Carly McPeak was the inaugural recipient of the Ellis & Judd Outstanding Directed Intern Award. Josh Garrett was selected as the Spring 2013 recipient of the Irvine E. Ungerman Award for Excellence in Clinical Practice.

At the beginning of the semester, McPeak was given a hotly contested divorce case which was complicated by a protection from stalking case and two criminal matters stemming from the actions of the Clinic client’s abusive husband. After negotiating a settlement of the case and preparing to present the terms at pretrial, McPeak was advised moments before the hearing that the settlement was off. Trial was set with less than three weeks to prepare.

“Carly did a masterful job preparing for the hearing,” said Associate Professor Lynette Petty, who presented the award to McPeak. “She dealt with multiple issues at trial, including debt and property division, child support, distribution of tax refunds, and parenting time. Carly pored over mounds of evidence to determine which documents should be introduced during trial. Her direct required a skillful telling of a complicated story over emotional details of the events that had transpired. While our client’s income was limited, Carly worked with the facts she had to show the Court that our client could cashflow the mortgage on the house and pay the debts to cover her husband’s equity.

Petty continued, “To add to Carly’s challenges, the Respondent was represented by a very experienced attorney known for his trial work and ability to effectively cross examine witnesses. Carly more than held her own. Her preparation paid off for her client who ultimately prevailed on every issue.”

“Carly McPeak has definitely earned her award,” said Petty.

Josh Garrett was presented with the Ungerman Award by Associate Professor Rebecca Woodman.

“There was one intern in particular whose clinic work this semester, in our judgment, best exemplifies the spirit of the Ungerman Award,” said Woodman. “For most of the semester, Josh represented one client in several cases. Soon after the semester started, he was confronted with a motion to revoke a diversion in a prior case involving possession of alcohol and drug paraphernalia, based on a new DUI charge. In preparing for the hearing on the motion to revoke, Josh discovered that the stipulated facts underlying the diversion agreement were insufficient to establish one of the charges beyond a reasonable doubt.

“At the hearing,” Woodman continued, “Josh exercised great judgment, initiative and skillful advocacy in presenting and arguing this legal defect to the court, and thus precluded his client from being found guilty on that charge. He then represented his client in a Department of Revenue administrative hearing that arose in conjunction with the DUI charge. He did a masterful job in examining the arresting officer to set the stage for the defense of his client on the DUI. That defense included the filing of a motion to suppress the evidence against the client due to a lack of probable cause to arrest, which was heard by the district court just last week.

“Josh’s careful preparation and research was evident in his performance at the hearing, and he exhibited great skill in cross-examining the State’s witnesses and presenting closing argument to the court. The court granted the motion to suppress in part, which now sets the stage, not only for the upcoming jury trial, but for a potential appellate issue arguing that the evidence remaining after the court’s suppression order is insufficient to establish probable cause for the arrest. In our view, Josh exhibited the highest level of professional skill, judgment and advocacy during each stage of his Clinic representation, and he deserves special recognition,” Woodman said.
A child is brought across the border, carried in the arms of his mother. The family settles in Topeka and makes a home for themselves. The child grows up speaking English, attending public schools, making friends, playing sports, learning and enjoying American culture. For all intents and purposes, the child – now a young man – is American. Except he isn’t. He is undocumented and could be removed from this country and sent back to a place he does not know. He is a Dreamer. He dreams of one day being able to work and live in the United States without fear of removal.

While surveys show a majority of Americans are sympathetic to this young man’s situation and would be in favor of some form of immigration relief for the Dreamers, Congress has not approved legislation to revise the immigration code. On June 15, 2012, President Obama issued a controversial administrative policy allowing Dreamers to apply for deferred action. The Department of Homeland Security was directed to exercise, as appropriate, prosecutorial discretion for those who are approved and not use enforcement resources on these low priority cases. With deferred action also comes eligibility for employment authorization.

The Law Clinic represents young people applying for deferred action as Dreamers. Eligibility requires proof of the following:

- Being less than 31 years old on June 15, 2012.
- Having come to the U.S. before the age of 16.
- Being physically present in the U.S. now and on June 15, 2012.
- Entering the U.S. without inspection before June 15, 2012 or having lawful immigration status expired as of that date.
- Having graduated from high school or obtained a GED, being in school or a GED program now, or being honorably discharged from military service in the U.S.
- Not having a felony conviction, significant misdemeanor, or three or more misdemeanors and not posing a threat to national security.

Interns in the Law Clinic help clients gather documentation to prove the elements of their case and file all of the necessary forms for deferred action. As one can imagine, it is not always easy to come up with an actual document to prove you have been in the United States every month since 2007 or even that you were actually here on the exact day of June 15, 2012. All of these documents must be organized in a logical way to make sure immigration officials will see that each element is met.

Working with Dreamers has been a rewarding experience for our interns. Our clients are grateful for the representation as they navigate an immigration system that can be very intimidating to someone who must come forward and openly reveal his undocumented status.

By Professor Lynette Petty, ’87