

VERMONT LEGAL AID, INC.

POVERTY LAW PROJECT

264 NORTH WINOOSKI AVE.
BURLINGTON, VERMONT 05401
(802) 863-5620 (VOICE AND TTY)
FAX (802) 863-7152
(800) 747-5022

OFFICES:

BURLINGTON
RUTLAND
ST. JOHNSBURY

OFFICES:

MONTPELIER
SPRINGFIELD

VERMONT POVERTY LAW FELLOWSHIP: EMPLOYMENT LAW SECOND QUARTER REPORT

January 15, 2021 - March 31, 2021

I. Introduction

Emily Kenyon's fellowship focuses on the legal problems encountered by low-wage workers. During the second quarter of the 2020-2022 Vermont Poverty Law Fellowship, Emily deepened her understanding of the issues through continued consultations, case work, and research. She spent approximately 60% of her time on individual case work; approximately 25% of her time on legal and policy research and attending trainings; and approximately 15% of her time communicating with stakeholders.

II. Ongoing Projects & Community Consultations

Collateral Consequences

Emily continued investigating the structural barriers that justice-involved individuals confront when seeking employment. She researched other states' initiatives to reduce barriers and help justice-involved individuals obtain meaningful work. She also consulted with stakeholders at the following organizations in Vermont:

- Rhino Foods
- Attorney General's Office, Community Justice Division
- University of Vermont, Department of Political Science
- Turning Point of Chittenden County
- Lamoille Restorative Center
- Capstone, Community Kitchen Academy
- Vermont Works for Women
- Orleans County Restorative Justice Center
- Vermont Association of Business Industry and Rehabilitation

To increase access to legal services, and learn more about reoccurring issues, Emily established a monthly legal clinic with the Orleans County Restorative Justice Center ("OCRJC"). OCRJC offers conflict resolution services, hosts restorative justice panels, and offers re-entry services for justice-involved people returning to their communities.

Emily hosted two legal clinics through OCRJC in the second quarter and she will continue to do so moving forward. In this role, Emily will provide legal advice and referrals, as well as accept cases for representation when appropriate.

Unemployment Insurance Benefits

Drawing on her experience working with claimants, Emily researched and strategized with colleagues about methods to improve the administration of unemployment benefits in Vermont. She attended a nation-wide training focused on using data to improve unemployment benefit advocacy.

Participation in Trainings and Events

Emily presented at the Vermont Bar Association’s Mid-Year Meeting on March 25, 2021. She thanked the private bar for its continued support and highlighted some of her recent work.

Emily attended the National Employment Lawyers Association’s Spring Seminar. Over the course of two days, Emily learned about emerging issues in wage and hour law.

Out-of-State Consultations

Emily continues to meet with legal services organizations in other states. During the second quarter, she met with attorneys at Pine Tree Legal Assistance in Maine to discuss potential collaboration. She also remains engaged with Maryland Legal Aid through an active listserv.

III. Legal Assistance & Representation

Statistics: During the second quarter, Emily worked as counsel for 40 clients, and co-counsel for 5 clients. 29 of the 45 cases were opened this quarter.

Issue	No. of 2nd Qtr. Cases
Unemployment	15
Wage & Hour	12
Fair Housing Rights (non-eviction cases)	3
Expungement	10
Employment Discrimination	5
Total	45

County	No. of 2nd Qtr. Cases
ADDISON	1
BENNINGTON	3
CALEDONIA	1
CHITTENDEN	9
ESSEX	2
FRANKLIN	3
GRAND ISLE	1
LAMOILLE	1
ORANGE	1
ORLEANS	3
RUTLAND	6
WASHINGTON	8
WINDHAM	2
WINDSOR	4
Total	45

Case Snapshot

Mary (pseudonym) left her job in the summer of 2020 to care for her child after her daycare provider closed due to COVID-19. She applied for and received unemployment insurance benefits that helped her pay her rent and feed her two-year old son while she was out of work.

In the fall of 2020, the Department of Labor informed Mary that she was required to repay over \$10,000 in benefits and penalties because she “voluntarily quit” her job and, therefore, was not eligible to receive unemployment insurance benefits. Despite her timely appeal, it took the Department of Labor over four months to schedule her hearing. Without unemployment benefits or a job, Mary’s bills piled up as she waited for her appeal to be heard. The prospect of having to repay the Department of Labor weighed heavily on Mary during those months; she knew it would take her years to do so. At the same time, her son was experiencing serious health issues. Feeling overwhelmed by it all, she called Legal Aid for help with her appeal.

Emily represented Mary at her appeal hearing before an Administrative Law Judge (“ALJ”) and argued that Mary was eligible to receive unemployment benefits under Act 91. Act 91, signed into law during the COVID-19 pandemic, expanded unemployment benefits to assist workers who left their jobs for certain enumerated COVID-19 reasons, including if the individual left employment to care for a child whose childcare provider closed due to COVID-19. Accordingly, Mary fit squarely within the class of claimants eligible for benefits under Act 91.

Agreeing with Emily, the ALJ concluded that Mary was eligible to receive benefits and, thus, was not required to repay any benefits previously received.

IV. Anticipated Work for Next Quarter

Emily's focus for the next quarter has four components, each of which is aimed at increasing access to legal services and identifying systemic issues facing low-wage workers.

First, she will continue focusing primarily on casework. She hopes to diversify her intake streams and increase her case load. Learning directly about the issues from low-wage workers will help Emily identify the biggest problems and develop an effective solution.

Second, she will create Know Your Rights informational materials for employees. During consultations, numerous stakeholders informed Emily that this would be a helpful resource. These materials will be distributed to employment consultants at re-entry organizations and other service providers. This project will serve dual purposes: improve employees' knowledge of their rights and increase referrals to Emily for employment-related legal services.

Third, Emily will continue to connect with stakeholders around the state. In particular, she hopes to attend service providers' staff meetings where she can tap into the experience of numerous case managers at one time. For example, she will attend Creative Workforce Solutions' monthly meetings to identify systemic issues. Creative Workforce Solutions is a group of over thirty non-profits that meet monthly to discuss employment opportunities and barriers. Emily is hopeful that these meetings will help identify potential reform projects, while also creating new intake streams for cases.

Fourth, Emily plans to research impact litigation and legislative strategies to remedy the issues identified over the past six months.