU Law Faculty);
- To promote strong governance and management structures; and
- To sustain the Law Clinic's existence and its ability to offer relevant, cost-effective services.



Attorneys

Through the fulfilment of these objectives, the Law Clinic contributes towards the University's overarching strategic imperatives by ensuring that it, firstly, remains committed to the broadening of access by being responsive to the needs of its beneficiaries, particularly those in vulnerable communities; by increasing and accelerating the diversity profile of Law Clinic staff through proactive recruitment; developing and retaining Law Clinic staff members from the designated groups; and creating an inclusive Law Clinic culture and climate that embraces diversity and the values of the University; secondly, delivers work of an excellent standard in every facet of its operation by implementing appropriate accountability mechanisms and reporting structures within the organisation; and lastly, strives to achieve maximum societal impact within its sphere of influence by responsibly and thoughtfully conducting operational and strategic processes; reviewing progress regularly; and being responsive to the ever-changing context in which it operates.



Candidate Attorneys

How we are **MANAGED AND GOVERNED**



The Law Clinic is governed by its Advisory Board and the elected SU Council. The Law Clinic's strategy is influenced by decisions taken by the governing structure of SU and is shaped by the Manager, the Dean and Vice-Dean of the Law Faculty, with the input of the Law Clinic attorney employees and the Faculty Committee, subject to the overall SU strategy, policies, procedures and rules. The Manager is a member of the Law Faculty's executive decision-making body, the Faculty Committee. Certain decisions are also subject to approval by the Faculty Board, which mostly comprises all permanent academic faculty appointments. The Faculty's decisions are subject to the governing structures policies, procedures and rules and such decisions would accordingly need to be made with due reference to such governance instruments. The governing structure's approval regarding certain decisions affecting the Law Clinic's strategy may be required and it may also be approached on an *ad hoc* basis for input and advice. Financial reports are generated throughout the year and reviewed by internal SU mechanisms. The Law Clinic's annual budget is prepared by the Manager with input from Law Clinic practitioners and the Faculty Committee, subject to and within the framework of allocated SU organisational funding. The budget is approved by the Dean of the Faculty.

An in-house financial management system is used by SU through which the funds of the Law Clinic are channelled and managed. SU practices effective, efficient and transparent financial management in terms of financial accountability. All financial transactions are subject to the University's Financial Policy. The signatory authority and mandate for approval resides with the Manager. Supporting documentation is required for auditing purposes.

STAFF

The Law Clinic comprises the following staff:

Dr T Broodryk: Manager and Senior Lecturer

S van der Merwe: Senior Attorney, Notary Public and Lecturer

N Roode: Attorney

M Posthumus-Meyjes: Attorney

O Nweba: Attorney

E Lovell: Administrative Manager

P Khoeaene: Receptionist

M Esau: Administrative Assistant

D Louw: Candidate legal practitioner

L Konqobe: Candidate legal practitioner

L Swanepoel: Candidate legal practitioner

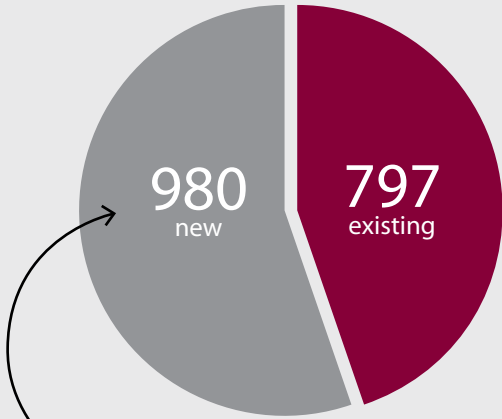
K Trotter: Candidate legal practitioner

S Marais: Writing Project Coordinator

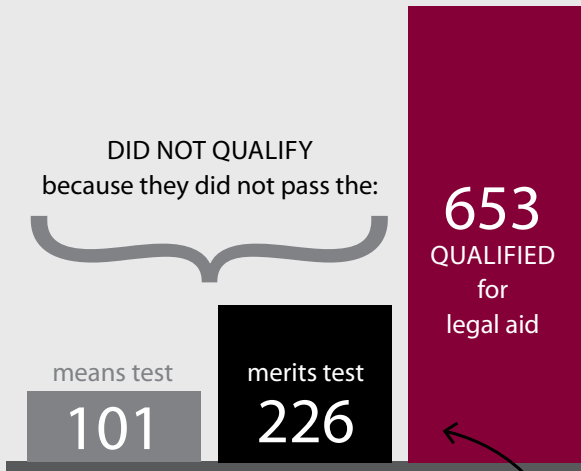
2018 STATISTICS

{ From 15 January 2018 until 31 October 2018 }

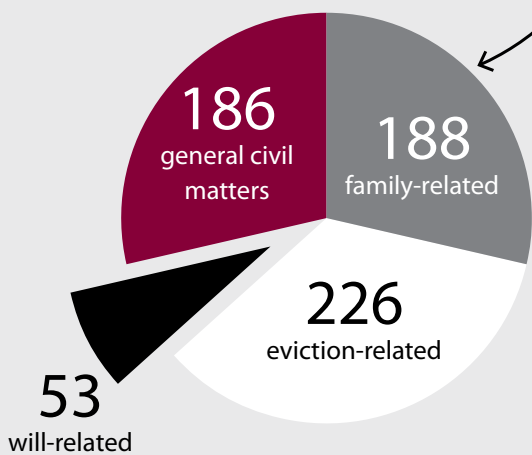
1777 individuals visited the Law Clinic



Out of the 980 new clients:

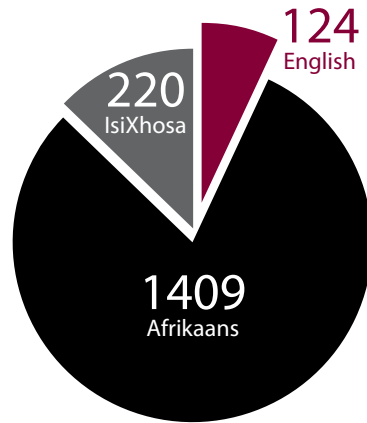


Out of the 653 individuals who qualified for legal aid:

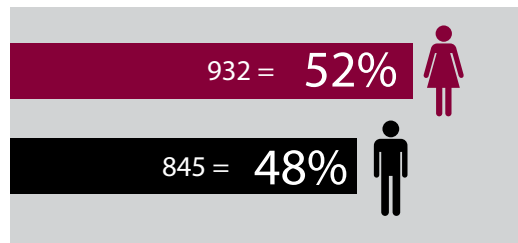


Out of the 1777 individuals who visited the Law Clinic:

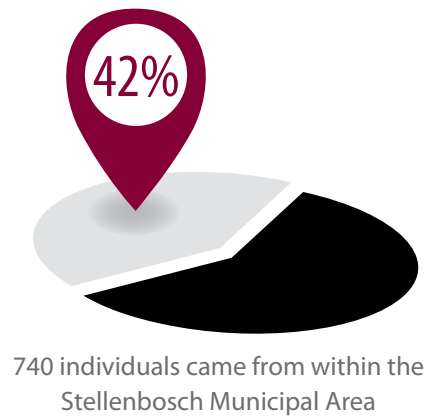
Language spoken



Female VS Male



Geographical spread



IMPACT MATTERS

Law Clinic holding respondents responsible in terms of emolument attachment order judgment

On 8 July 2015 Desai J delivered judgment on case 16703/2014 in the Western Cape Division of the High Court of South Africa. The case is of course better known as *University of Stellenbosch Legal Aid Clinic & Others v Minister of Justice & Others* 2015 (5) SA 221 (WCC). This judgment, as confirmed by the subsequent Constitutional Court case order a year later, has changed the South African legal landscape with regard to emolument attachment orders (EAOs).

In the wake of this now well-known and well-publicised judgment the Law Clinic has continued to receive considerable numbers of requests for related legal aid, having assisted numerous clients to oppose illegal EAOs in the last decade or more. Although the judgment represents a huge victory in the war against unscrupulous and reckless lending, there are still questions with regard to the efficacy of the order to the problems of the man on the street. In paragraph 4 of his judgment, Desai J ordered that “[t]he First to the Third Respondents, the HRC, the Law Society and the Advice Offices are urged to take whatever steps they deem necessary to alert debtors as to their rights in terms of this judgment”. In paragraph 8, he ordered that “[a] copy of these proceedings are to be forwarded by the First Applicant to the Law Society of the Northern Province for it to determine whether Ms AE Jordaan and Flemix & Associates Incorporated have breached their ethical duties particularly with regard to forum shopping to secure emolument attachment orders”.

The Law Clinic has recently requested reports from all the relevant role-players on their progress in terms of the order, and we will continue to monitor the situation closely.

Law Clinic made submissions regarding expanding the list of zero-rated VAT items

Earlier in 2018, the Law Clinic made formal submissions that feminine sanitary pads should be included in section 11 of the Value-Added Tax Act as a zero-rated good for VAT purposes, on the basis that these products constitute a basic and essential need item. The Law Clinic submitted that, because feminine hygiene products remain largely inaccessible to underprivileged females, many resort to risky, unhygienic options in order to manage their personal hygiene and well-being which, in turn, poses serious health risks. The Law Clinic is concerned that this financial impediment to vital healthcare products adversely impacts upon females’ constitutional rights, including the right to freedom and security of the person, the right to bodily and psychological integrity, and the right to human dignity. Further, since it is estimated that one-third of female learners in South Africa fail to attend schools when they menstruate as they cannot afford feminine hygiene products, the right to education, protected by section 29 of the Constitution, may also be infringed. The Law Clinic submitted that National Treasury should take note of the abolishment of the VAT levy on these items in other countries, including Kenya, Mauritius, Nigeria, Tanzania and Seychelles, and consider implementing the same reform in South Africa. The Law Clinic therefore submitted that it is in the best interest of poor and marginalised females to add sanitary pads to the list of zero-rated VAT items.

Following our submissions, government finally resolved to abolish the payment of VAT on sanitary pads.

Small Claims Court submissions

Apart from our submissions on extending the list of zero-rated VAT items to include female sanitary pads, we recently also made submissions regarding increases in the monetary jurisdiction of the Small Claims Court. The Clinic essentially submitted that, taking into account that the Small Claims Court’s monetary jurisdiction was increased from R 12 000 to R 15 000 on 1 April 2014, the current monetary limit should be increased to R20 000 (rounding up from R 19 564,20). Prof Willem Boshoff, Department of Economics at Stellenbosch University, assisted in formulating the submission.

Landmark legal action set to change the South African debt collection landscape

An application was filed with the Western Cape High Court on 8 August in which the Law Clinic, Summit Financial Partners (Summit), and 10 of our clients request judicial intervention relating to debt collection practices. The intervention has the potential to dramatically impact on the South African financial landscape.

The case follows in the wake of the Clinic's earlier work in the 2016 landmark Constitutional Court case of *University of Stellenbosch Legal Aid Clinic & others v Minister of Justice and Correctional Services & Others*, where the highest court in the country agreed that several practices relating to the abuse of EAOs, were unconstitutional.

Two years on, the applicants have approached the court regarding what we identify as the unilateral,

unregulated manner in which creditors and collection agents add costs, including legal fees, to debtors' accounts both before and after judgement.

As a result of this practice, which is in contravention of section 103(5) as read with section 101(1)(b) to (g) of the National Credit Act 34 of 2005, financial experts at Summit have estimated that more than a billion rand has been illegally over deducted from thousands of distressed debtors by unscrupulous credit providers. In the case of just one of these debtors, who is also one of the applicants in this matter, an amount of R5 100 had been collected on an initial debt of R600.

For more information on the case visit
www.sulawclinic.co.za.

Settlement reached in discrimination litigation

The outcome of legal proceedings in which a settlement has been reached between the South African Paralympic athlete, Hendri Herbst and a well-known Cape winery, is not only a victory for visually impaired people, but will assist greatly in creating awareness of the right of the disabled not to be discriminated against.



Earlier in 2018 the Law Clinic instituted legal proceedings in the Equality Court on behalf of Herbst. The winery has since admitted to discriminating against Herbst in 2014 when he was refused access to the winery's restaurant due to the presence of his guide dog. In terms of the settlement agreement, which was made an order of the Equality Court on 26 September 2018, Durbanville Hills agreed to issue a public apology in which it admits to discriminating against Herbst and undertakes to take "steps to ensure that all staff employed by Durbanville Hills will take part in sensitivity training from the Guide Dog Association of South Africa". Durbanville Hills further contributed R50 000 to the Guide Dogs Association "for the purpose of a media campaign to be run by it in order to raise awareness in respect of guide dogs". Durbanville Hills further paid an amount of R50 000 to Mr Herbst as compensation for the incident.

The steps taken by Durbanville Hills are welcomed and will assist in raising awareness of the right of disabled individuals not to be discriminated against. The outcome of this matter should however also send a stern warning that discriminatory conduct towards vulnerable individuals such as Herbst will not be tolerated.

CONFERENCES, GUESTS AND TRAINING

Stellenbosch University Law Clinic hosted national conference in July 2018

On 19 and 20 July 2018, the Stellenbosch University Law Clinic hosted a national conference on contemporary challenges facing South African law clinics. The conference proved to be a resounding success. Participants engaged in discussion on a variety of relevant and contentious issues, including the positioning of clinical legal education within the LLB curriculum, monitoring and evaluation and transformation and decolonisation. The conference has laid the platform for continued constructive discussion and debate and has assisted in entrenching sustained collaboration between South African university law clinics.



International conference on consumer redress

On 9-10 April 2018 the Faculty of Law, Stellenbosch University (Dr Theo Broodryk) and KU Leuven (Prof Dr Stefaan Voet) jointly organised a International Conference on Consumer Redress. The purpose of the conference was to discuss various local and international consumer redress mechanisms, including alternative dispute resolution methods and class actions, as a means to resolving consumer disputes. The conference was attended by scholars from South-Africa, Europe, the US and Asia. The conference took place during the festivities of 25 years of international relations of Stellenbosch University.



International Advocacy Training Council Conference

On 2-3 April 2018 Stephan van der Merwe represented the Clinic at the International Advocacy Training Council Conference (in association with the General Council of the Bar of South Africa) which was held at Stellenbosch. The IATC is a body consisting of advocates who primarily practice but also teach advocacy skills to junior (and senior) advocates around the world. The conference was attended by many prominent international members of the bench and bar, including the incumbent Deputy Chief Justice of the South African Constitutional Court, Judge Raymond Zondo. The conference theme was centered on questions of Legal Reasoning and Written Advocacy, and Stephan presented as part of the panel that included Judges Dennis Davis and Owen Rogers, and addressed the issue of "What's wrong with the present state of legal reasoning?" In his presentation he discussed the circumstances which served as catalyst for the development of lectures on the topic of "Applied logic and critical reasoning", which are now presented annually as part of the clinical legal education module Practical Legal Training 471.

Law Clinic welcomed esteemed guests

On 3 April 2018, the Law Clinic invited several dignitaries from all over the world to visit the Clinic for coffee and a short tour. The guests were Andrew Goodman, a mediation and arbitration expert from the United Kingdom; the Honourable Madam Justice Mary Lim from Malaysia, who is a judge in the Malaysian court of appeal dealing with intellectual property matters. Further, Senior Advocate Phillip Greenwood from Australia, who specialises in professional negligence, insurance law, and technology dispute matters; and Louis Podbielski, the product development manager of case law solutions at LexisNexis. Finally, the vice dean of the Faculty of Law at the time, Professor Geo Quinot, also joined for the visit.

These guests were in town for the International Advocacy Training Council Conference and the Clinic saw it fit to invite them especially in light of the fact that the Law Clinic's own Stephan van der Merwe was also a speaker at this conference. The guests were given a short tour of the Clinic, whereafter, over a cup of coffee, Dr Theo Broodryk explain exactly what the Clinic does: how it assists the public along with training students and candidate attorneys. The guests had the opportunity to speak to some of the students working at the Clinic as part of their final year module Practical Legal Training. Andrew Goodman and Phillip Greenwood SC had an interesting discussion with the students about the importance of alternative dispute resolution and how institutions like the Law Clinic could enhance the implementation of ADR in its matters. At the close of the visit, the guests each expressed their interest in the growth of the Law Clinic and offered ways in which they could aid the Clinic in its clinical training, such as books, possible exchange programs and training professional law reporters.

A short visit from Prof Paul Heald of the University of Illinois College of Law in the United States

On 24 May 2018 the Clinic received a brief visit from Prof Paul Heald of the University of Illinois College of Law in the United States. His field of expertise is copyright and international intellectual property law, and he was a resident STIAS fellow. Prof Heald's visit followed a presentation and discussion session earlier during the day, where participants engaged him on the basics and the pitfalls of empirical research in law.

Women's day event hosted by the Western Cape Government (Department of Environmental Affairs and Development Planning)



On 13 August 2018, Monja Posthumus-Meyjes and Nikita Roode, upon invitation, participated in a women's day event hosted by the Western Cape Government (Department of Environmental Affairs and Development Planning). Nikita presented a talk on the opposition of eviction applications under PIE and ESTA, as well as role of the Law Clinic during the eviction process. Monja spoke on the inclusion of feminine hygiene products on the list of zero-rated VAT items.

Law Clinic welcomed esteemed Professor Ernest Ojukwu



On 1 August 2018, Professor Ernest Ojukwu, a leading Nigerian legal mind, conducted a session with the Law Clinic practitioners on best practices in clinical legal education. Prof Ojukwu, who was a guest of the Clinic from 31 July to 3 August 2018, also conducted a talk to Law Faculty students and staff on ethical lawyering. The visit proved to be an extremely insightful and enriching engagement, through which the Law Clinic aims to solidify its African footprint.

Trial advocacy session by Marnewick SC

One of the Stellenbosch University Law Clinic's missions is to provide professional clinical legal education to law students, candidate attorneys, and the broader public. In keeping with this, the Law Clinic hosted an event on 28 March 2018, where Senior Advocate and well known author Chris Marnewick presented a discussion on trial advocacy. Senior Advocate Marnewick's discussion focused primarily on cross-examination and the theories and techniques one may apply in becoming a better cross-examiner. The staff members and students who attended the event were encouraged to participate in the discussion and cross-examination techniques used in popular and relevant cases such as the OJ Simpson trial, as well as the ongoing Van Breda trial, were critically discussed to determine ways in which these techniques could be improved or substituted. Students attending the event described it as a "fruitful" and "interesting" discussion and the Law Clinic aims to host more events of this nature in the foreseeable future.



Legal Writing Training by Seattle University Professors

On 4 June 2018 professors Mimi Samuel and Laurel Currie Oates of the Seattle University, School of Law, presented an insightful talk to the Law Clinic staff. In their presentation, "Think like a clinician, write like a Prof" they provided guidelines to prospective writers on writing scholarly articles. The presentation focused on considerations to convert clinical work into academic publications, highlighting the audience, purpose and conventions of the writing. It also provided valuable suggestions for establishing a framework to determine the topic of the article, draft a preliminary outline, conduct further research, and also consider the form of the article. The presentation will greatly assist the Law Clinic in its efforts to properly document and communicate its current projects.

Collaboration with Coventry University

During 2018, the Law Clinic hosted a group of staff and students from Coventry University, United Kingdom. They visited the Law Clinic for the first week of September 2018. The visit follows on a collaborative advocacy project conducted *via* robot double technology in March 2018. Alan East and Harriet Lodge of the Coventry University Law School, along with Matthew Finch from the Central England Law Centre, accompanied seven students of Coventry Law School for a week in Stellenbosch. The visit enabled the students to be exposed to the day to day operations of the Stellenbosch University Law Clinic and, in particular, the integration into the Law Clinic's operations of final year students through practical legal training.

The Coventry students had the opportunity to sit in on client consultations and partake in file discussions with the Law Clinic's Practical Legal Training (final year

elective module) students. The Coventry students assisted the Practical Legal Training students with research on various aspects of South African law relevant to their client files. They also honed their examination-in-chief and cross-examination skills. On Thursday, 6 September 2018, the Coventry visitors accompanied several of the Law Clinic staff on an outreach to the Klappmuts Community Centre where they had the opportunity to visit a community where many of the Law Clinic's clients come from and to engage with these clients.

We anticipate the visit to become an annual occurrence and a reciprocal one, and that the Law Clinic will continue developing and strengthening our ties with Coventry University and the Central England Law Centre.



Hasselt University visit

On 24 August 2018, the Law Clinic welcomed Prof dr Elly Van de Velde and Prof dr Niels Appermont from Hasselt University, Belgium. Discussions regarding collaboration are at an advanced stage.



Teaching & Learning in South African Legal Education Post the Council on Higher Education (CHE) LLB Review

The Law Clinic's Stephan van der Merwe was invited to speak at the Regional Teaching and Learning Conference of the Law Faculties of UCT, UWC and Stellenbosch University on 13 September 2018. The Conference theme was 'Teaching & Learning in South African Legal Education Post the Council on Higher Education (CHE) LLB Review', and included speakers like Judge Siraj Desai and Etienne Barnard (LSSA Chairperson). Stephan presented a paper entitled "Inculcating ethics in the LLB curriculum: The question is not why, but how?"

His presentation considered how the recent CHE review of the LLB curriculum has presented South African law faculties with the opportunity to revisit the structure and content of their degree offering. In (at least) the case of the University of Stellenbosch, the CHE has, inter alia, recommended that the Faculty of Law place more emphasis on the transfer of various professional skills, as well as raising the social justice awareness of its students.

Stephan suggested that one meaningful way to address these perceived lacunas, would be to formulate an intentional strategy to inculcate a stronger emphasis on teaching legal ethics in the existing LLB curriculum. The opportunity costs associated with the effort to increase the teaching of professional conduct and ethics, would however need to be justified by considering why this step should be taken. Engaging with the question of why ethics should feature strongly in the LLB syllabus, is also useful as a reminder of the significance of the second question that follows naturally from the first: how should this be done? This in turn brings into question the virtues of the prevailing approach of dedicated ethics components within specific Legal skills modules, as opposed to the more lauded pervasive or integrated approach. The presentation grappled with these important questions in the effort to contribute to the growing discourse on the ideal role of ethics in the LLB curriculum.

South African Law Reform Commission International Conference on Access to Justice, Legal Costs and Other Interventions



Law Clinic attorney Odwa Nweba was invited to speak at the South African Law Reform Commission International Conference on Access to Justice, Legal Costs and Other Interventions. The Conference was held in Durban, Garden Court Marine Parade from 31 October – 2 November 2018. Speakers at the conference included the newly appointed deputy chair lady of the Legal Practice Council Adv Anthea Platt SC, Judge President of the Gauteng Division of the High Court Judge Dunstan Mlambo, Minister of Justice and Constitutional Development Advocate Michael Masutha and the Public Protector Advocate Busisiwe Mkhwebane. Odwa presented a paper titled the “Use of Contingency Fees Agreements: Are we justified in gambling with our client’s cases?” In his presentation Odwa emphasised that Contingency Fee Agreements provide access to justice for the most vulnerable and indigent people in our society and that the judiciary and the newly established Legal Practice Council have a pivotal role to play in preventing abuse of such agreements.

Law Clinic represented at SOTL 2018

The prestigious annual Stellenbosch University Scholarship of Teaching and Learning (SOTL) Conference was held in Somerset West on 30 – 31 October 2018. The Clinic’s Stephan van der Merwe presented a paper entitled “Towards empirical validation of theoretical assumptions in Clinical Legal Education” as part of the session in “Transforming the curriculum”. In his presentation, Stephan elaborated on his research in terms of the Fund for Innovation and Research into Learning and Teaching (FIRLT) grant, which was aimed at generating comprehensive empirical research into the Clinic’s existing clinical legal education (CLE) module, Practical Legal Training 471 (PLT). The aim of the project was to produce reliable and robust data on student and alumni perspectives of the Faculty’s CLE offering. This independently sourced dataset has proven to be both interesting and valuable in its support of the theory on the affordances of CLE. This data also allows for in-depth situational analysis to develop a reasonable framework for facilitating the successful expansion of PLT in the near future.

SAHRC and the Western Cape Department of Rural Development and Land Reform

On 26 March 2018, the SAHRC and the Western Cape Department of Rural Development and Land Reform hosted an event concerned with evictions. The Law Clinic’s Nikita Roode was invited to participate as a panellist during the event to share her expertise and experience on eviction-related matters.

Writing Skills in Legal Education Workshop

Dr Theo Broodryk and Stephan van der Merwe attended the annual Writing Skills in Legal Education workshop on 20 and 21 June 2018, held at the Lord Charles Hotel in Somerset West. Dr Broodryk facilitated a session on contemporary legal writing development challenges experienced by law schools nationally. Stephan van der Merwe presented on the "Rise of the robot lawyers: Early step is employing double robot technology in Clinical Legal Education".

Law Clinic hosts impact litigation discussion

On 17 October 2018, the Law Clinic hosted an impact litigation discussion at the Law Faculty, attended by Law Faculty staff and students, where various aspects of the 'in duplum'-litigation and the Herbst / Durbanville Hills litigation were discussed. The purpose of the discussion was to explore the strategic decision making often inherent in impact matters.



Law Clinic provides financial literacy training

The Financial Literacy Project (FLP) seeks to advance interdisciplinary research and encourage greater multicultural understanding. Although the focus of this initiative is financial, it can only be fully understood by considering financial literacy as a whole, relative to its environment and including areas addressed by related disciplines. Simply put: money plays an important role in life, so every member of society should understand how to deal with it as well as the legal obligations and rights that flow from it. The FLP therefore aims to hone students' and members of the community's skills in handling money and actively contributing to their understanding of basic economic and legal issues. With this approach, the FLP offers the opportunity to students from both disciplines (the human resources) as well as members of the community to learn from each other thus establishing a mutually beneficial relationship based on the Law Faculty's and SU Law Clinic's teaching, learning and research expertise combined with societal practice and indigenous knowledge. Practically, this entails teaching farm workers and high school learners basic financial literacy skills such as how to prepare a budget, how to plan for retirement and how to prepare a savings plan, thus instilling a culture of saving in these learners and farm workers. The Financial Planning 378 students assist in teaching these skills. The FLP also focuses on explaining to over-indebted persons what their rights are and what remedies are available to them as well as their consumer rights in terms of the Consumer

Protection Act. In this regard, the Law Faculty's Law of Civil Procedure 371 students assist in explaining these concepts. Therefore, with a broader notion of community engagement combined with the interdisciplinary approach just described, we can strengthen reciprocal, sustainable community partnerships that are equipped to respond to socio-economic issues, which in turn are vital to our increasingly diverse populations and their representative institutions.

During 2018, the students presented 15 presentations to 550 grade eight, nine and 10 learners, and visited three farms, thereby impacting approximately 300 farm workers. In 2018, the FLP also formed part of the Klapmuts Thusong Project where students and candidate legal practitioners consulted with 60 participants from the surrounding Stellenbosch community.



ACHIEVEMENTS AND AWARDS

Law Clinic receives prestigious award

The Stellenbosch University Law Clinic was awarded the Corporate Counsel Association of South Africa (CCASA) Achievement Award and shortlisted as a finalist in the category 'Specialist Law Firm of the Year' at the 2018 African Legal Awards. It is a first on both counts for an African University Law Clinic. The award recognises exceptional achievement within Africa's legal community.



Prestigious Cambridge University Scholarship

Dr Theo Broodryk has, upon invitation, been awarded the prestigious Beaufort (Colenso) Scholarship by St John's College, Cambridge University in the United Kingdom. Dr Broodryk will conduct a research visit at Cambridge University during the 2019 Michaelmas term on the regulation of small amount credit and how the private law interacts with social policy and social welfare. It will particularly be aimed at considering the regulation of modest credit amounts and the different dispute resolution methods available under South African and English consumer protection legislation, including class actions. The research will aim to make a contribution to the future development of legal theory in this regard.

Newsmaker of the Year

The Law Clinic was awarded the first institutional Media Excellence Award: Newsmaker 2018.

The event took place on 8 October 2018 at STIAS in Stellenbosch and was themed 'Centenary celebration of research'. The award recognises the prominence of the Law Clinic in the news during 2018 for various impact matters including Equality Court litigation on behalf of South African Paralympic athlete, Mr Hendri Herbst, the Law Clinic's submissions regarding tampon tax, the recent litigation instituted against 49 respondents in the Western Cape High Court regarding certain debt collection practices, to name but a few.



Law Clinic recipient of NIFTEP Fellowship

The Clinic's Stephan van der Merwe has been invited to attend the Fall 2018 workshop of the National Institute for Teaching Ethics & Professionalism (NIFTEP) as a fellow. NIFTEP is a consortium of six universities in the USA that have centers on legal ethics and the legal profession. Its Director and Deputy Director are based at the Georgia State University College of Law in Atlanta. NIFTEP has been conducting workshops and conferences on teaching ethics and professionalism since 2005, including international workshops held in Banff, Canada, in 2012, and in London, in 2014. The Fall 2018 workshop will be held in Melbourne, Australia from 4 – 6 December 2018, and include presentations and demonstrations on innovative and effective methods for teaching legal

ethics. It will also provide hands-on training in the use of the world's most comprehensive web-based resource for teaching legal ethics: www.teachinglegalethics.org. In addition, Stephan will attend the prestigious International Journal of Clinical Legal Education Conference on 28 – 30 November 2018, where he will present under the topic: "Intentional about impact: Changing lives and laws through the work of University Law Clinics". He will also participate in the International Legal Ethics Conference VIII in Melbourne, from 6 – 8 December 2018. Grants were secured from the Law Faculty's Research Committee and the United Nations Office on Drugs & Crime to fund these excursions.



Law Clinic attorney's research recognised in Research Report

During 2018, Monja Posthumus-Meyjes was also awarded her master's degree. Her research was featured in this year's Centenary edition Research Report, featuring a snapshot of 100 research items of the past year. Stellenbosch University again (for six out of seven years) had the highest weighted research output (publications, research masters' and doctoral degrees awarded) per capita in South Africa. A record number of 305 doctoral degrees and 1 600 master's degrees were awarded of which Monja Posthumus-Meyjes's research was selected for this honour. We advance human rights, not only through litigation, but also through ground-breaking research.

Earlier in the year, Monja also successfully completed a course in Compliance Management.

RESEARCH AND PUBLICATIONS

List of 2018 academic publications by Law Clinic staff [* indicates accredited publications]:

Eckard's Principles of Civil Procedure in the Magistrates' Courts, T Broodryk (Ed) (6th ed) – publication imminent

*Broodryk, T "The South African Class Action vs Group Action as an Appropriate Procedural Device" – Accepted for publication in the 2019:1 Special Edition of the Stellenbosch Law Review

*Broodryk, T & W de Vos "Managerial judging and alternative dispute resolution in Australia: an example for South Africa to emulate?" part 2 (2018) TSAR 18-35

Broodryk, T Class Action Litigation in South Africa, Max du Plessis, Johan Oxenham, Isabel Goodman, Luke Kelly and Sarah Pudifin-Jones (Eds.) TSAR (2018) 223-225 [Book review]

Roode, N "Implications of the increase in the prescribed income amount in terms of the Extension of Security of Tenure Act" *De Rebus* July 2018 4

*Van der Merwe, S "Traversing the South African Emolument Attachment Order Legal Landscape Post 2016: Quo Vadis?" – Accepted for publication in the 2019:1 Special Edition of the Stellenbosch Law Review

Van der Merwe, S "Contemporary challenges facing law clinics" *De Rebus* November 2018: 15 - 16

Van der Merwe, S "Robots and the Law" (With Richards-Bray, Hardy and East) *European Foundation for Management Development Global Focus Journal* 2018 (3) 12: 46 – 49

*Van der Merwe, S "Simulated exercises" – Chapter accepted for publication in soon to be published 'South African University Law Clinic Association Handbook' (J Bodenstein editor)

*Van der Merwe, S "Civil trial advocacy" – Chapter accepted for publication in soon to be published 'South African University Law Clinic Association Handbook' (J Bodenstein editor)

It is comforting and reassuring to know that in this area we have a Law clinic which appreciates the absolute importance of obtaining a qualified and experienced legal representation for parties who are saddled with legal issues.

I can attest to the fact that your clinic highly recognizes the importance of legal representation as a means of enforcing rights and interests.

I wish to express my thanks and sincere appreciation... for your willingness to be a champion of justice. Without your forthcoming response and your consideration to the matters which we had, we would be still sitting with protracted litigation and litigants saddled with high fees.

Thank you for such wonderful and immeasurable support. I do acknowledge your contribution to the justice system and it means a lot. I can't thank you enough for what you have done for the court.

**Ms. Cnnziweni
Regional Magistrate
March 2018**



MEDIA PRESENCE

During 2018, the Law Clinic and/or its practitioners were involved or referred to in the following articles and interviews:

De Rebus journal article, "Contemporary challenges facing law clinics", published 01-11-2018.

Africa news article, "SA joins growing list of countries with zero tax on sanitary pads", published 29-10-2018.

Destinyman.com article, "SA to become 8th country to make sanitary pads a zero tax item", published 29-10-2018.

Good Hope FM interview, "Sanitary pads are tax free", interview on 27-10-2018.

Government article, "MEC Albert Fritz welcomes zero tax on sanitary pads", published 25-10-2018.

Die Matie article, "Disabled students rights are in SU law clinics sights", published 10-10-2018.

Heraldive article, "Court victory for blind visitor to wine farm", published 02-10-2018.

Africa Legal article, "High Stakes in fight for the marginalised", published on 02-10-2018.

Timeslive article, "Paralympic swimmer gets R 50,000 payout after wine estate denies him and his guide dog access", published 01-10-2018.

News24 article, "Paralympian victorious in Equality Court case against Cape Town wine farm", published 01-10-2018.

Cape Argus article, "SA Paralympian wins case against Durbanville Hills winery", published 01-10-2018.

Bizcommunity article, "Cape winery settles discrimination case with Paralympian", published 28-09-2018.

Die Matie article, "Festival regulations leave ticketholders seeking legal advice", published 27-09-2018.

African Legal Awards article, "2018 The African Legal awards", published 07-09-2018.

Netwerk24 article, "Oudpolisiehoof slaag toets wat leuens verklik", published 05-09-2018.

Business Live article, "Legal costs can bury you under never-ending debt", published 26-08-2018.

Sanlam article, "Pink Tax Causes Financial Pain", published 23-08-2018.

Businesstech article, "SA credit companies are using a loophole to make you pay back more than double your original loan", published 21-08-2018.

eNCA interview, "Debt collection related litigation", interview on 16-08-2018.

BusinessTech article, "Court action will expose South African debt industry's 'dirty little secret': expert", published 15-08-2018.

SABC news article, "Credit providers are facing a court

challenge over illegal debt collections", published 14-08-2018.

The Citizen printed article, "Overcharging by creditors", published 13-08-2018.

Moneyweb article, "Landmark court case seeks to stop over-charging by creditors", published 13-08-2018.

IOL article, "Credit providers taken to court over debt collection", published 13-08-2018.

CNBC Africa interview with Clark Gardner, "University of Stellenbosch launches court application over unscrupulous lenders", interview on 13-08-2018.

Cape Argus printed article, "Debt collectors taken to task", published 13-08-2018.

Daily News printed article, "Devious debt collectors taken to task", published 13-08-2018.

Die Beeld printed article, "Banke betrek by saak oor skuldinvordering", published 10-08-2018.

Die Burger printed article, "Belangrike hofsaak begin oor invordering van skuld", published 10-08-2018.

Cape Argus printed article, "Credit providers facing court showdown", published 10-08-2018.

BusinessReport article, "Women pay more than men, but earn less – all thanks to pink tax!", published 09-08-2018.

RSG interview, "Landmark judgment", interview on 09-08-2018.

CapeTalk interview, "Landmark judgment", interview on 09-08-2018.

Netwerk24 article, "Groot hofsaak begin oor invordering van skuld", published 09-08-2018.

The Citizen article, "SA women earn less than men, but pay more in unavoidable expenses – study", published 01-08-2018.

Netwerk 24 article, "Vrae gevra oor veiligheid in Gouws kompleks", published 27-07-2018.

Eikestadnuus, "US regsclinieke een van Afrika se voorste regsfirmas", published 26-07-2018.

Smile FM interview, "Emolument attachment orders and related issues", interview on 26-07-2018.

Die Burger printed article, "Regskliniek op kortlys vir groot prys", published 23-07-2018.

Business M&G article, "The pink tax is a grey area", published 20-07-2018.

Smile FM interview, "Family Law matters", interview on 19-07-2018.

Timeslive article, "The pink tax debate: How does SA rate?", published 17-07-2018.

YOU magazine printed article "A curse for schoolgirls", published 12-07-2018.

Smile FM interview, "Discussion on evictions", interview on 12-07-2018.

702 FM interview, "Stellenbosch Law Clinic vows to fight against tampon tax in South Africa", interview on 04-07-2018.

PressReader article, "Suffering for our sex; Drop tampon tax", published 02-07-2018.

De Rebus "Letters to the editor – Implications of the increase in the prescribed income amount in terms of the Extension of Security of Tenure Act", published July 2018.

Newspages article, "Stellenbosch University Law Clinic fights tampon tax", published 29-06-2018.

Wellness24 article, "How much does your period cost? Stellenbosch University calls for tampon tax to be eradicated", published 27-06-2018.

News24 article, "Stellenbosch University Law Clinic fights tampon tax", published 22-06-2018.

Timeslive article, "Top University calls for the removal of tampon tax", published 22-06-2018.

The Citizen article, "30% of SA learners miss school when menstruating", published 22-06-2018.

BusinessDay article, "Lawyers ask Treasury to make feminine hygiene products VAT-free", published 22-06-2018.

The South African article, "Local wine estate taken to Equality Court by Paralympian", published 14-06-2018.

cape{town}etc article, "Paralympian takes on local winery for discrimination", published 13-06-2018.

News24 article, "Paralympian takes on Cape Town wine estate in discrimination litigation", published 13-06-2018.

Netwerk24 article, "Zuma saak kan 'logistieke nagmerrie' word", published 09-06-2018.

Netwerk24 article, "Skei los nie noodwendig probleme op", published 01-06-2018.

Netwerk24 article, "NVG se derde bloedneus n verleentheid", published 29-05-2018.

Netwerk24 article, "Howe kan ons nie respek leer", published 23-05-2018.

Eikestadnuus article, "Moontlike baanbrekersaak oor onbillike diskriminasie", published 21-05-2018.

Die Matie article, "Student sues for discrimination", published 17-05-2018.

Bolander Lifestyle article, "SU law clinic represents Paralympic swimmer", published 16-05-2018.

Netwerk24 article, "Glo oor hond wegge wys", published 16-05-2018.

Cape Argus article, "Paralympian taking Durbanville Hills winery to court", published 14-05-2018.

Die Rapport printed article, "Blinde swimmer hof toe oor hond", published 13-05-2018.

Timeslive article, "Paralympian launches legal crusade for woof justice", published 11-05-2018.

Netwerk24 article, "Uiteindelik: Oorwinning vir Transnet se pensioentrekkers", published 07-05-2018.

Die Burger article, "Sege vir Transnet se pensioentrekkers", published 26-04-2018.

Netwerk24 article "Blye dag vir Transnet se pensioenarisse", published 25-04-2018.

MatieMedia article, "SU Legal Aid Clinic protects farm workers from evictions for free", published 18-04-2018.

Die Matie, "Regskliniek stel saak reg", published 18-04-2018.

News24 article, "Hundreds sign petition against release of man accused of lesbian's murder", published 13-04-2018.

Cape Argus article, "Dyslexia people excluded from law jobs", published 13-04-2018.

Netwerk24 article, "Vir Guptas is vliegtuig 'saak om lewe en dood'", published 12-04-2018.

Timeslive article "Release of lesbian 'killer' stirs activists' anger", published 12-04-2018.

Groundup article, "Hundreds sign petition to deny bail to man accused of murdering lesbian", published 12-04-2018.

Cape Argus printed article, "Dyslexic people 'excluded from law jobs', published April 2018.

Die Burger article, "Guptas veg voort vir hul private straler", published 31-03-2018.

Netwerk24 article, "Guptas se straler nog rustig in Dubai", published 30-03-2018.

Netwerk24 article, "Listeriose: Groepsgeeding het sy eerste klaers", published 29-03-2018.

Wits.Journalism article, "Law Focus – Listeriosis and class action", published 29-03-2018.

Netwerk24 article, "Vermiste Gupta-straler in Dubai opgespoor", published 20-03-2018.

WITS FM interview, "Why South Africa needs formal rules for class actions", interview occurred on 19-03-2018.

Netwerk24 article, "Listeriose: Moeilik om te bewys wie is skuldig sê kenner", published 16-03-2018.

Die Beeld article, "Groepsgeeding hou groot uitdaging in", published 16-03-2018.

Wellness24 article, "What's up with all the polony shaming?", published 07-03-2018.

Power FM interview, "Why South Africa needs formal rules for class actions", interview on 07-03-2018.

Daily Maverick article, "Listeriosis outbreak: The blame games begin", published 05-03-2018.

The Conversation article, "Why South Africans needs formal rules for class action lawsuits", published 04-03-2018.

Matieland printed article "Projects with an impact: Monja Posthumus-Meyjes", Centenary Edition 2018.

Other

ACADEMIC ENGAGEMENTS

Law Clinic practitioners are responsible for coordinating and lecturing various undergraduate law courses. These include:

- Writing Skills 171, coordinated by S Marais
- Civil Procedure 371, coordinated by Dr T Broodryk and lectured by the latter and S van der Merwe
- Legal Skills 411, coordinated by Dr T Broodryk and lectured by the Law Clinic attorneys
- Practical Legal Training 411, coordinated and lectured by S van der Merwe

Law Clinic practitioners have further served as:

- Research supervisors of eight structured Masters theses
- Non-examining chairperson for an LLD examination
- Member of LLM assessment panels
- External examiners of LLM treatises
- Examiners of peer reviewed journal articles submitted for publication in numerous accredited South African law journals

EXCITING DEVELOPMENTS

Clinical Legal Education and Advocacy

Practical Legal Training 471 (PLT) is the only Clinical Legal Education (CLE) module currently offered by the Faculty of Law at the University of Stellenbosch. It has an important function in that it offers to final year law students the opportunity to acquire and develop skills in a clinical setting, at the Law Clinic. Despite overwhelming international support for CLE as a teaching methodology, it has a limited role in the current LLB curriculum where it is offered as an elective to a relatively small number of final year law students. The Law Clinic has engaged in a dedicated and proactive effort to increase CLE's footprint within the Faculty by planning a restructure of the current elective module into one that is mandatory for all law students.

In addition, the Law Clinic has identified the need to introduce a new Advocacy module to be offered as an elective in the faculty of law's LLB curriculum. We maintain that several important benefits could be derived from such an initiative. A quality Advocacy module would serve to diversify and strengthen the Faculty's programme offering of modules aimed at the training of legal skills and with a focus on law in action. It would allow the Faculty to develop an alumni base of

litigants, advocates and judges who will likely trace the origins of their success in the field, at least in part, to their initial exposure to the skill at Stellenbosch University. It will also produce students who are suitably proficient to represent the Faculty at the various moot court and mock trial competitions on national and international level. In addition, it would support extra-curricular student programmes like the Moot court society.

The Clinic is very passionate about the opportunities which these modules could create for both the Law Clinic and the Faculty. We are in the process of finalising the required documents to enable us to offer these modules from 2020.



Stellenbosch Law Clinic developing its international footprint

The Clinic's Stephan van der Merwe has been awarded funding grants from the United Nations Office on Drugs & Crime (UNODC) and the University of Stellenbosch Faculty of Law's Research Committee to visit Melbourne, Australia, from 27 November to 9 December 2018.

Stephan will attend the International Journal of Clinical Legal Education (IJCLE) Conference on 28 to 30 November to present a paper entitled "*Intentional about impact: Changing lives and laws through the work of University Law Clinics*". From the abstract: "As a consequence of their typical interventions, clinics have occasionally been able to contribute to effecting more substantial legal advances. One example of this has been the work done by the University of Stellenbosch Law Clinic in changing the South African legal landscape with regard to emoluments attachment orders (EAOs). Prior to this, deficiencies in the South African legal system allowed unscrupulous creditors to severely abuse EAOs. The presentation aims to highlight what law clinics can do to advance the influence of their work, ultimately arguing that clinics have to be more intentional about making an impact in their societies."

He has also been awarded a fellowship from the National Institute for Teaching Ethics & Professionalism (NIFTEP) to participate in their Fall 2018 Workshop from 4 to 6 December, where he will present a teaching demonstration entitled "*What are Legal Ethics, and why do they matter?*". During the Workshop he will also receive hands-on training in the use of the world's most comprehensive web-based resource for teaching legal ethics: www.teachinglegalethics.org, and the United Nations' E4J University modules on Integrity and Ethics. In addition, Stephan has been invited to serve on the Workshop's panel discussing 'Teaching Professionalism and Ethics as they relate to Human Rights and Social Justice'.

The visit will conclude with Stephan attending the International Legal Ethics Conference (ILEC) from 6 to 8 December.

Through engagements like these, the Clinic remains committed in its purposes of both contributing to, and learning from, the growing international society of Clinical Legal Education and Professional Skills development experts.

WRITING STRATEGY

In 2011, the Law Faculty implemented a 'writing across the curriculum' - strategy with the aim of establishing a coordinated approach to the development of research and writing skills within the LLB programme as an integral part of legal education within the Faculty. The Faculty's Teaching and Learning Committee conceived the Strategy and it was approved by the Faculty Board. The Strategy is operated under the auspices of the Law Clinic.

The Strategy is a comprehensive one that extends across the entire course of the undergraduate LLB programme and consists of a number of different and mutually complementary components. The point of departure is that the writing skills of students cannot be developed meaningfully by way of *ad hoc*, uncoordinated writing exercises in the course of LLB training. The Strategy is intended to enhance the writing and research skills of LLB students through a number of interrelated interventions implemented across the entire LLB program. A principal aim is to inculcate both generic and specific writing skills in LLB graduates in a manner that is integrated into the curriculum. Apart from basic academic writing skills, regard must also be had to forms of written communication specific to various branches of the legal profession and the commercial sphere. The Strategy also envisages that the focus on the development of writing skills be used as a vehicle for the improvement of legal research skills and the ability to disseminate the results of such activities.

The Strategy comprises:

- A first year compulsory writing skills development module ("Writing Skills 171").
- "Writing-intensive" modules in terms of which writing and research assignments are integrated into substantive courses.
- The assessment of the writing skills of students with reference to a standard writing framework of the Faculty.
- Writing Consultants tasked with the responsibility to conduct one-on-one consultations with the Faculty's students on various aspects of their writing.
- An open-access legal writing website, administered by a Faculty Writing Consultant: <http://blogs.sun.ac.za/legalwriting>.
- The continuous evaluation of results achieved with a view to the refinement and further development of the Strategy.

Other

NOTEWORTHY MENTIONS

Law Clinic donates sanitary products



On 5 September 2018, the Law Clinic donated female sanitary products to Stellenbosch Child Welfare to use it as part of their Kayamandi 'Keep a girl in school'-project.

LSSA Lead seminar concerning work of Law Clinic

At the LSSA Lead "Legal Debt collection" seminar presented by Brett Bentley in Cape Town on 2 November 2018, discussion of the Law Clinic's Constitutional Court case on EAOs constituted an important part of the seminar.

Clean sweep at Casual Day games



On 7 September 2018, the Law Clinic staff participated in the Stellenbosch University's Casual Day games. The Law Clinic convincingly won the games.

Law Clinic practitioners volunteer in Kayamandi



On Saturday, 25 August 2018, the Law Clinic attorneys volunteered their time to visit Kayamandi to conduct a workshop with a view to educating community members on various legal issues.