

11.12.19

Dear Friends –

Thank you for your patience in waiting for our draft.

We started working on this project last spring and benefitted enormously from the guidance of our small group at the NYU/Clinical Law Review conference in September. This draft incorporates many of the recommendations we received back then. That said, our project is still at an early stage and we are eager for your feedback.

We want to hear all of your comments and also have the following more specific questions:

1. What have been the key elements of successful collaborations you have had with:
 - a. Colleagues?
 - b. Students?
 - c. Clients?
2. What parts of the paper need to be augmented beyond our proposed outline? Should any part(s) be made less prominent?
3. How can we make this paper more useful to others in guiding the development of future collaborations? (We do not want to be purely descriptive or to come across as bragging. We also do not want to be dogmatic. We are looking for a middle ground.)

We look forward to seeing you on Friday!

Many thanks,

Elizabeth & Liz

Achieving Social Justice through Clinic Collaboration

Elizabeth Maresca¹ & Elizabeth B. Cooper²

Sometimes the best way to solve a pervasive legal problem is by changing the law. But when that law has generated over \$775 million of revenue from the collection of old tax debt, one is bound to face a skeptical legislature, governor, and tax department. This is the story of how two law school clinics and two clinical professors with different expertise and different work styles came together to solve an intractable problem. While this collaboration appeared organic at the surface, it actually succeeded because of the deep trust the professors had in one another. This trust served as the cornerstone to building a successful collaboration – one with a common commitment and purpose, mutual accountability, deference to the expertise of the other, ability to communicate about problems, a shared workload, and room for each other to speak.

The story begins in 2014, when a new tax collection statute mandated the suspension of the driver’s license of any tax-debtor whose debt exceeds \$10,000. The only way to avoid license suspension was to pay the debt (in full by lump sum or monthly installment agreement) or to challenge the license suspension on very limited and exclusive statutory grounds, none of which included “ability to pay.” Thus, the law was enacted and enforced without an exemption for the poor.

Many low-income tax-debtors who did not have the ability to pay and did not qualify under the limited statutory exemptions were caught in its trap; the \$10,000 debt threshold was particularly easy to cross since it included interest and penalties, which cause tax debt to grow

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rapidly. In fact, in only the first few years the law was in effect, over 25,000 tax-debtors lost their driver's licenses. This far reaching impact distinguished the New York law from similar statutes around the country. For example, California can suspend only the driver's licenses of their top 500 tax debtors; the people at the very bottom of that list owe \$200,000 in back taxes.

Faced with a recalcitrant tax agency that would not administratively exempt anyone from license suspension due to poverty, Prof. Maresca's Tax Clinic filed an action in state court in 2016 challenging the law on constitutional grounds. Due to the complexity of the legal arguments and her doubt that the courts would intercede and dismantle the government's tax collection apparatus, Prof. Maresca invited Prof. Cooper and her Legislative and Policy Advocacy Clinic into the fight. Our united goal was to amend the driver's license suspension law to include an exemption for New Yorkers experiencing financial hardship. For the next two years, the professors worked hand-in-hand—with each other and with an array of wonderful clinical law students—collaborating in their efforts.

In Part I, this Article will introduce the intractable problem that led to the clinic collaboration and will discuss the collaborative ways the clinics and the student supervision were structured. In Part II, we survey the work of legal and business scholars to identify the principles necessary for a successful collaboration. Part III applies these principles to the professors' collaboration, the students' internal collaboration, and the collaboration between the students and the clinic faculty. Part IV describes how we achieved our goal in the state legislature and makes recommendations for successful collaborations moving forward.

I. The Problem: No Exemption for Financial Hardship

Sixty years old, suffering from a chronic medical condition, and dependent on public benefits to supplement part-time work, Jules Kevin Hilbert³ faced suspension of his driver's license under New York State Tax Law § 171-v, which directs the New York State Department of Taxation and Finance (the "Tax Department" or "Agency") to suspend the driver's license of any individual who owes \$10,000 or more in back taxes. Although the statute helped the Agency collect over \$750 million in just over 4 years,⁴ it contained no exemption for individuals like Mr. Hilbert, who was too poor to pay any of his past-due tax debts⁵ and needed his driver's license to drive his ailing 86-year old mother to medical appointments.⁶

Similarly, Polly Evans, who lives in New York, provided child care for her daughter who lived in New Jersey. Even though Ms. Evans' only income was exempt from collection by the State,⁷ the Tax Department proceeded with suspending her driver's license because she did not pay her tax debt. Even though she obtained a restricted driver's license, Ms. Evans no longer could assist her low-income daughter with childcare because such licenses cannot be used to drive across state borders.⁸ The remainder of this section describes the myriad obstacles faced by Mr. Hilbert and Ms. Evans—and so many other individuals across New York State—while dealing with Tax Law § 171-v.

³ The names of all clients have been changed to protect their anonymity.

⁴ Cite to NYS documents.

⁵ Insert relevant statutory language.

⁶ Although Mr. Hilbert may have qualified for a restricted driver's license, this was not a solution. The license is not automatically available; it costs \$75 to apply for the license; and it places significant limitations on when one is permitted to drive. For example, the restricted license does not permit a holder to drive anyone who is not a member of their household. Cite to NYS law.

⁷ See CPLR and quote relevant language.

⁸ See supra note 6. The restricted license was created as a mechanism to assist those accused or convicted of driving under the influence. Tax debtors have been able to obtain such licenses, but the restrictive rules relevant to protect the public's health and well-being from individuals driving under the influence are wholly inapplicable to tax debtors.

A. Structural Problems Posed by New York State Law

[Add introductory language for this subsection.]

1. No Way Out for Poor and Low-Income New Yorkers

New York State Tax Law § 171-v, first implemented in 2014, mandated that the only ways to avoid driver’s license suspension was to pay one’s tax debt (in full or by monthly installment agreement) or to challenge the license suspension on very limited and exclusive statutory grounds, none of which included “ability to pay.”⁹ Thus, the law was enacted and enforced without an exemption for the poor.¹⁰ Tax debtors like Mr. Hilbert and Ms. Evans were unable to pay and did not qualify under the limited statutory exemptions.

Although \$10,000 may sound like a sizable tax debt, a far more modest debt grows quickly with the addition of interest and penalties.¹¹ Further, Tax Law § 171-v includes any kind of New York State tax debt, whether income, sales, or commercial tax debt.¹² Many low-income people were caught in the sightlines of the law: in only four years, the state suspended the driver’s license of over 25,000 tax debtors.

The consequences of losing one’s driver’s license is significant, particularly in areas of the state not near public transportation. Even the restricted driver’s license available to some tax debtors does not alleviate these difficulties. For example, although a person can drive his children to school if he works outside the home, he is not permitted to do so if he works from

⁹ The six statutory bases on which to avoid driver’s license suspension were (describe & cite).

¹⁰ Individuals often incur tax debt when, due to illness, disability, loss of job, or other unfortunate circumstance, they are not able to pay the tax liability they accrued when they were experiencing better financial situations. (Cite.) For example, Mr. Hilbert’s debt arose after he had to leave his job due to a debilitating illness and thereafter was forced to liquidate his retirement savings to sustain himself.

¹¹ Show the math re: how quickly a tax debt can grow.

¹² Cite to statute.

home or is unemployed.¹³ Further, all driving routes between home and work need to be approved by the Department of Motor Vehicles.¹⁴ This requirement makes it virtually impossible for a delivery person or livery cab driver to maintain her job. Not surprisingly, ___% of those individuals whose driver's licenses are suspended also lose their jobs.¹⁵ Also not surprisingly, the loss of a job makes it exponentially more difficult to pay off one's tax debts.

2. The Tax Agency as Recalcitrant Actor

The Tax Clinic initially advocated informally with the Agency, trying to convince its leadership to administratively exempt low-income individuals from driver's license suspension. There were signs of hope at first, when in 2014, Agency settled a case in its administrative court by cancelling the debtor's license suspension due to his inability to pay his tax debt.¹⁶ Without counsel, however, many *pro se* taxpayers appearing before the administrative court had no success.¹⁷

Emboldened by their success in the administrative court, the Tax Department held off on negotiations for a more humane reading of the statute, deciding that the statute gave them no discretionary avenue to exempt a poor or low-income taxpayer from driver's license suspension.

¹³ Cite.

¹⁴ Cite.

¹⁵ Cite.

¹⁶ This was, in fact, Mr. Hilbert's case.

¹⁷ Cite? As with the Internal Revenue Service, the New York State Tax Department has powerful statutory collection tools. Further, taxpayers are barred from suing the state to enjoin tax collection and the courts are loathe to interfere with collections for the government fisc. Cites.

3. Next Step: Litigation

Faced with a recalcitrant Tax Department, in 2016, the Tax Clinic sued the Agency in state court, asserting that the law was unconstitutional as-applied because the available pre-suspension hearing did not permit a taxpayer to raise poverty as the reason for non-payment.¹⁸ In early 2017, the Agency filed a Motion to Dismiss for Failure to State a Claim, asserting that its Offer in Compromise Program, which allows an individual to settle their past-due tax debt for less than the full amount owed, satisfied due process.

In its opposition, the Tax Clinic argued against this assertion, reasoning that the OIC program did not satisfy due process because it occurred outside of the required Notice and Hearing and is, in actuality, a post-deprivation hearing. Under *Matthews v. Eldridge*,¹⁹ the Clinic maintained that post-deprivation hearings for driver's license suspensions are adequate only when the state's interest in maintaining safety on public roadways is implicated, such as in reckless driving or DUI cases.²⁰ The Clinic also argued that the OIC program could not solve the state's due process problem because the program is unduly burdensome, time consuming, and difficult to navigate for uninitiated individuals who do not have legal representation.²¹ Further, individuals often know nothing about the OIC program, through no fault of their own: information about this program is not mentioned in the Suspension Notice sent to tax debtors is nearly impossible to find on DTF's website and unless one happened to know the terminology "Offer in Compromise."

The Clinic also asserted that the theoretical availability of a restricted license (created to allow Driving While Intoxicated offenders to go to work and maintain safety on public

¹⁸ See *supra* note 9 and accompanying text (describing the statutory exceptions)

¹⁹ *Matthews v. Eldridge*, 424 U.S. 319 (1976).

²⁰ Cite to brief.

²¹ *Id.* at ____.

roadways) is not an adequate solution.²² If unemployed, one is permitted to drive for only one week to look for a job. Further, this license does not allow individuals to work as a cab driver (e.g., for Uber or Lyft); drive to work or medical appointments without a predetermined route; in some situations, to drive one’s children to school; or to drive to the grocery store or to religious services.²³ Further, it prevents individuals from providing much needed care for elderly parents or other loved ones who do not live in their household.²⁴

The Tax Clinic argued that these obstacles, inherent to the restricted license, prevented tax debtors from seeking work or maintaining a job and therefore would not advance the state’s interest in collecting taxes—and, could undermine it.²⁵ In turn, the Clinic asserted that state has no interest in interfering with an individual’s ability to care for aging parents and other family members who do not live in their households.²⁶

Despite the many driver’s license suspension statutes that have been voided by courts in Tennessee,²⁷ Mississippi,²⁸ and Virginia,²⁹ the New York courts ultimately upheld the statute, holding that [w]hile a “driver’s license is a substantial property interest that may not be deprived without due process of law,” it is not a fundamental right as to warrant heightened review pursuant to *Bearden v. Georgia*.³⁰

²² *Id.* at ____.

²³ Cite to restricted license statute, quoting relevant language.

²⁴ *Id.*

²⁵ Cite to brief.

²⁶ *Id.*

²⁷ Citation with parenthetical.

²⁸ Citation with parenthetical.

²⁹ Citation with parenthetical.

³⁰ *Bearden v. Georgia*, 461 U.S. 660 (1983). *Bearden*: “We hold, therefore, that, in revocation proceedings for failure to pay a fine or restitution, a sentencing court must inquire into the reasons for the failure to pay. If the probationer willfully refused to pay or failed to make sufficient bona fide efforts legally to acquire the resources to pay, the court may revoke probation and sentence the defendant to imprisonment within the authorized range of its sentencing authority. If the probationer could not pay despite sufficient bona fide efforts to acquire the resources to do so, the court must consider alternative measures of punishment other than imprisonment. Only if alternative measures are not adequate to meet the State’s interests in punishment and deterrence may the court imprison a probationer who has made sufficient bona fide efforts to pay. To do otherwise would deprive the probationer of his

4. If the Courts Can't Help, Perhaps the Legislature Can? The Timeline of Legislative Advocacy

Even before the Tax Clinic filed its state court action, Prof. Maresca was doubtful the courts would dare to undermine the government's tax collection apparatus, especially in light of the complexity of their legal arguments.³¹ These forces led Prof. Maresca to invite Prof. Cooper into the fight to create an exemption from license suspension for the poor through a legislative solution. This section describes the trajectory of the work undertaken by students in the Legislative and Policy Advocacy Clinic's Driver's License Suspension Project (DLSP).

In the spring 2017 semester, Prof. Cooper assigned the first team to this legislative advocacy project. Prof. Maresca and her clinic served as the community partner (a/k/a client) LPAC. The first team of students—and Prof. Cooper—spent a great deal of time just trying to learn the relevant law. Neither the students³² nor the professor had any proficiency or background in tax law, so this required a great deal of “learning by doing” for all involved.³³ The students were very dedicated to the project and before the end of the semester, met with State Senator Liz Krueger, the top democrat on the Senate's Finance Committee. At this time, and until January 2018,³⁴ she was a member of the democratic minority.

conditional freedom simply because, through no fault of his own, he cannot pay the fine. Such a deprivation would be contrary to the fundamental fairness required by the Fourteenth Amendment.” 461 U.S. at 672-73.

“A rule that imprisonment may befall the probationer who fails to make sufficient bona fide efforts to pay restitution may indeed spur probationers to try hard to pay, thereby increasing the number of probationers who make restitution. Such a goal is fully served, however, by revoking probation only for persons who have not made sufficient bona fide efforts to pay. Revoking the probation of someone who, through no fault of his own, is unable to make restitution will not make restitution suddenly forthcoming.” 461 U.S. at

³¹ This concern became particularly evident when reviewing the Supreme Court's (New York's lowest court) decision, which contained numerous factual and legal errors. *See* Decision.

³² All of the students who worked on this project were spectacular. Josh Liebman and Christopher Ziemba, Fordham Law '18, served as the first Driver's License Suspension Project team.

³³ Citation to experiential learning: learning by doing.

³⁴ During the Fall 2018 semester, Emerson Argueta, Fordham Law '18, and Jessie Boas, Fordham Law '19, doggedly submitted Freedom of Information Law requests to the

Senator Krueger, and her Chief of Staff, Brad Usher, fully understood the issues and were tremendously encouraging.³⁵ Their—and our—hands largely were tied however, until the democrats decisively won the majority of seats in the Senate³⁶—and Senator Krueger became Chair of the Senate Finance Committee.³⁷ At the time, the state Assembly was dominated by a democratic majority and Governor Andrew Cuomo also was a democrat. We now had more of an opportunity to try to change the law by focusing a bit more on the substance of our arguments and a bit less on inter-party politics.³⁸

Our efforts to amend Tax Law § 171-v gained enormous momentum from Spring 2018 through Spring 2019, when a bill to create a financial exemption was passed by both legislative houses and signed by the Governor.³⁹

[We will describe the details of these efforts—including meeting with legislators, legislative staffers, and committee staffers, publishing op-eds, and reaching out to a large donor to the Governor.]

Important background information to be integrated into the draft:

In Spring 2018, four students worked on the project through the Legislative and Policy Advocacy Clinic (LPAC): Jessie Boas, Emerson Argueta (both of whom previously had worked on the project for a semester), Elaina Aquila, and Gaby Kornblau.

In Fall 2018, three new LPAC students worked on the project: Daria Schieferstein, Rachel Smith, and Sam Zuckerman.

³⁵ Mr. Usher was particularly familiar with the issue, having been asked by Senator Krueger’s constituents to try to fix this problem.

³⁶ Cite.

³⁷ Cite.

³⁸ Of course, there still were plenty of political considerations—just of a different sort. *See* below section ____ for further discussion of these issues.

³⁹ Cite.

In Spring 2019, the semester the amendment was enacted, we taught a combined Tax, Poverty and Justice Clinic, and worked with a team of five students: Elaina Aquila, Gaby Kornblau, Daria Schieferstein, Rachel Smith, and Sam Zuckerman. Although Prof. Maresca increasingly had become involved in the work of the tax team in the LPA Clinic, advising and often directly supervising the students, it was not until this final semester that we officially joined forces, co-teaching the new clinic. (We are very aware that without the ability to work with returning students, it would have been far more difficult for this project to succeed.)

II. Collaboration Between Two Clinics—and Two Clinic Professors

[Add brief roadmap of this section.]

A. The Clinics

In the Tax Clinic, students represent low-income taxpayers in examinations, administrative appeals and collection matters against the IRS and NYS Tax department. When settlement fails, the students represent the clients in litigation matters in United States Tax Court and Federal District Courts. The Tax Clinic maximizes client financial wellbeing, protects taxpayer rights, secures refunds and credits to which taxpayers are entitled, provides relief from tax liability for victims of domestic abuse, and reduces tax liabilities through compromises based on financial hardship.⁴⁰

In addition to representing individual clients, most of whom have little or no ability to defend themselves against the government, students also help craft tax-efficient business strategies for small business, comment on proposed rules and regulations affecting low income taxpayers, and litigate issues that have a broad impact on the low-income taxpayer community.

⁴⁰ Cite: Webpage?

Students have extensive client contact; conduct fact investigation and legal research; and develop, present, and argue cases on behalf of vulnerable taxpayers who would otherwise not have access to justice.

The Legislative and Policy Advocacy Clinic partners with community-based organizations and legal advocacy groups to augment their capacity to advocate for social justice changes to New York State and New York City laws. In recent years, the clinic has collaborated with entities ranging from the New York Civil Liberties Union, where we worked to enact the Gender Expression Non-Discrimination Act; to Legal Aid, MFJ Legal Services, and Fordham Law's Feerick Center for Social Justice, advocating for tenants' rights and for better protection of low-income consumers.⁴¹

Students conduct multi-disciplinary research to compile comprehensive reports to educate decision-makers and the general public; draft legislative memos and other advocacy documents; meet with experts, including legislators and their staffers; and learn how to work with the media. The learning goals for clinic students are numerous, and in addition to the foregoing, include: developing the skills to work with partner organizations and in coalitions; understanding the legislative structure and political realities in New York State and New York City; embodying the role of the legislative lawyer and advocating for social change; and learning to frame the issues and develop a strategy and message to best achieve the goals of their project.

Both clinics incorporate the pedagogical principles and structures to support experiential learning, which include: giving the students significant responsibility for the progress and execution of their responsibilities; getting together with each team of students (they do not work alone) at least once a week, following the agenda they develop; meeting with each student

⁴¹ Cite: Webpage?

individually at mid-semester and at the close of their semester-long responsibilities.⁴² [Add more] Both clinics insist that students on each team collaborate with one another.⁴³

[Add material about Maresca's personality and Cooper's personalities? If so, here?]

III. The Attributes of a Successful Collaboration

[Insert roadmap for this section.]

A. Theories of Collaboration

For much of the last intense year working to amend Tax Law § 171-v, the professors and the students frequently commented on how seamless our collaboration process was. It is not that there were not occasional tensions and miscommunications, but we were very often able to work them out quickly and put them behind us. Prof. Cooper often commented that the process seemed like magic, but had a difficult time identifying why or how the collaboration was so successful. Prof. Maresca pushed us both to identify the elements of our success. Indeed, if we could, perhaps we could create good guidelines for ensuring positive collaborative relationships in the future—and also learn to trouble-shoot when a collaborative relationship seemed to be in trouble.

Just over twenty-five years ago, Susan Bryant published *Collaboration in Law Practice: A Satisfying and Productive Process for a Diverse Profession*,⁴⁴ which has become the touchstone for clinical law professors seeking to impart the importance and techniques of

⁴² Citations.

⁴³ Prof. Cooper informs applicants to her clinic as follows: “You are jointly responsible for all of the work done for your client/community partner. You may choose to do some work individually, but each person must be fully on top of all work.” Cite to LPAC handout. In addition, a sizable portion of the first or second class meeting is devoted to exploring the attributes of productive collaborations, as well as the behaviors that can undermine a student team. See Syllabus, Legislative and Policy Advocacy Clinic.

⁴⁴ Susan Bryant, *Collaboration in Law Practice: A Satisfying and Productive Process for a Diverse Profession*, 17 Vermont L. Rev. 459 (1993).

successful collaboration in legal practice. [Describe the basic tenets/principles articulated by Bryant. Add review of legal scholarship about collaboration since Bryant.⁴⁵]

In the 25 years since Prof. Bryant's article, legal scholars have not explored these issues quite as rigorously as business scholars, who have made big strides in better understanding how to facilitate successful collaborations in complex contexts.⁴⁶ While their studies are not inconsistent with Bryant's conclusions, they show that successful teams share a common purpose and approach,⁴⁷ share knowledge freely,⁴⁸ shift workloads flexibly to break up unexpected bottlenecks,⁴⁹ create collective work products,⁵⁰ contribute equally,⁵¹ and maintain a strong sense of community.⁵²

The best teams do not necessarily look efficient to an outsider: team members may speak over one another and may go on tangents and socialize instead of remaining focused on the agenda. But team members seem know when someone is feeling upset or left out and are sensitive to one another's moods. They share stories and emotions. Each member speaks as much as they need. These attributes, notably, reflect the importance of psychological safety⁵³ as the key ingredient to a successful collaboration. Teams that have developed this trait tend to have high average social sensitivity.⁵⁴ In other words, when team members are comfortable with one another, trust each other, and feel valued, they work well together.⁵⁵

⁴⁵ See e.g., Brustin; Chavkin; others.

⁴⁶ See *infra* ...

⁴⁷ Jon R. Katzenbach & Douglas K. Smith, *The Discipline of Teams*, Harvard Business Review (2009).

⁴⁸ Lynda Gratton & Tamara J. Erickson, *Eight Ways to Build Collaborative Teams*, Harvard Business Review (2009).

⁴⁹ *Id.*

⁵⁰ See Katzenbach & Smith, *supra* note 1.

⁵¹ David Engel, Anita Williams Woolley, Lisa X. Jing, Christopher F. Chabris, and Thomas W. Malone, *Reading the Mind in the Eyes or Reading Between the Lines? Theory of Mind Predicts Collective Intelligence Equally Well Online and Face-To-Face*, PLOS ONE (2019)

⁵² See Gratton & Erickson, *supra* note 2.

⁵³ Google study [cite]

⁵⁴ Cite.

⁵⁵ Cite.

[Add material further explaining and exploring the attributes of psychological safety, including how it is developed and encouraged.]

In an interesting twist, researchers report that faculty members themselves “often don’t work well in groups, so they don’t understand the [teamwork] dynamics.”⁵⁶ Although we imagine these investigators were not observing clinical law professors, this observation highlights the importance not only of *teaching* collaboration skills, but also of *modeling* good collaboration. Indeed, if we agree with the premise that clinic integration (i.e., two clinics pooling resources and expertise) can be crucial to solving social justice problems, we are compelling to ask how clinical law professors can best model and execute successful collaboration.

B. Moving Beyond Theory: Collaboration in Practice

[add roadmap material]

1. The Collaborative Practice of the Professors

Well-aware of their need of each other’s skills and expertise, Professors Maresca and Cooper built a collaboration based on respect and trust. We held a shared vision for the project and were equally motivated to succeed—primarily for the clients of the Tax Clinic, and later, for our students as well. We were keen to bring our varied expertise to the table to drive the project forward, all while modeling an openness and desire to talk out our differences.

In bringing our full selves to the project, we discovered that the differences in our personalities and supervision styles often were complementary. Maresca is more bold, decisive, and directive. Cooper is more prone to processing, more focused on details of presentation, and

⁵⁶ Julie A. Kliegl & Karl D. Weaver, *Teaching teamwork Through Coteaching in the Business Classroom*, Bus. & Prof. Comm. Quarterly (2013).

is less directive. Part of what allowed this to work was our frankness and humor—neither one of us being afraid to laugh at ourselves.

Fundamentally, our shared motivation, our complementary expertise, and our capacities to resolve and negotiate conflict allowed us to develop the “psychological trust” necessary for a successful collaboration. As important, the characteristics which led to a successful teaching partnership also supported the students in collaborating well among themselves, as well as with us.⁵⁷

We saw these key components most keenly at work in our joint clinic (Tax, Poverty and Justice). In the semesters leading up to our fully joined effort, we came to rely on our ability to use the other’s knowledge and expertise to further the project and to more clearly share responsibility.⁵⁸ For example, as the Agency accelerated its campaign to stifle our attempts to amend the law, advancing the notion that the lack of a poverty exemption in Tax Law § 171-v was solved by their OIC program,⁵⁹ we could more fluidly rely on each other *and* develop new areas of knowledge.

More specifically, Prof. Cooper was able to adeptly explain to the executive branch and legislative budget staff why the OIC program was not sufficiently meeting the needs of the indigent tax debtors our project hoped to help. Prof Maresca became skilled at talking with legislators and the budget staff without overly complicating the pertinent issues with tax jargon. Ultimately, each professor could channel the other’s knowledge and expertise, which modeled for the students that they also could master the complicated and nuanced messages we all had

⁵⁷ *Id.*

⁵⁸ Julie A. Kliegl and Karl D. Weaver, *Teaching Teamwork Through Coteaching in the Business Classroom*, *Business and Professional Communication* 2014, Vol. 77(2), pp. 209.

⁵⁹ *See supra* ___ describing the Office in Compromise (OIC) program.

collaboratively developed. [Develop further examples; link the examples to the attributes of building a successful collaboration.]

2. The Students' Collaborative Model

Throughout the last three semesters of the project (Spring 2018 – Spring 2019), the students typically drafted important documents only after the full team met to brainstorm and troubleshoot strategic decisions. By the final semester, the team would gather in the clinic's large conference room and strategize or draft an external document together on the large screen where the computer was projected.

Although one individual (or occasionally, two) was responsible for transforming these notes and ideas into a solid draft, it already incorporated the team's decisions about the goal and audience for the document. The other students, those editing (rather than drafting), were expected to—and did—contribute substantive changes and relevant commentary, not simply grammar and style notes. (These contributions could happen by students filtering their proposed changes to the point person or by gathering again in the large conference room to mold the document to more accurately accomplish our goals. The reconvening typically would happen as we (the students and faculty jointly) were finalizing the written product.)

A minimum of four of the five students would sign off on a draft before sending it to the professors for their editing. This roadmap was followed for almost every external document. Notably, the students equitably shared primary drafting responsibilities; further, when relying upon the “rule of four” (because a student was in class or otherwise not available), no one student was regularly excluded.

The in-person collaborative sessions were extraordinarily time consuming and at times more than a wee-bit frustrating. Fundamentally, however, they required each student to come to

the table having developed deep knowledge about the substantive and gave each student a voice in the development of the team's strategy. Pragmatically, this approach saved us enormous time and energy later in the semester when we spent more time in Albany, allowing us to split up to meet with key legislators and their staffers.

The team's flat organizational structure also allowed for individual members to contribute based upon their own availability. The Fordham in-house clinical program requires students to work between 12 to 15 hours a week on their case or project for three fieldwork credits. Even though the team often worked many more hours than this in a given week, they had numerous other academic and social commitments.⁶⁰

As not every team member was available for every deadline, the students communicated almost constantly through a team group chat; maintained a joint calendar; kept track of who was in charge of a particular task, as well as the order in which the others would review and edit the deliverables; and filled-in for each other as needed. While this high-demand, high-pressure context with variable student availability could have led to team dysfunction and in-fighting, team members simply took the lead on certain tasks when others had conflicting responsibilities.⁶¹ Indeed, this consistent communication fostered the students' shared responsibility for the project, prevented bottlenecks, and ensured that they could meet deadlines. The project moved very quickly at times and without the ability to fluidly shift workloads, important tasks would not have been completed in a timely manner and our proposed amendment would not have moved through the legislature.

⁶⁰ Notably, some of the students would attend gym classes together and otherwise would socialize outside of the clinic. Two of the students in each of the three semesters had been friends before participating in the clinic. Importantly, this seemed to give the students the confidence to open up to others, rather than to pair off.

⁶¹ For example, when three students were out-of-pocket to prepare for and take the MPRE, the other students simply did the work necessary to keep the project moving.

Each member of the team exhibited a commitment to the project and its goals that reflected a shared sense of purpose. They made themselves extraordinarily available for discussion, strategizing, and document revision, eliminating the need or tendency for any one person to manage the others.⁶² Further, each member of the team had a voice that was valued and respected by the others. Successful teams create space for others to engage and are committed to the collective task—and this was reflected in the actions and workstyles of our students. They lived the theory that teams are more flexible, innovative, permeable, responsive and adaptive than hierarchies.

In addition to the well-established attributes of effective collaboration—full investment, and frequent and honest communication—all of which are predicates to developing the essential element of trust, we identified a number of subsidiary elements. Chief among these were flexibility and understanding among the students for those periods when decision-making and tasks were not shared equally (e.g., due to a student’s unavailability); an open willingness and desire to learn from one another (including the faculty’s openness to learning from the students) and to respect one another; and an adaptability to deal with last minute developments and to compromise when appropriate to move the project forward.

[Need transition.] Professors can encourage collaboration among student teams by investing in their success, demonstrating collaborate behavior, mentoring and coaching each other and the students, teach the students how to communicate well, support a strong sense of community, be task and relationship-oriented, build on pre-existing relationships, and sharply define roles and tasks.⁶³

⁶² The students were extraordinary at not creating or fostering power issues among themselves, notwithstanding the opportunity for this to have occurred. See cite [*Id.* at 208?].

⁶³ Lynda Gratton and Tamara J. Erickson, *Eight Ways to Build Collaborative Teams*, Harvard Business Review (Nov. 2007).

IV. Conclusion

The professors shared a deep commitment to social justice and had identified a problem facing the low-income New Yorkers. We began a legislative advocacy project when we realized that the issue was not going to be positively resolved by the courts. In addition to the external challenges (i.e., a bad law, a recalcitrant Tax Department, and a disempowered constituency), we also faced internal impediments: Prof. Maresca's lack of familiarity with legislative advocacy and Prof. Cooper's lack of familiarity with the New York State tax collection scheme. Yet we committed to jointly supervising the students working on the project.

In order to overcome these impediments, the professors began an implicit collaboration.⁶⁴ As long-term co-workers, we knew each other reasonably well and wanted to create a culture where each would flourish and the project would succeed.⁶⁵ We had no idea, though, that our professional (and personal) relationship would develop as it did over the ensuing two and a half years.

One important step we took was to create (quite naturally) plenty of room for both of our personality types: Prof. Maresca, the extrovert who needs to think through ideas out loud; and Prof. Cooper, who tends to talk less and listen more and tends to express her ideas only after internal contemplation.⁶⁶ Throughout our collaboration, we communicated a great deal and, like our students, often went on tangents and socialized instead of staying on point. We were

⁶⁴ The importance of being explicit about the collaboration should not be understated. CITE.

⁶⁵ Gratton & Erickson, *Eight Ways to Build Collaborative Teams*, Harvard Bus. Rev. 2007.

⁶⁶ A. Rachel Camp, *Creating Space for Silence in Law School Collaborations*, 65 J. Legal Ed. 897, 912 (2016). Good teams allow team members to speak as much as they need to, but are sensitive to each other's moods. Google study. Both the faculty and the students developed a group norm whereby each person could speak or think quietly as needed. Each learned patience for the other's process and enabled them to share their knowledge freely and without inhibition. Importance of the ability to read complex emotional states. (Google study).

sensitive to each other's personal stories and emotions, tended to know when someone was feeling upset or left out, and found a way to address these concerns.⁶⁷

To an outsider, paying attention to such things or taking the time to mentally meander may seem inefficient; but to the contrary, it bolstered our personal relationship and allowed us to work together and enjoy working on this difficult and often frustrating project. We needed the other to succeed and developed a strong personal bond which made us work towards the goal as to not disappoint the other.

By unpacking our work we have learned that the key component of our collaboration was psychological trust, which more than anything else, is critical to making a team work.⁶⁸ Psychological safety or trust allows a team to develop group norms—the traditions, behavioral standards, and unwritten rules that govern how we function when we work together.⁶⁹ We are grateful for our successful collaboration; for gaining an understanding how our modeling of collaborative behavior affirmatively can affect the development of a student team; for our willingness and ability to learn from our students; and for our ability to make New York State that much more considerate of the needs of our low-income residents. [Need to adjust this paragraph and draft additional paragraphs more tightly pulling together principles of successful collaboration and how they applied to the student teams and to their collaboration with us.]

⁶⁷ Mostly Cooper

⁶⁸ Google study.

⁶⁹ Cites.