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THE

# Duquesne Lawyer

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Spring 2021 • The Duquesne University School of Law Magazine for Alumni and Friends

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## Rule OF Law

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THIS  
ISSUE

Legacy of Diversity II

Law School News

Young Alumni Profile

# Dear Friends,

It is difficult to believe we are now more than one year into the COVID-19 global pandemic. Since the publication of our Fall *Duquesne Lawyer* magazine, we have witnessed tremendous change on a national level with a highly contentious presidential election and the unprecedented attack on the United States Capitol in January. One of the lessons we have learned during these fraught times is the importance of civil discourse and the role attorneys play in that exchange.

Now, more than ever, we must redouble our efforts to restore faith in our government and the rule of law. To that end, I joined with more than 160 other law deans from across the nation to address the election and events of Jan. 6 (opposite page). This marked a rare occasion where such a large group of deans came together as one voice to denounce the violence.

Additionally, this issue is dedicated to the rule of law and includes numerous articles written by our talented and amazing faculty, whose expertise is nationally renowned. Beginning on page 14, Professor Wilson Huhn defines the rule of law. Duquesne University President Ken Gormley discusses the issues surrounding the second impeachment of former President Donald Trump, while professors Jalila Jefferson-Bullock, Joseph Sabino Mistick and Thomas Corbett explain how a misunderstanding of election law led to unfounded claims of fraud. Additional articles by Professor Jane Moriarty on lawyers' conduct, Professor Bruce Ledewitz on the Second Amendment, Dr. Kristin Coopie on the first 100 days of the Biden presidency, and Professor Seth Oranburg on the implications of technology and social media round out this discourse.


The conversations about diversity and inclusion continue within the walls of our Law School (and virtually) with our

ongoing Race, Poverty and Democracy series. This series has brought our Duquesne Law community together to talk out these tough issues in a respectful, dignified manner. I am so proud of our students, faculty and staff for continuing these important discussions, which you can read more about in Professor Richard Heppner's article on page 8.

Our bar preparation program continues to exceed expectations, with our graduates outperforming other schools in terms of bar passage metrics. In fact, I am pleased to report that Duquesne Law was ranked sixth in the nation in the winter 2021 edition of *PreLaw Magazine* over a five-year period (see page 6). This is in no small part due to the efforts of our alumni who dedicate time every year to make sure our students succeed on the bar exam. I am grateful for the determination and creativity of professors Ashley London and Richard Gaffney, who have assumed new and exciting roles in the program.

I am also happy to report that because of the generosity of you, our wonderful alumni and friends, we have established a number of funds to support our students and had our most successful Day of Giving ever (see page 11). This is extraordinary, especially given the difficulties many of you faced during the pandemic. Your generous spirit and support of our Law School have been instrumental in our ability to navigate the past year together and set a course for greatness for years to come. Duquesne Law alumni are the best, and I am so blessed to be your dean!

*Be Well and God Bless!*



**April Mara Barton**  
*Dean and Professor of Law*



**This issue is dedicated to the rule of law and includes numerous articles written by our talented and amazing faculty, whose expertise in these areas is nationally renowned.**

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# Law Deans Joint Statement on the 2020 Election and Events at the Capitol


On Jan. 12, Dean April Barton joined over 160 law deans in the below statement. The statement marked a rare occasion, as it is unusual for such a large group of law deans to come together to speak as one on an issue. It was important, though, to discuss those who betrayed our profession and the profound ethical implications of that betrayal on legal education.

We are deans of a diverse range of law schools across the country. We do not use our positions to advance our individual views. But we do have an obligation to support the rule of law and preserve the integrity of the legal profession. On rare occasions, despite our differing situations and views, that obligation requires us to speak as one to defend the fundamental commitments of our profession. This is such a moment.

The violent attack on the Capitol was an assault on our democracy and the rule of law. The effort to disrupt the certification of a free and fair election was a betrayal of the core values that undergird our Constitution. Lives were lost, the seat of our democracy was desecrated, and our country was shamed.

Many lawyers and judges worked honestly and in good faith, often in the face of considerable political pressure, to ensure the 2020 election was free and fair. However, we recognize with dismay and sorrow that some lawyers challenged the outcome of the election with claims that they did not support with facts or evidence. This betrayed the values of our profession. Our profession demands that when lawyers pursue legal action, they must bring claims in good faith, grounded in facts and evidence, and demonstrate respect for the legal system. Only then can lawyers fulfill their responsibilities as lawyers and public citizens to promote public confidence in the rule of law and the justice system—duties that extend to all professional activities, whether lawyers are representing a client or not. The rule of law is as much a touchstone of our profession as it is of our Constitution.

As law deans, our mission is to train the next generation of leaders to uphold the core values of our profession and sustain the rule of law. This should be a moment of reflection for legal educators and members of the legal profession. A sustained effort will be necessary to repair and preserve our precious democratic institutions. As legal educators and lawyers ourselves, we must redouble our efforts to restore faith in the rule of law and the ideals of the legal profession. We have enormous faith in the law's enduring values and in our students, who will soon lead this profession. We call upon all members of the legal profession to join us in the vital work ahead. ■



**As law deans, our mission is to train the next generation of leaders to uphold the core values of our profession and sustain the rule of law. This should be a moment of reflection for legal educators and members of the legal profession.**



**6-10** | LAW SCHOOL NEWS:  
Bar, Kline Center

**12** | RULE OF LAW

**28** | A RICH LEGACY  
OF DIVERSITY II



# THE Duquesne Lawyer

is published semi-annually by  
Duquesne University School of Law

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11 | Development Update/By the Numbers

35 | Faculty Highlights

31 | Young Alumni Profile

38 | Juris

32 | Class Actions/In Memoriam

40 | Students Briefs

# Duquesne Law Grads Place Sixth, Outperform Peers in Bar-Passage Metrics

The School of Law was recently recognized among the top law schools in the country whose graduates outperform peer schools in terms of bar-passage metrics. Bar-passage rates are “the single best outcome measure ... in assessing whether a law school is maintaining a ‘rigorous program of legal education’,” according to the American Bar Association.

Duquesne was placed sixth among 187 law schools assessed over a five-year period (2015-2019) based on a recent study conducted by Jeffrey S. Kinsler, founding dean of Belmont University College of Law in Nashville, Tenn.

“Our alumni, faculty-scholars, staff and students all engage in a coordinated and systematic effort to deliver on our promise to produce prepared and professionally confident lawyers who will go on to become ethical leaders in our justice system,” said Law Dean April Barton. “This public recognition of our hard work is appreciated, but we know these results are emblematic of our commitment to fulfill our mission of serving God by serving our students.”

Kinsler’s study was featured in both the winter 2021 edition of *Pre-Law Magazine* and the TaxProfBlog. “This study contains five years’ worth of data, so we know the numbers do hold up,” said Kinsler to *Pre-Law Magazine*.

The Law School is known for its commitment to providing students comprehensive preparation for the bar examination, and graduates regularly achieve an overall pass rate that exceeds Pennsylvania’s overall pass rate.

**“Supporting and promoting student and graduate success stories is at the heart of our mission as a Spiritan law school,”**

said Professor Ashley London, director of bar studies at Duquesne. “We are privileged to work side-by-side with our students on their individual journeys from becoming law students to licensed practitioners. We are proud to serve graduates successfully sitting for the bar examination in every jurisdiction from Maryland to California.”

Others law schools identified by Kinsler among the top 15 include Florida International University, Texas A&M, Georgia State, Texas Tech and the University of South Carolina.

Students attending the School of Law may take advantage of academic excellence programs as early as their first year in addition to the programming offered by its nationally ranked legal writing program. These early courses are followed by practical hands-on experiences learning lawyering through the school’s robust clinical courses, and the Law School experience is capped by comprehensive bar preparation courses in the third and fourth years of study of full-time evening program. ■

## London Named Director of Bar Services; Gaffney Tapped for Director of Advanced Analytics

Ashley M. London, assistant professor of legal skills, has been named the director of bar services at Duquesne Law. She was formerly assistant director of the Duquesne bar studies program. London has been in legal education and bar studies specifically for almost nine years, with her entire career in legal education being focused on the legal pedagogy behind bar pass success and how students learn.



“Helping our students and graduates achieve their professional goals is one of the most important aspects of this job, and one that gives me great joy,” said London. “It is an honor to play a role, big or small, in their individual success stories.”

In addition to teaching Professional Responsibility and Introduction to Legal Education, London will continue to teach bar readiness skills courses. Her scholarship focuses on the intersection of legal ethics and technology, as well as developments in the bar examination. London focuses on using the best techniques to prepare students for success in law school and on the bar examination.

“The bar examination landscape is changing as a result of the COVID-19 pandemic, and our commitment is to stay on top of these new developments while continuing to deliver strong outcomes,” she said.

London succeeds Richard Gaffney Jr., assistant professor of legal skills, who created and held the position for 14 years. Gaffney has assumed the role of director of advanced analytics, a new position that will leverage the tools used to successfully improve Duquesne’s bar exam success to affect other outcomes.



“We plan to expand upon the data analytics that we currently use to achieve measurable results in bar exam performance and apply those analytics to improve our other internal processes and increase our external ranking,” said Gaffney. “As well, we will be exploring new ways to analyze, interpret and optimize data for strategic gains. Advanced analytics will help us to make smart strategic business decisions and provide us an edge against our competition.”

Gaffney, who created and teaches upper-level courses that prepare students to pass the bar examination, also teaches Basic Federal Income Taxation, Remedies at Law & in Equity, and UCC Article II Sales and Leased Goods. ■

# News from the Tribone Center for Clinical Education



## JAMES BENEDEK CLINIC STUDENT SPOTLIGHT

James Benedek, student manager for the Wills and Healthcare Decisions Clinic, has worked diligently to serve pro bono clients seeking estate planning services. During the 2020-2021 school year, Benedek, a self-starter and hard worker, created explanatory videos for future Wills Clinic students to help navigate client service and ensure that all client documents are appropriately collected and maintained. He has developed spreadsheet programs to simplify and streamline the client intake process. Benedek has brought enthusiasm, dedication and innovation to his position as the Wills Clinic student manager, helping to develop new ways to help the clinic serve clients seeking to prepare an estate plan. As a prior student in the Wills Clinic, Benedek and his student partner, Andrew Bird, assisted in preparing estate plans for clients experiencing medical crises and clients seeking to leave property to children and grandchildren. His commitment to the law school motto, *Salus Populi Supreme Lex*, is reflected in his service to income-qualified clients through the clinic. ■

## Wills and Healthcare Decisions Clinic

Under the supervision of Assistant Professor Grace Orsatti, this clinic focused on assisting low-income clients with wills, living wills, advance directives, memoranda regarding conduct of funeral and burial or cremation, and durable power of attorney matters. The clinic was able to serve 16 clients at the Tribone Center, working remotely with attorneys from Dentons Cohen Grigsby and PNC Corporate Legal during Pro Bono Week, Oct. 26-30. ■



Students l-r, Matthew Minard, Giulia Straub and Stephon Burton meeting with a client at the clinic.

## Private Sector Externship Program

The 2020-2021 academic year saw the successful launch of the Duquesne University School of Law Private Sector Externship Program. Through the program, student externs partner with leading law firms and practitioners to help deliver the quality legal services that employers continue to demand. The externship model combines supervision by the mentor-attorney, with guidance and support from Law School faculty, to allow students to experience legal practice in action across diverse areas of the law. The program allows student immersion in subject-specific areas such as health law, corporate law, employment law, family law and criminal defense, while allowing development of critical transferable legal skills, equipping students for their future as practice-ready practitioners.

If you are interested in participating in this program, please contact Assistant Professor Grace Orsatti ([orsattig@duq.edu](mailto:orsattig@duq.edu)). ■

## Youth Advocacy Clinic

The Youth Advocacy Clinic (YAC) provides a unique opportunity for students to represent children in both delinquency and education matters. This academic year, the clinic assisted 16 students who interviewed, advised and represented clients from the inception of their cases. In response to the ongoing concerns for remote learning, the YAC also launched a tutoring program for students. The clinic secured funding from the FISA Foundation that will help, in part, to purchase school supplies and provide them to learning hubs around Allegheny County.

The YAC operates as a holistic representation model, with the overall goal of the representation being to meet as many of the clients' needs as possible, not solely the single legal issue that brings them to the clinic. The clinic, under the supervision of Assistant Professor Tiffany Sizemore, features an ongoing partnership with masters-level social work students from the University of Pittsburgh and doctorate-level school psychology students from Duquesne's School of Education. Students from all disciplines worked in interdisciplinary teams on most cases in order to implement the holistic model. In November, YAC received a two-year \$150,000 grant from the Heinz Endowments to support the clinic. ■

# Race, Poverty and Democracy Series

Last year—as the country conducted a contentious election and confronted its history of racial discrimination and white supremacy—the Law School faculty, staff and administration wanted to gather the greater Duquesne Law School community (despite the pandemic) to discuss the unique historical moment that was 2020. At the suggestion of Dean April Barton, we planned a series of virtual events, including lectures, roundtables and continuing legal education programs, where professors could share their insights and scholarly perspectives about how concerns about race, poverty and democracy intersect and inform United States legal history and doctrine.

In the fall and spring semesters, we held multiple events. Some were internal events for current Duquesne students, faculty and staff. Many were also CLE presentations for Duquesne Law alumni and other members of the legal community. Each one was hosted by Professor Richard Heppner and facilitated by Samantha Coyne, CLE manager. During each one, a professor or panel of professors presented their insights about a relevant topic before opening up to a broader discussion.

In September, the series began with Professor Wilson Huhn’s “Historical Overview of Race and Voting in the United States,” a CLE program reviewing the laws and court decisions used to suppress and dilute the votes of racial minorities from the 19th century, through Jim Crow, and into the present-day. In October, Professor Jalila Jefferson-Bullock’s CLE presentation “Discrimination and Voting Rights in America” detailed current threats to equal ballot access, including voter ID laws, the Supreme Court’s *Shelby County v. Holder* decision weakening the Voting Rights Act and recent legislation to disenfranchise minority voters in the midst of the pandemic. In November, Professor Rona Kaufman shared a CLE on “Hate in America: Anti-Semitism, Misogyny and Racism,” which traced the connections between different forms of hate—anti-Semitism, racism and misogyny—exploring their causes and some potential solutions through the lenses of intersectionality, history, law and populism.

In 2021, the series resumed with a special faculty roundtable prompted by the Jan. 6 attack on the Capitol. Heppner hosted four other professors, each addressing a different legal issue raised by the riotous attempt to halt the counting of the Electoral College votes: Professor Seth Oranburg traced the influences of new forms of media and communications and how they challenge our understanding of free speech in the marketplace of ideas; Huhn followed up with a discussion of how to draw the First-Amendment line between political advocacy and incitement to violence; Professor Bruce Ledewitz explored the implications of an armed uprising on a broad reading of the Second Amendment; and Professor Jane Moriarty



identified new issues of evidence and proof likely to arise in any prosecutions or lawsuits stemming from an attack that was planned, broadcast and recorded through new technology and media. After the roundtable, students, staff and faculty engaged in a wide-ranging and lively discussion of the various issues.

The series continued in February and March. Huhn hosted a discussion on “The Civil Rights Movement and the Constitution,” describing the influence and legacy of the Civil Rights movement on our—and the Supreme Court’s—understanding of constitutional values. Professor Wesley Oliver’s CLE on “Prohibition’s Surprising Role in the Regulation of Modern Police” explained how the history of Prohibition accounts for the development of a robust Fourth Amendment search-and-seizure doctrine, while also allowing the legal system to de-emphasize related issues that have come to the forefront more recently, like the proper legal limits on the use of force by police officers. Professor Ann Schiavone’s CLE “Police Dogs: Problems of Violence and Racism” followed suit, discussing the dilemma of using police dogs in the apprehension of criminal suspects, particularly focusing on the issues surrounding use of force and racial bias. The final CLE in this series, “Human Trafficking in Your Neighborhood,” co-presented with The Villanova Law Institute to Address Commercial Sexual Exploitation, explored federal and state trafficking law, along with the vital importance of trauma informed lawyering’s role in representing trafficking victims.

The events succeeded in bringing together the whole Law School community—faculty and staff, current students and alumni. In a year when it was particularly difficult to meet and discuss important issues, they exemplified the best of the Duquesne Law School values of engaged advocacy and civil discussion. Many of the CLEs were recorded and will soon be available for viewing (for CLE credit) online. And discussions have already begun about following up with another series next year. ■





—Faculty Roundtable—

# The Legal Implications of the Attack on the Capitol

Veronica Miclot, 3D

Duquesne University School of Law hosted a faculty roundtable discussion regarding the legal ramifications of the unprecedented attack on the United States Capitol on Jan. 6. The roundtable, conducted over Zoom, had more than 80 attendees eager to hear the thoughts and ideas on this event from five Duquesne University School of Law faculty members: Professor Jane Moriarty, Professor Richard Heppner, Professor Seth Oranburg, Professor Wilson Huhn and Professor Bruce Ledewitz. Heppner began the presentation with a summary of the 2020 election. He explained that the insurrection on the Capitol was due to the overwhelming theories that the 2020 election was “stolen,” along with President Trump’s encouragement for his supporters to prevent the counting of electoral votes.

There is no legal precedence to resolve the issues raised by this event, so each panelist was asked to discuss an issue regarding the event. Issues regarding the First and Second Amendments, the role of social media, and the use of

social media in criminal trials were the subjects of conversation during the hour. Each topic discussed highlighted specific questions for consideration, such as whether Trump’s remarks regarding the attack could be constitutionally protected under the First Amendment and whether

**The insurrection on the Capitol was due to the overwhelming theories that the 2020 election was “stolen.”**

the armed rioters at the Capitol will be protected under the Second Amendment, according to the Supreme Court Case *District of Columbia et al. v. Heller*. Additionally, questions regarding social media regulation and using a person’s own social media account against them at trial were examined.

While exploring these diverse

questions a prevalent theme seemed to emerge—the theme of truth. When asked how to unify our nation during these divided times, each panelist stressed the importance of true speech. Technology and social media platforms have given society more opportunities for speech. Therefore, we need to ensure that it is truthful speech, whether positive or negative, that is the source of a robust and uninhibited public debate. Thus, should social media platforms be liable as publishers like *The New York Times* or CBS? Moriarty emphasized that achieving more truthful speech in our society may be resolved by tort law or even the rules of professional responsibility when lawyers are involved.

The roundtable concluded with final remarks, where each panelist echoed their hopefulness for the future. Ledewitz concluded with a quote from Martin Heidegger: “Where the danger grows there grows the possibility of rescue.” ■

## 100th Anniversary of Women's Suffrage

Taylor Staub, 3D



Williams, L'08



Garrett



Jefferson-Bullock



Vaughan



Griffin



Santicola



Cerilli, L'15



Barton

On Nov. 20, 2020, Duquesne Law School's Election Law Society hosting a panel in celebration of the 100th anniversary of the 19th Amendment. The 19th Amendment, which provides that the right of citizens of the United States to vote shall not be denied or abridged by the United States or by any state on account of sex, was ratified into law on Aug. 18, 1920. The panel, which was hosted via Zoom, featured opening remarks on the significance of the 19th Amendment from Dean April Barton as well as a historical overview by Duquesne constitutional law professor and former Louisiana State Rep. Jalila Jefferson-Bullock.

The panel was moderated by president of the Election Law Society Taylor Staub and featured prominent leaders from the Greater Pittsburgh area: Pennsylvania State Sen. Lindsey Williams, L'08; Mayor Marita Garrett of Wilkensburg; Washington County Commissioner Diana Irey Vaughan; Westmoreland County Commissioner Gina Cerilli, L'15; Dr. Terrie Griffin, Co-President of PA League of Women Voters; and Allegheny County Magisterial District Court Judge Michele Santicola.

The women on the panel marked the historical anniversary of the 19th Amendment by sharing their experiences as women in law and government, the good, the bad and the ugly. While many of the panelists remarked on how far we have come in the past 100 years, they also shared stories of sexism they have encountered in their professional lives, which indicate how much work is still left to be done. Despite this, the panelists served as amazing examples of perseverance and progress to the many law students who were in attendance, giving us all hope that we will continue to progress towards a vision of true gender equality, both in the legal profession and as a society. ■

## ► Kline Center UPDATES

Erin Karsman, Director

Working with the Administrative Office of Pennsylvania Court Judicial Education Department, the Thomas R. Kline Center for Judicial Education of the Duquesne University School of Law recently hosted four continuing judicial education (CJE) programs. Due to pandemic restrictions, the programs were presented virtually and were very well received. The Kline Center, working alongside Mark Dunn, director of the Law School's IT Department, experimented with different technological features to enhance the judges' virtual learning experience, including polling features, interactive slides and chat-based questions. Additionally, one of the programs was divided across two days to combat the phenomenon of screen fatigue, something everyone in the legal community has experienced in 2020.

Two of the virtual CJE's hosted by the Kline Center in 2020 really stood out. First was a program focused on building and maintaining resiliency in a time of uncertainty, a topic that resonated with everyone at the end of a challenging summer. The nationally known speaker secured by the Kline Center for that program was amazing in her commitment to understanding the unique challenges facing the judiciary during the pandemic. Second was a timely and practical program on emoji, a form of communication increasingly finding its way into the courtroom. This CJE featured nationally known speakers offering their expertise in emoji from Santa Clara, Ca.; Toronto, Canada; and Pittsburgh, Pa.

The Kline Center also had a hand in helping the Pennsylvania Minor Judiciary Education Board gain access to a virtual learning management system needed to host trainings.

The Kline Center is presently working on a robust schedule of CJE's for presentation in 2021. The first virtual CJE in collaboration with the AOPC was planned for April with other programs in development. The Kline Center is also hoping to move forward with planned improvements to the physical location of the center once campus life returns to normal. ■

# New Alumni Funds Support Students

Duquesne Law alumni continue to generously give back to their alma mater through the creation of a number of new funds this year that provide tuition and other educational support for our students.

Giving back and passing it on are the reasons John J. Hovan, L'70, established a scholarship to support 1L students from Scranton University. Hovan, a native of Scranton, is grateful for the education and opportunity afforded him by Duquesne Law.

"Duquesne School of Law bet on me in 1967 when others had their doubts," Hovan said. "I have practiced law for over 50 years and know that it would not have been possible without Duquesne's confidence in me. I am attempting to repay this through this scholarship. My intent is to give Scranton University students an assist so they can pass it on to future generations."



Molly and Jim Creenan, L'96.

For Jim and Molly Creenan, L'96, gratitude is at the heart of establishing a student resource fund to mark their 25th Duquesne Law graduation anniversary. "We are grateful for the opportunities that Duquesne Law School has provided to us both professionally and personally," Jim said. Their named resource fund assists students from the places they came from—Erie County, N.Y., and Westmoreland County, Pa. Added Molly, "We are thankful for the chance to give back to a place that has given us so much."

The spirit of "paying it forward" challenged Vince Quatrini, L'74, and his sons, Michael, L'07 and Adam, L'14, to establish a resource fund to assist students in need. "Duquesne Law School provided the educational foundation for two generations of Quatrinis to embark on very rewarding legal careers," said Vince. "Our family is proud to create the Quatrini Family Resource Fund and pay it forward!"



Vince Quatrini, L'74, and his sons, Michael, L'07 and Adam, L'14.

We are grateful to these and all of our alumni who are committed to supporting our students through scholarship and resource funds. Please contact **Jeanine L. DeBor**, director of law alumni relations and development, to learn how you can help advance Duquesne Law through a named fund ([deborj@duq.edu](mailto:deborj@duq.edu)). ■



Ken Horoho and Mike Nestor were instrumental in establishing a resource fund in memory of their 1980 classmate, Cindy Dietrick Lowery. The Cindy Dietrick Lowery Resource Fund provides support for non-tuition educational expenses to a female law student from the Woodland Hills area, where Lowery hailed from.

"Cindy was a friend to all in law school and a big proponent of women's rights and Woodland Hills," they said. "She also epitomized the fine qualities of our 1980 classmates: smart, hard-working, loyal, dedicated and willing to lend an ear or hand to friends, family and colleagues. We are honored to fund a scholarship in her name grounded on these important principles." ■

## By the Numbers

We are overwhelmed by the generosity of our alumni and friends during these difficult times. You came through when our students needed you the most!

To learn more and see our list of generous donors, visit [duq.edu/dayofgiving](http://duq.edu/dayofgiving).

143

total gifts

made by our generous alumni and friends

\$63,870

(49% increase over last year)

raised

to support Duquesne Law students

\$26,000

in Challenges Gifts unlocked

Thank you Mary R. Grealy, L'78, Paul J. Gitnik, L'85, Hon. Michael E. McCarthy, L'84, Brian & Kimberly Parker, L'93, and the DLAA

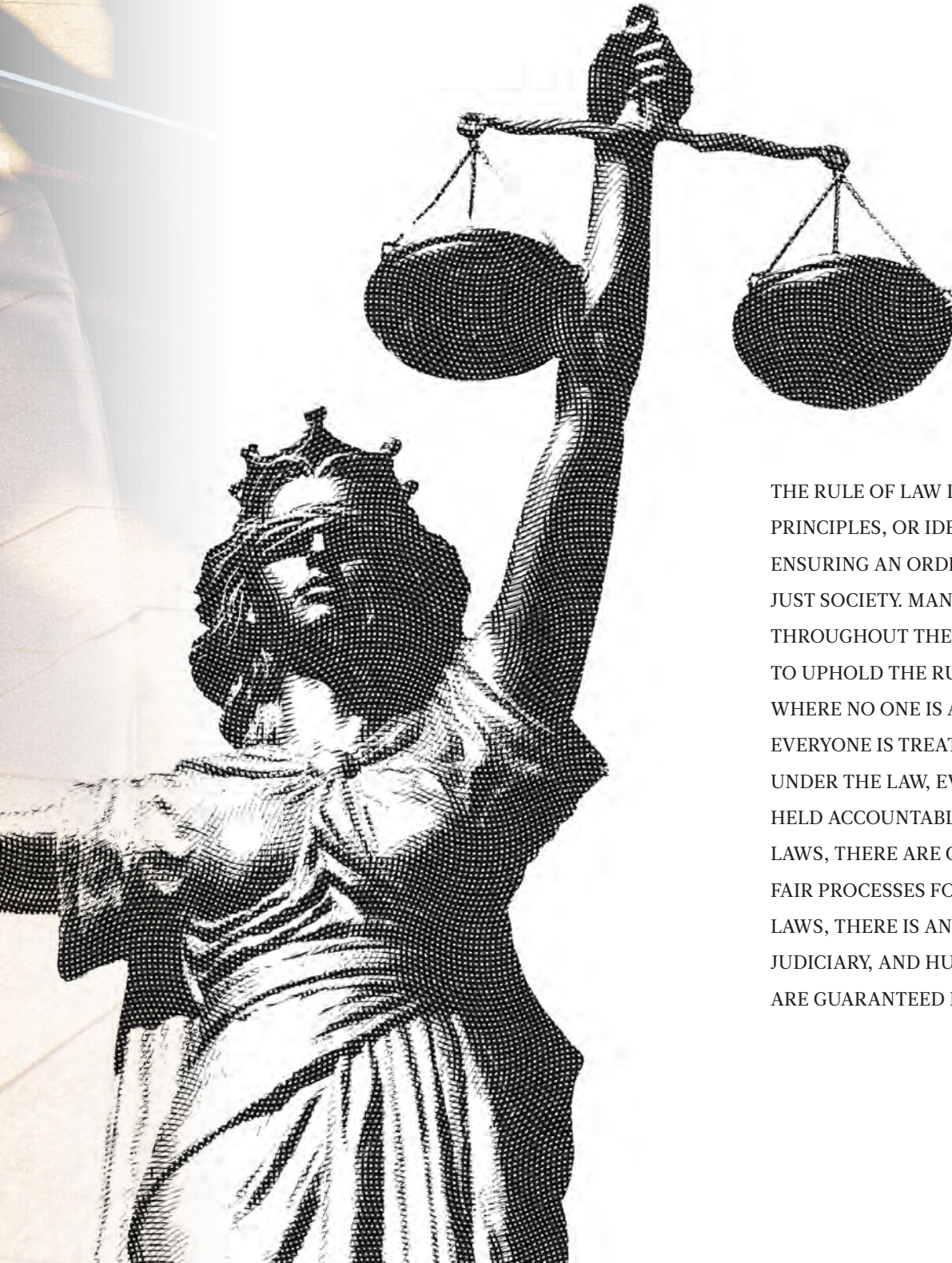
THANK YOU!



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# Rule OF Law

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THE RULE OF LAW IS A SET OF PRINCIPLES, OR IDEALS, FOR ENSURING AN ORDERLY AND JUST SOCIETY. MANY COUNTRIES THROUGHOUT THE WORLD STRIVE TO UPHOLD THE RULE OF LAW WHERE NO ONE IS ABOVE THE LAW, EVERYONE IS TREATED EQUALLY UNDER THE LAW, EVERYONE IS HELD ACCOUNTABLE TO THE SAME LAWS, THERE ARE CLEAR AND FAIR PROCESSES FOR ENFORCING LAWS, THERE IS AN INDEPENDENT JUDICIARY, AND HUMAN RIGHTS ARE GUARANTEED FOR ALL.

# The Rule of Law, the Constitution and Democracy

WILSON HUHN, PROFESSOR OF LAW

Lawyers are a strange breed, are we not? We constantly seek to interpret the law on behalf of our clients, and yet we spend our lives in obedience to the law. We are engaged in constant conflict, at no small cost to our peace of mind, and yet we are devoted to the peaceful resolution of disputes.

Yet dedication to the law goes even deeper—right to the core of our system of self-government and our way of life.

Twenty-five of the 56 persons who signed the Declaration of Independence were lawyers. Thomas Jefferson, the principal drafter of Declaration, was a lawyer.

The Founders rejected the medieval myth that sovereign kings and queens and their families are anointed by God to rule over us. The Founders laid a new foundation for our country, based not on the lie of divine right but upon the fundamental truth that all people are created equal, and that all just powers of government are derived from the consent of the governed. They changed the very source and nature of law. Law does not emerge from the mind and mouth of a king but rather from the deliberations and the votes of the freely chosen representatives of the people.

John Adams was a lawyer. He authored the Massachusetts Constitution of 1780. That instrument states:

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In the government of this commonwealth, the legislative department shall never exercise the executive and judicial powers, or either of them; the executive shall never exercise the legislative and judicial powers, or either of them; the judicial shall never exercise the legislative and executive powers, or either of them; to the end it may be a government of laws, and not of men.

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From the beginning of the United States it was recognized that our representative government not only makes the laws, but that government itself must be obedient to the law.

Thirty-five of the 55 persons who attended the Constitutional Convention were lawyers. They considered themselves



Wilson Huhn

as acting on behalf of “We, the people.” Their intent and their purpose was that once the people had ratified the Constitution it would be law—a fundamental law—a law that establishes and governs the government.

Under the Articles of Confederation we were governed by the Continental Congress, but there was no executive branch. Without executive leadership our country had foundered, and it was found necessary to create the office of the presidency. But could we create a chief executive who would still be bound by law? In addition to distributing the powers of government among three separate branches and drawing boundaries on those powers the Framers imposed several limits on the power of the president.

1. The president’s four-year term ends on a specific date and time, now Jan. 20 at noon.

2. A special oath is prescribed for the president, under which the president assumes this solemn responsibility:

“I do solemnly swear (or affirm) that I will faithfully execute the Office of President of the United States, and will to the best of my Ability, preserve, protect and defend the Constitution of the United States.”

3. The Framers imposed a special duty upon the president. As the chief law

enforcement officer of the United States, “he shall take Care that the Laws be faithfully executed.”

4. Finally, to ensure that the president is subject to the rule of law they provided for impeachment.

On July 20, 1787, the Framers debated impeachment. George Mason was not a lawyer, but he was concerned with justice. He said: “No point is of more importance than that the right of impeachment should be continued. Shall any man be above Justice? Above all shall that man be above it who can commit the most extensive injustice?”

James Madison was a lawyer. He said: “I think it indispensable that some provision should be made for defending the community against the incapacity, negligence, or perfidy of the chief Magistrate.”

Elbridge Gerry was a lawyer. He said: “I urge the necessity of impeachments. A good magistrate will not fear them. A bad one ought to be kept in fear of them. I hope the maxim would never be adopted here that the chief magistrate could do no wrong.”

Gouverneur Morris was a lawyer. He said: “This magistrate is not the King but the prime-Minister. The people are the King.”

The Constitution was ratified and became law in 1789. Forty-five of the 89 members of the first Congress were lawyers. They swiftly approved the Bill of Rights and it was ratified by the people in 1791, purporting to protect the fundamental rights of all persons and to guarantee the rule of law.

But the institution of slavery made a mockery of the Bill of Rights. Slavery was the antithesis of the rule of law. The 250-year-long institution of slavery was nothing more and nothing less than the absence of law. No law protected the slave. Slaves could not own property; they were property. Slaves could not enter into contracts or sue to protect their rights; they had no legal rights. Family law did not apply to slaves; slaves could not legally marry and their children did not belong to them. People who committed crimes against slaves did not stand trial; as a practical

matter it was not a crime to rape or murder a slave. And slaves did not stand trial; they were tried by mobs or punished and murdered by their White owners. No, slaves were outside the protection of the law. Even after the Civil War—after the 14th Amendment promised that all persons should enjoy the protection of the laws, the equal protection of the laws—the reign of terror continued for another century.

Abraham Lincoln was a lawyer. In the Lyceum Address of 1838 he condemned the actions of White mobs and abjured us to make obedience to the law a “political religion”:

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Whenever the vicious portion of population shall be permitted to gather in bands of hundreds and thousands, and burn churches, ravage and rob provision stores, throw printing presses into rivers, shoot editors, and hang and burn obnoxious persons at pleasure, and with impunity; depend on it, this Government cannot last.

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In his antislavery speech of 1857 he called upon us to live up to the Founders’ ideal that “all men are created equal:”

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They meant to set up a standard maxim for free society, which should be familiar to all, and revered by all; constantly looked to, constantly labored for, and even though never perfectly attained, constantly approximated, and thereby constantly spreading and deepening its influence, and augmenting the happiness and value of life to all people of all colors everywhere.

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In his first message to Congress on July 4, 1861, Lincoln reminded us that the Civil War was fought not simply to end slavery but to preserve democracy:

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And this issue embraces more than the fate of these United States. It presents to the whole family of man, the question, whether a constitutional republic, or a democracy—a government of the people, by the same people—can, or cannot, maintain its territorial integrity, against its own domestic foes.

Our adversaries have adopted some Declarations of Independence; in which, unlike the good old one, penned by Jefferson, they omit the words “all men are created equal.” Why? They have adopted a temporary national constitution, in the preamble of which, unlike our good old one, signed by Washington, they omit “We, the People,” and substitute “We, the deputies of the sovereign and independent States.” Why? Why this deliberate pressing out of view, the rights of men, and the authority of the people?

This is essentially a People’s contest. On the side of the Union, it is a struggle for maintaining in the world, that form, and substance of government, whose leading object is, to elevate the condition of men—to lift artificial weights from all shoulders—to clear the paths of laudable pursuit for all—to afford all, an unfettered start, and a fair chance, in the race of life. Yielding to partial, and temporary departures, from necessity, this is the leading object of the government for whose existence we contend.

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**The right to vote is the hallmark of a citizen. It is the right that is preservative of all rights.**

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Twenty-seven of the 45 persons who have served as president have been lawyers. Ulysses S. Grant was not a lawyer; he was the commanding general of the United States military in the Civil War. But this is what he said as president on March 30, 1870, after he secured the adoption of the 15th Amendment:

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A measure which makes at once 4,000,000 people voters who were heretofore declared by the highest tribunal in the land not citizens of the United States, nor eligible to become so ... is indeed a measure of grander importance than any other one act of the kind from the foundation of our free Government to the present day.

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The right to vote is the hallmark of a citizen. It is the right that is preservative of all rights. Yet after the 15th Amendment was adopted massive riots by White mobs prevented Blacks from voting, and lynchings by the thousands suppressed the Black race and kept a knee on their necks. Thousands of voter suppression laws were adopted by the states—poll taxes, literacy tests, felony disqualification laws, residency requirements and the like—not applicable to Whites under grandfather clauses—to prevent Blacks from voting. Equality was the law, but White supremacy was the rule.

How unlike the present time, is it not? How lucky we are not to face intimidation by White mobs seeking to overturn free and fair elections or to witness state legislatures scramble to enact voter suppression laws.

The 15th Amendment was only the first of a series of constitutional amendments expanding and broadening the right to vote. The 17th Amendment initiated the direct election of senators. The 19th Amendment granted women the right to vote. The 23rd Amendment granted the people of the District of Columbia the right to vote for president. The 24th Amendment prohibited poll taxes. The 26th Amendment extended the right to vote to young people 18 years of age.

Lincoln would be proud of us for adopting these amendments. As we continually extend the principle of equality—as more and more of our people become full citizens with the inalienable right to vote—as more and more American voices join the chorus that forms the body politic and makes our laws—as we reject mobocracy, reject voter suppression, and rededicate ourselves to our democracy and to the rule of law—we are constantly approximating a more perfect union. ■

# Impeachment Intent

## President Ken Gormley Discusses the Constitutionality and Precedents of Impeachment

AMANDA DRUMM

The word “impeachment” became commonplace vernacular during the last few years with two impeachments in two years during the administration of President Donald J. Trump. Even with its everyday references, questions abound about what exactly it means and how the framers of the Constitution intended its use. The impeachment of Trump on Jan. 13, 2021 was met with a flurry of assertions, including that to try a president who is no longer in office is unconstitutional. University President Ken Gormley, an expert in constitutional law, discusses this impeachment and why—even though there were cries of unconstitutionality—the impeachment trial was by the books and played out how the framers intended.

Gormley is well versed on impeachment trials, having written books on the subject and having been at the Capitol for the opening of former President Bill Clinton’s impeachment proceedings in 1999 and for Trump’s first impeachment in 2019. “The mood in an impeachment is somber,” Gormley said.

These painful parts of history, though they may seem to an outsider as victories for one side, are marked by despondence. “No one feels good about it. Senators are not used to being chained to their chairs. You see the paintings on the walls of former historical figures. You hear the giant clock ticking in otherwise absolute silence. You know this is a serious moment,” Gormley said.

The significance of the moment is not lost on those who are seated in the hallowed space, deciding the outcome of an official and of controversial events in history. These uncomfortable moments in time—especially the most recent impeachment trial—were designed by the framers as a safeguard against public officials who jeopardize the safety of the



President Ken Gormley

state. The recent second impeachment of Trump and his subsequent trial, in the view of the House managers who prosecuted the case, were a result of the danger posed to democracy after the insurrection on the Capitol on Jan. 6.

### Framers’ intention

An uprising against the government was at the top of the framers’ list as a reason for convening the Constitutional Convention, instead of sticking with the original Articles of Confederation.

“Shay’s Rebellion from 1786–1787 in Massachusetts was a revolt against the government. The Founding Fathers recognized the Articles of Confederation were too weak and wanted a strong central government to deal with citizens revolting against their own government,” said Gormley.

The 14th Amendment, Section 3, was later added and states that any official who took an oath to the Constitution shall not engage in or support an insurrection or rebellion or give comfort to those who

**The 1969 case of *Brandenburg v. Ohio* is an example of subversive speech and the type of speech that can be punished. The question here relates to the intent of President Trump.**

do. The attempt to overtake the Capitol and to obstruct the Electoral College from casting its vote on Jan. 6 was the epitome of what the framers may have envisioned. “It is clear that this conduct fits within the parameters of conduct the Constitution would have treated as a potentially impeachable offense,” Gormley said.

### Constitutionality of Senate trial

The words Trump spoke, specifically on Jan. 6, to a crowd gathered in Washington, D.C. were used as evidence that he helped incite the insurrection. Trump’s legal team defended his actions, saying they were protected by the First Amendment. However, legal precedent suggests that the type of speech and conduct engaged in that day did create a basis to be tried.

“The 1969 case of *Brandenburg v. Ohio* is an example of subversive speech and the type of speech that can be punished. The question here relates to the intent of President Trump. It is fair to debate what he truly intended there; it is a close call. But the Senate is not bound by rules of criminal conduct, so this is clearly the sort of thing that could have been considered within the scope of impeachable offenses,” said Gormley. “Whether senators conclude



that the conduct warrants conviction is a matter for them to decide.”

Prior to the trial making its way to the Senate, Trump was impeached in the House on Jan. 13, before his term as president ended. Because he was being tried in the Senate after having left office, some attempted to deem the trial unconstitutional. There is a historical precedent, however, for the Senate trying an official who left office. The key is that the official was impeached by the House before having left said office, which Trump was.

“The vast majority of constitutional scholars concluded it was constitutional based upon the text of the Constitution, which makes it very clear that the Senate tries all impeachments. The House impeached President Trump and it is very clear from the language that they have that ability. Also, from historical practice, there are four examples in history of federal officials, William Blount in 1797, West Humphreys in 1861, William Belknap in 1876 and Judge George English in 1926, who were tried after leaving office,” said Gormley.

In addition, the Supreme Court established the Senate has the power to establish the rules as to how and when it will conduct its trial. “The U.S. Supreme Court made it clear the Senate decides the rules when it comes to carrying out its impeachment duties. In the case of Judge Walter Nixon, a federal judge impeached by the House in 1989 for perjury, the trial was conducted by a small committee of senators. The full Senate convicted him. He said it violated his rights to due process, but in 1993 the Supreme Court said the Senate shall try all impeachments and the Senate decides how to carry out them,” Gormley said.

While Trump was ultimately acquitted, with a vote largely along party lines, there were seven Republican senators who did vote to convict him. And many more senators probably did recognize the connection between Trump’s words and the uprising.



**“I do think there were many Republican senators who did not think it made sense to have a trial of a former president since the issue was resolved by him leaving office. Folks can debate that honestly, but many kept their heads low and stayed away from facts, because the facts were not good here.”**

“No one thought this was totally unconnected. I think it was more a question of ‘how do you use this extraordinary mechanism now that he is out of office?’,” Gormley said. “Just as in 1868 when Andrew Johnson tried to thwart the reconstruction efforts after the Civil War, it warranted impeachment. My discussion with folks at Capitol Hill was that Republicans wanted an off-ramp to the terrible, ugly set of facts they were left to untangle. It avoided getting into the painful details of his role because politically, President Trump still wields a lot of power. As was said many times, impeachment is a political process and the political calculation was that it was not good for individual senators of the party.

“I do think there were many Republican senators who did not think it made sense to have a trial of a former president since the issue was resolved by him leaving office. Folks can debate that honestly, but many kept their heads low and stayed away from facts, because the facts were not good here.”

#### Historical context

Trump now carries the distinction as the first and only president of the United States to have been impeached twice and the only president to be acquitted twice. Since there

was no conviction, no vote could be held to disqualify Trump from holding office again. But the significant question looms as to how history will remember this process and this presidency.

Gormley said, “The trial was so powerful I think it accomplished several things. It had a clear impact on solidifying public opinion that this conduct by rioters and President Trump was not a good thing. It may have accomplished exactly what House managers wanted, namely, preventing President Trump from holding office in the future. It is nearly impossible, as many experts see it, for him to rise from ashes again to hold public office. The images presented here were vivid, searing, and disturbing.

“I think President Trump’s chapter in American history will begin with the simple fact that he is the first and only president impeached twice, who refused to accept results of election and who provoked a riot at the Capitol. Whether this was intentional or not, five people died. He himself dealt a fatal blow to his own legacy, in the end.” ■

# Laws of the Lands

## Misunderstanding of Election Law Led to Unfounded Claims

AMANDA DRUMM



Thomas Corbett

### The election

The hallmark of democracy in the United States is the ability to hold presidential elections every four years and consequently allow for the winner’s peaceful transition of power. In 2020 this sacred process was met with disdain. The election was wrought with assertions of election crime, namely voter fraud. But the duplicitous claims have been widely dismissed by the courts, with the election results having been upheld. The democratic system proceeded on its traditional path, but the allegations of lawlessness that plagued the country before and after the election are still rampant.

### History of contention

The 2020 election was not the first nor the only time in the history of the United States that election results were met with controversy. The 2000 presidential election was highly contested by then Vice President Al Gore, who ran against George W. Bush. Bush won the Electoral College, defeating Gore, who won the popular vote. That race was challenged in Florida, and hanging chad votes kept the country hanging on until the Supreme Court intervened on a recount of the votes.

“The election in 1960 of Nixon versus Kennedy was also contested, but not quite to this extreme,” said former Pennsylvania Governor **Thomas Corbett**, distinguished executive in residence. Like the 2020 election, that one bore witness to voter fraud allegations, namely in Illinois.

History substantiates the occurrence of contested past presidential elections—even fraud allegations—but none seem to meet the mark of voracity of the most recent election. The president of the United States and congressional leaders making accusations that votes and the election results were falsified—effectively challenging laws—is unparalleled.

“Members of Congress have gotten up and contested [in the past], but it was not done before to this extent, and not with this media coverage. We have not seen to this extent lawmakers making these claims of voter fraud. These people take an oath of the highest form of national office and them saying that the democratic system did not work never happened before,” said **Jalila Jefferson-Bullock**, associate professor of law.

The magnitude of leaders from the House calling the election a scam and fraudulent are viewed as attempts to undermine the very democratic system that is a pillar to the country. Leaders in the House challenged the Electoral College votes through the day of their certification. Claims were made of a stolen election and voter fraud in some states, notably in states where the politicians contesting won.

“There have been instances in the past where one person contested the Electoral College votes of a state perhaps, but not on this broad of scale and not under

**The magnitude of leaders from the House calling the election a scam and fraudulent are viewed as attempts to undermine the very democratic system that is a pillar to the country.**



Jalila Jefferson-Bullock



Joseph Sabino Mistick

circumstances to say we contest the votes even in states where we won. How do you challenge an election in which you were reelected? It defies logic, but maybe logic instead is an old-fashioned notion,” said **Joseph Sabino Mistick**, associate professor of law who teaches election law.

#### The role of states

The election laws between states vary because states oversee their own elections. There was public confusion about this distinction and the laws, including when vote counting would commence and when results should be received.

“Some do not understand the role of states and took commentary from social media. Arizona is an example. It took time to count those votes and people wondered why Arizona was still counting votes, but that was because it was Arizona’s process. They did not count mail-in ballots until they arrived at certain dates. They had a very meticulous process,” Jefferson-Bullock said.

Georgia is another state that was watched closely. For many years, the state consistently voted Republican but switched to Democrat this election. The switch of that state from red to blue unleashed incorrect claims of fraud, claiming machine votes were flipped. Brad Raffensperger, Georgia’s Republican secretary of state, was adamant in his rebuke of this and other fraudulent allegations. He was resolute in upholding the fairness of Georgia’s process.

“In Republican dominated places Trump expected election officials to side with him, even saying their own election process was flawed. People are not like him; they went through the ranks, were appointed, take oaths, take it seriously and stand by the integrity of election systems. He [Raffensperger] had loyalty but did not have blind loyalty to one person and one person’s agenda,” said Jefferson-Bullock.

Raffensperger faced backlash but upheld the oath he took to the Constitution. As in his case, even when the rule of law was followed, a shadow of discontent continued to hang over the election.

Jefferson-Bullock thinks the miseducation about the role and intricacies of states led to election confusion. Without a broad awareness that states determine their own voting processes and procedures, crying foul play was normalized. “Many people do not understand that, and then the person in the highest office is fanning the flames of complete ignorance,” she said.

Corbett agreed that comprehension of the role of states in the election was missing. “The understanding coming out of it is part of the problem,” he said.

#### Mail-in mistrust

With an unparalleled pandemic coursing through the country, absentee ballots gained an upward trajectory in their popularity. For many, that style of voting was viewed as a safe alternative to in-person voting, but seeds of doubt in this process were sown before ballots were cast.

“Mail-in voting was deemed questionable without real evidence,” said Jefferson-Bullock.

States decided how they would handle the surge of absentee ballots amid a pandemic including the use of drop boxes and locations. Due to

**With an unparalleled pandemic coursing through the country, absentee ballots gained an upward trajectory in their popularity. For many, that style of voting was viewed as a safe alternative to in-person voting, but seeds of doubt in this process were sown before ballots were cast.**



COVID-19, Pennsylvania extended the deadline for mail-in ballots, allowing ballots that were received up to three days after the election to be counted. The Supreme Court upheld the decision. But the way Pennsylvania proceeded with this decision was not universally accepted.

“Pennsylvania is an example. The legislature has taken review of mail-in voting and deadlines,” Corbett said.

He thinks mail-in ballots are a controversy that states will continue to evaluate leading up to the next election, especially Pennsylvania, which according to law could not begin to count results until Election Day.


“When we count, how we count, I think we will study it for the next few years in getting ready for the 2024 election. Many states have early voting and know where it’s going ahead of Election Day,” said Corbett.

The claims that ballot results would be falsified or that people would vote who were ineligible were largely unfounded but stuck even before the election was held. Distrust in the outcome of the election was generated and led to stolen election rhetoric. A direct result of the claims of voter fraud were the crushing consequences of lost confidence in the election process itself.

“Jan. 6 [the insurrection at the Capitol] was a result of that lost faith. People were convinced to lose faith in it, but the truth is that it was a remarkably fair election and remarkably well executed. There were millions of votes cast and very few problems did occur. It should be held up as a trophy for democracy,” Mistick said.

#### Faith in the future

William Barr, the attorney general in the Trump administration, said the Justice Department reviewed fraud allegations but found nothing that would change the election outcome. With all the accusations

  
**“Jan. 6 [the insurrection at the Capitol] was a result of that lost faith. People were convinced to lose faith in it, but the truth is that it was a remarkably fair election and remarkably well executed. There were millions of votes cast and very few problems did occur. It should be held up as a trophy for democracy.”**

of election crime, how will future elections look? Corbett and Jefferson-Bullock both expect states to continue to discuss voting laws and accessibility.

Corbett said, “COVID-19 changed absentee ballots this year. Before you needed a reason. What will the legislature do about that now? What if you vote in September and then your candidate says something so outrageous you want to change your vote?”

Jefferson-Bullock thinks states will try to make voting more restrictive after this election, in terms of polling locations, hours, etc. She views voting, though, and the laws around it as something that should be made inherently easier, not more difficult.

“The right to vote is a fundamental right in this country. If you are going to cast a ballot it should be made easier. Changes should be made with that in mind. It should be made easier to access. You used to be able to walk to polling places in cities.

Now with consolidations of sites it is more difficult to walk to get there. It should be made simple; you should be able to get there easily or mail in an absentee ballot early, which should come to your residence without delay,” Jefferson-Bullock said.

Perhaps the biggest matter to rise from the 2020 election is not about law at all, but rather public confidence. Assurance in the system, in the government and in our officials to do the right thing may remain an ongoing conversation.

“The biggest election law issue is the concerted effort to get Americans to not trust or believe in the election process. We rely on Americans having faith that at least the election is fair; that legitimate winners who hold office may not be perfect, but at least be fair. We rely on citizens counting on that. When that faith begins to crumble it puts the entire system in jeopardy. Jan. 6 was a result of that lost faith,” Mistick said. ■

# Election Litigation, Truth and Professional Responsibility

JANE CAMPBELL MORIARTY<sup>1</sup>, PROFESSOR OF LAW AND  
CAROL LOS MANSMANN CHAIR IN FACULTY SCHOLARSHIP

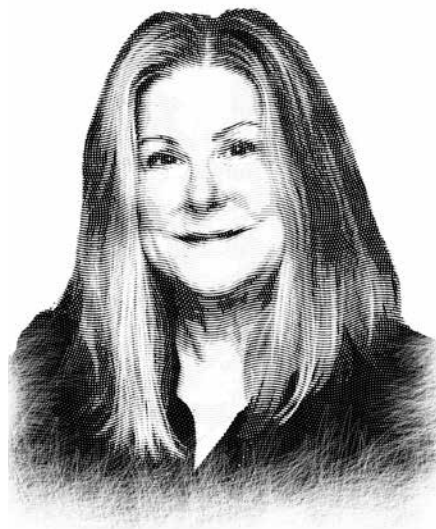
As became clear in 2020, no election is certain until after the courts speak. And during this last election cycle, the courts spoke with a loud and unified voice. The road to the White House is littered with court opinions dismissing cases and a host of judicial comments about groundless lawsuits and the behavior of the lawyers.

Following the 2020 presidential election, lawsuits were filed over voting in battleground states—Pennsylvania, Georgia and Michigan, among others. Filing a lawsuit about an election is not a new development—many of us remember the legal claims filed in the 2000 Bush v. Gore suit over hanging chads and other concerns about the counting of ballots in Florida.<sup>2</sup> But unique to the recent election of President Joe Biden are the number of suits filed, the apparently baseless foundation for those suits, and the willingness of judges to take hard swipes at the attorneys who filed and argued the cases.

In the Court of Appeals for the Third Circuit, Judge Stephanos Bibas, a conservative judge appointed by President Donald Trump, began the opinion for the court with a comment on the quality of the case: “Free, fair elections are the lifeblood of our democracy. Charges of unfairness are serious. But calling an election unfair does not make it so. Charges require specific allegations and then proof. We have neither here.”<sup>3</sup>

Other judges were pointed in their critiques of the lawyers who filed the lawsuits. “It is not a stretch to find a serious lack of good faith here,” wrote Judge James E. Boasberg, United States District Court Judge for the District of Columbia.<sup>4</sup> In reviewing the lack of legal support, the baseless factual assertions, the disregard of precedent and the untimely challenge to statutes that have existed since 1948, the court determined that it was “difficult to believe that the suit is meant seriously.” Noting that the federal court is not an instrument for “gamesmanship or symbolic political gestures,” the judge issued an order to show cause why the matter should not be referred for disciplinary action against the lawyers. Other courts made similar comments about the apparent lack of good faith upon which these suits rested.<sup>5</sup>

Rule 3.1 of the Model Rules of Professional Conduct (and virtually all state rules governing professional conduct) provide an ethical low-tide mark for bringing and defending claims: A lawyer



Jane Campbell Moriarty

shall not bring or defend a proceeding, or assert or controvert an issue therein, unless there is a basis in law and fact for doing so that is not frivolous, which includes a good faith argument for an extension, modification or reversal of existing law.

The Rules likewise require honesty in practice,<sup>6</sup> in court,<sup>7</sup> and in dealing with clients and others.<sup>8</sup> None of these requirements is new—these are long-standing structures guiding lawyers’ behavior in practice and litigation.<sup>9</sup>

How should we explain lawsuits that courts uniformly dismissed on factual and legal grounds? Perhaps lawyers believed the factual support would be forthcoming or that they could change the law. Possibly, they were so committed to the cause they lost sight of their obligations. Whatever the motivation, the ethical failures are troubling.

2020 was an annus horribilis—a year of unprecedented horrors with a half a million pandemic deaths, citizens lining up in food banks in record numbers, families isolated, businesses lost, a democracy nearly destroyed and a country in heartbreak over racial inequity. And circulating throughout all of it was the nearly impossible task of distinguishing between truth and conspiracy theory. One’s politics and choice of information shaped one’s view of America. What one side saw as clearly true, the other side saw as utterly false.

As a law professor who writes about ethics and deception (among other subjects),<sup>10</sup> I wonder if we will ever regain an agreed-upon set of facts in this country from which to operate. While I hope that cooler minds will prevail and that truth still matters, this past year has certainly questioned the foundation of those beliefs.

A significant problem is how we consume information. Often, what we are fed is not real news—but information from the internet and social media. Many sources are far from objective reporting, while fact-checking and multiple sourcing are often missing. How many “news” programs even employ trained journalists?

It is hard work to tease truth from falsehood, fact from opinion. A steady diet of scathing opinions wrapped in a program labeled news is a toxic stew that America has been dining on for years. It is not a surprise we are here.

**And as lawyers, we have responsibilities—to our profession, to society and to the justice system. As the preamble to the Model Rules provides, a lawyer is “a public citizen having special responsibility for the quality of justice.” As educators, this is essential to our mission. As lawyers, this is our moral responsibility.**

The challenge, however, is to change. Perhaps there are reasons to hope that lawyers can be part of the solution. The Rules of Professional Conduct are not simply a code of provisions that must be followed; they provide a vision for our profession, a set of ethical aspirations that can turn lawyers into leaders and provide ideals toward which the profession can aim.<sup>11</sup>

Duquesne Law School, along with every other law school in the U.S., teaches a course in Professional Responsibility—aiming to educate lawyers to become true professionals to work for justice. We must believe that the client’s position and the case have legal and factual merit.<sup>12</sup> And as lawyers, we have responsibilities—to our profession, to society and to the justice system. As the preamble to the Model Rules provides, a lawyer is “a public citizen having special responsibility for the quality of justice.”<sup>13</sup> As educators, this is essential to our mission. As lawyers, this is our moral responsibility.

Our professional responsibility compels us to evaluate our client’s claims with a degree of equanimity to parse the substantive from the unfounded. Such an obligation is critical, given that “lawyers play a vital role in the preservation of society.” We came very close to losing that society this past year. It is important for lawyers to embrace the special role we have in preserving a civil society and a justice system that functions properly and fairly. ■

<sup>1</sup> Thanks to Kyle Baicker-McKee for research assistance on this essay.

<sup>2</sup> See *Bush v. Gore*, 531 U.S. 98 (2000).

<sup>3</sup> *Donald J. Trump for President, Inc., v. Sec’y of Pennsylvania*, 830 F. App’x. 377, 381 (3d Cir. 2020).

<sup>4</sup> *Wisconsin Voters Alliance, v. Vice President Michael R. Pence*, \_\_ F.Supp.3d \_\_\_. 2021 WL 23298 (D.C. D.C., Jan. 4, 2021).

<sup>5</sup> See e.g., *King v. Whitmer*, \_\_ F. Supp. 3d \_\_\_, 2020 WL 7134198, at \*13 (E.D. Mich. Dec. 10., 2020) (“Plaintiffs are far from likely to succeed in this matter. In fact, this lawsuit seems to be less about achieving the relief Plaintiffs seek—as much of that relief is beyond the power of this Court—and more about the impact of their allegations on People’s faith in the democratic process and their trust in our government. Plaintiffs ask this Court to ignore the orderly statutory scheme established to challenge elections and to ignore the will of millions of voters. This, the Court cannot, and will not, do.”).

<sup>6</sup> See Rule 8.4 (c)

<sup>7</sup> See Rule 3.3(a)(1) and (3).

<sup>8</sup> See Rule 4.1-4.3.

<sup>9</sup> See also Rule 11 of the Federal Rules of Civil Procedure.

<sup>10</sup> See e.g., Bruce A. Green and Jane Campbell Moriarty, *Rehabilitating Lawyers: Perceptions of Deviance and its Cures in the Lawyer Reinstatement Process*, XL Fordham Urb. L.J. 139 (2012).

<sup>11</sup> For more on the concept of training law students to be leaders, see April Mara. Barton, *Teaching Lawyers to Think Like Leaders: The Next Big Shift in Legal Education*, 73 Baylor L. Rev. \_\_\_ (2021).

<sup>12</sup> However, the Rules also recognize that representation is not always adoption of a client’s political or moral views. See Rule 1.2 (b). A lawyer’s representation of a client ... does not constitute an endorsement of the client’s political, economic, social or moral views or activities.” This is as it should be.

<sup>13</sup> Model Rules of Professional Conduct, Preamble.

# Taking Heller Seriously

BRUCE LEDEWITZ, PROFESSOR OF LAW AND  
ADRIAN VAN KAAM C.S.SP. ENDOWED CHAIR  
IN SCHOLARLY EXCELLENCE

*This article was written prior to the second impeachment trial of former President Donald Trump.*



Bruce Ledewitz

**The election was not stolen. But millions of Americans, probably all of the protesters on Jan. 6, and surely some of the rioters, believe that the election was stolen because the president, and many others, told them so. Some of the rioters were misguided patriots.**

**I**t was bewildering that, after the attack on the U.S. Capitol, President Donald Trump simultaneously said to the rioters that the election was “stolen” and that “you have to go home.”

Why should people go home peacefully if the election was stolen?

Stolen does not mean a legal disagreement over a legislature’s authority to enact mail-in voting or a court’s power to extend the time to return ballots by three days. Stolen means voting machines switching votes from Trump to Joe Biden, or counting Biden ballots three times, or dead people voting, or suitcases filled with forged votes.

The election was not stolen. But millions of Americans, probably all of the protesters on Jan. 6, and surely some of the rioters, believe that the election was stolen because the president, and many others, told them so. Some of the rioters were misguided patriots.

In *D.C. v. Heller* in 2008, Justice Antonin Scalia, writing for a 5-4 U.S. Supreme Court majority, held that one of the purposes of the 2nd Amendment right to bear arms was to create an unorganized, but armed, citizen militia “as a safeguard against tyranny.” This militia would be available “if the constitutional order broke down.”

A stolen election is tyranny. It is a breakdown of the constitutional order. Those rioters were taking *Heller* seriously.

Scalia admitted that the right to bear arms would limit the power of government to enact gun safety laws. But it probably never occurred to him that large numbers of Americans, within 12 years of his opinion in *Heller*, might feel it necessary to act violently as a citizen militia. In those intervening years, disinformation has become widespread.

Therefore, the rest of us must now take *Heller* seriously.

Some will suggest that in view of the attack on the Capitol, *Heller* must be reconsidered. At the very least, it will be said, to have a gun, a person should have to show a rational worldview. Others may suggest that we must reinterpret the concept of free speech because an armed populace ready to fight against tyranny is a crowded theater and a claim of election fraud is a match.

This Supreme Court, however, is not about to restrict either the 1st or the 2nd Amendment.

In my view, the most important way that we can take *Heller* seriously is by confronting directly the myth of the stolen election. More important than the conviction of former President Trump would be a congressional resolution that the election was not stolen. Let every member of Congress vote up or down.

In addition, let Trump be called upon to announce publicly that the election was not stolen. In return, he could be offered a pardon.

And all those fellow travelers, in state legislatures and the media, speaking slyly of “election integrity” and “serious allegations of fraud,” must also be confronted, all of them, and called upon to tell the public the truth. Not to mention confronting the lawyers who lied.

The armed attack on the Capitol is not itself a long-term threat to democracy. But the sincere belief by millions of Americans that the election was stolen is such a threat. Combating that belief must be our highest priority. Otherwise, we can be certain that the citizen militia will be back. ■

# The First 100 Days

DR. KRISTEN COOPIE, DIRECTOR OF PRE-LAW

*This article was written prior to the completion of President Biden's first 100 days.*

During Duquesne University's inaugural J-term session in January 2021, I offered a course to the University community titled "Presidential Honeymoons: The First 100 Days of an Administration." One of the main lessons of the course, aside from familiarizing students with some of the activities a new president must engage in upon entering office, was to examine why we judge a president in this arbitrary time frame. Historical precedent has demonstrated the astounding feats that can be accomplished in 100 days. In March-July of 1815, Napoleon manages to escape from a Coalition-imposed exile on the island of Elba, attempts a return to power in France and finally abdicates after losing the Battle of Waterloo.

Though 30 presidents (and 31 administrations) precede him, the notion of judging a president on his performance during this presidential honeymoon only echoes back to the historic actions of Franklin Delano Roosevelt as a response to the Great Depression. Within his first three months, Roosevelt and Congress oversaw the passage of a massive legislative agenda featuring 15 major bills intended to relieve the economic strain on Americans.

Since then, immense public and media attention has been given to what a president promises to undertake in these early days—especially those who take office during times of domestic or economic unrest. And Joseph R. Biden is certainly not the first to come into his first 100 days under tense circumstances. John F. Kennedy ordered the Bay of Pigs invasion only 87 days into his presidency. Both Gerald Ford and Ronald Reagan had to deal with varying degrees of an energy crisis, but it was Ford who had the added burden of bringing the country together after the Watergate scandal. After George W. Bush's inauguration, the dot-com



Dr. Kristen Coopie

tech bubble burst, leading to a recession; Congress spent most of Bush's first 100 days attempting to pass rebate checks and tax cuts for Americans. Eight months later, the world was shocked by the events of 9/11; eight years later, Barack Obama faced the strain of another stock market crash and deteriorating financial system.

The American Recovery and Reinvestment Act, a \$787 million stimulus passed on Obama's 29th day in office to offset the severe financial crisis, pales in comparison to the actions taken by the Biden administration in the face of

COVID-19. It was apparent to Biden from the days of his campaign that swift, bold, significant government action would be necessary, and he spent much of his campaign and presidential transition setting out an ambitious agenda for swift action. Some of these promises are easier than others to fulfill, mainly because Biden has the benefit of being able to take unilateral action through the issuance of executive orders.

Unlike legislation, executive orders are directives from the president that do not require congressional approval. Though there is nothing in the Constitution that expressly gives a president this power, every president since George Washington has issued at least one order during his tenure. It is not surprising, then, that hours after taking office, Biden issued multiple orders that included ending construction to the border wall, declaring, among other things, his intent to rejoin both the Paris Climate Accord and World Health Organization, revoking the approval for construction of the controversial Keystone XL pipeline, and requesting an extension of forbearance of student loan payments.

Another major reason for Biden's extensive use of these orders is that, though he controls a unified government, it is Democratically-controlled by the narrowest of margins. Vice President Kamala Harris is the tie-breaking vote

**Although the Biden administration has kept a strong focus on coronavirus relief, including financial payments to individuals, reopening schools and vaccine distribution, there are still other goals that the administration is actively pursuing.**





in a 50-50 split Senate, and the slim majority Democrats enjoy in the House is narrowed with each elevated appointment of Democrats to hold various Cabinet positions within the administration. Though most Americans believe that the government must take more action to provide relief from the pandemic, the administration's \$1.9 trillion coronavirus relief package passed with no support from the opposition party.

Although the Biden administration has kept a strong focus on coronavirus relief, including financial payments to individuals, reopening schools and vaccine distribution, there are still other

goals that the administration is actively pursuing. Immigration reform, climate change, criminal justice reform and gun control were all cited as priorities during the transition, but with the need for congressional action on both policies and confirmation of Cabinet secretaries, the Biden administration may be looking into their next 100 days—or 4 years—to make any progress.

Biden still has one more 100-days milestone to prepare for: his first joint address to Congress. We may be more familiar with the term “State of the Union,” but for a first-term president who has only been in office for fewer than two months,

this presentation to Congress is known as his First Joint Address. Traditionally, the president must be in office for a year before he can give a full accounting of the State of the Union. Biden will present his first Joint Address to Congress later than most recent presidents, mainly due to pandemic concerns. Aside from the inaugural speech, this is one of the biggest stages that a president has in his first 100 days to present policy ideas to the country, much of which eagerly awaits to hear more about this president's vision and plans for our future. For now, it appears that Biden is enjoying success during his long-awaited presidential honeymoon. ■

# Social Media and Democracy after the Capitol Riot

SETH C. ORANBURG,  
ASSOCIATE PROFESSOR OF LAW

Social media clearly played a role in the riots at the Capitol that occurred on Jan. 6. Those riots were deeply troubling for all who love America and the freedoms for which it stands. But the reactions by corporations to cancel social media accounts and even entire social media platforms are troubling, too. We must now face the reality that we have entrusted some of our most fundamental civil liberties to corporations that have obligations only to their shareholders, not to democracy.

“We the people” are guaranteed freedom of speech in the public square. But we do not enjoy those same freedoms on the private social media networks that have replaced the town hall. As more and more



Seth C. Oranburg

of our communications and daily lives happen on private property—and make no mistake that Facebook’s website is its private property—we increasingly trust corporations to protect our “inalienable” rights.

It may surprise many that Twitter, Facebook, Instagram, YouTube, TikTok, Reddit and Discord are social media platforms that are not subject to First Amendment constraints because they are not state actors. These platforms do not “censor” speech, in the technical sense, because only governments can censor. Private actors merely exercise editorial discretion—and they may do so virtually at will.

Moreover, these platforms are allowed





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to exercise editorial discretion without incurring liability for third-party content (users’ tweets, posts, grams, videos, hashtags, threads, etc.) thanks to so-called Section 230 immunity, which holds that “No provider or user of an interactive computer service shall be treated as the publisher or speaker of any information provided by another information content provider.” This means social media platforms like Twitter are not liable for defamatory or inflammatory tweets posted on their platforms.

What, then, constrains social media platforms? Revenue and quarterly earnings reports drive corporate decision making. Platforms need to keep social media users plugged in, so users view as many advertisements as possible. Sometimes referred to simply as “eyeballs,” users are targeted by armies of digital marketing teams whose only job is to keep things interesting.

After the Capitol riots, some cheered

when Twitter suspended Donald J. Trump, or when Amazon suspended Parler from its web services. (Parler has since sued Amazon, although this suit is likely to be lost due to Amazon’s immunity and discretion.) But some worry about what this means for civil rights. The American Civil Liberties Union—an organization that called for Trump’s impeachment—expressed that these suspensions “should concern everyone when companies like Facebook and Twitter wield the unchecked power to remove people from platforms that have become indispensable for the speech of billions.”

These actions are certainly counter to the “free and open internet” principles that Google, Amazon, Facebook and other tech giants have espoused since their founding. In fact, they argued that internet service providers should “treat every bit equally,” giving the same bandwidth to C-SPAN (which broadcasts public hearings) and PewDiePie (a

popular YouTube personality whose videos contain misogynist and racist slurs). Now that the tech giants won the battle (but not the war) for so-called “net neutrality,” they are using their vast “editorial discretion” to decide which speech is promoted, and which is silenced.

On Jan. 11, Adam Mosseri, Facebook’s head of Instagram (yes, Facebook owns Instagram) tweeted, “We’re not neutral. No platform is neutral, we all have values, and those values influence the decisions we make.” This admission begs the question, what if social media corporations value wealth and power, and that influences their decisions as to who may speak and who may not? And if so, how do we protect democratic freedoms in a world where speech is dominated by social media corporations? These are questions we will have to answer in the 2020s, if American democracy is to survive. ■



PART II  
**A Rich Legacy of**  
*Diversity*

*Alumni profiles compiled by Madison L. Miranda, 3D*



### ► **Shanicka L. Kennedy, L'01**

Shanicka Kennedy knew Duquesne Law was the perfect fit for her. After graduating from Howard University, she returned home to Pittsburgh to study law at the well-respected institution. While at Duquesne, she competed on the Trial Moot Court Team, which happens to also be her most fond memory and favorite class.

Kennedy enjoyed the trial experience so much she dedicated her career to it. Prior to her current position as senior attorney, Business Model and Employment Litigation Group at FedEx Ground, she worked as an assistant U.S. attorney for the U.S. Attorney's Office in the Western District of Pennsylvania. She is also a veteran of the Allegheny County Office of the District Attorney and served as chief deputy director for the Allegheny County Office of the Public Defender.

Kennedy believes Duquesne Law prepared her for her legal career by connecting her with alumni who were willing to assist her with career advice and mentoring. They encouraged her to work hard, network and "leave the door open" so that other diverse attorneys will not be penalized due to the poor reputation of another. Because of these experiences Duquesne Law provided Kennedy, she now chooses to volunteer her time and serves as a law student mentor. She is also an adjunct professor at Duquesne.

"Embrace your diversity, as it

► This profession is continuously enriched by having a diversity of people and thoughts to address legal issues that impact the world we live in.

represents the legal profession that you are poised to enter," Kennedy advised. "This profession is continuously enriched by having a diversity of people and thoughts to address legal issues that impact the world we live in." She is pleased with Duquesne Law's efforts to recruit and retain diverse students, and assures that students will receive a quality legal education and the support needed to enter the legal profession.

### ► **Mario A. Romine, L'84**



Mario Romine is senior vice president and general counsel at Turnberry Associates in Aventura, Fla. He received a "quality legal education" in the evening program, and he believes Duquesne prepared him for his legal career by providing very practical learning experiences that formed a good basis of law and fundamentals.

While it is unfortunate that Romine does not get back to Duquesne Law often because of the distance, he has done amazing things in Florida. The highlight of his career was when he successfully led and prevailed over a multi-billion-dollar bet-the-company litigation resulting from the 2008 economic crash. Also, he successfully restructured and saved the Fontainebleau Hotel in Miami in 2010.

While Romine is a person of color in the legal field, he says he has faced few obstacles. Being Latino is fairly common in Miami, but he is starting to wonder about "ageism" in the legal community. Moreover, he quotes Dwayne "The Rock" Johnson who says, "always be the hardest working person in the room." Thus, as a diverse attorney, "know it and own it." "Be the best you can be and always represent who you are," he said.

Romine's advice to diverse individuals considering a career in law? "Make sure you are worthy. First and foremost, you are a human being. If you are a good person and get the most out of your legal education, while also developing emotional intelligence and a work ethic, you will excel. Use your diversity as a platform."

► Being Latino is fairly common in Miami, but he is starting to wonder about "ageism" in the legal community.



► **Asra Hashmi, L'15**

It was an easy choice for Asra Hashmi to attend Duquesne University School of Law. Becoming a “Double-Duker” was the best option for her; she needed a law school where she could continue working fulltime and a program that was specifically tailored for working professionals, without sacrificing the full law student experience. Luckily, Hashmi found exactly what she was looking for at Duquesne Law.

One unique opportunity Duquesne Law offers to evening students is the opportunity to compete in trial advocacy competitions. Hashmi competed in the trial advocacy program throughout her law school career, one of her favorite law school experiences. She remains close friends with some of her trial team partners to this day.

Hashmi believes the preparation Duquesne Law provides serves her well in her legal career and beyond. Hashmi is currently an associate attorney at Jackson Lewis P.C. and is an active member of the Allegheny County Bar Association. She is a member of the Women in the Law Division, Diversity and Inclusion Collaborative, and is chair-elect of the Young Lawyers Diversity Committee.

Hashmi says that being a woman of color presents a unique set of obstacles in the practice of law, but she tries to focus on being part of the solution. Her way of overcoming the obstacles is by being a vocal advocate for diversity and inclusion, mentoring young diverse lawyers, and candidly discussing her experiences as a diverse lawyer as

► Being a woman of color presents a unique set of obstacles in the practice of law, but she tries to focus on being part of the solution.

often as she can—hoping that others may benefit from it. The most valuable piece of professional advice that she ever received? “At times you will feel ‘different,’ but don’t ever let anyone make you believe that you don’t belong because of it,” she said.



► **Jonathan F. Smith, L'15**

Jonathan Smith attended Duquesne Law because it felt like home. Also a “Double-Duker,” and he has fond memories of his time at Duquesne. He also knew he would get a world-class education in an institution that “cares.”

In law school, Smith had the opportunity to participate in the Urban Development Clinic, which provided a “real” work experience in a school setting. This experience was invaluable in his preparation for his legal career as it gave him the opportunity to

apply theoretical concepts to real-life experiences. His time at Duquesne was so invaluable that he finds time to come back to speak to students about various topics such as diversity, bar examination preparation, and workplace dress and etiquette.

Smith currently is a wealth manager in BNY Mellon’s Wealth Management division. Throughout his career, he is often the only person of color in the room, and many people that he interacts with professionally do not have much exposure to individuals of diverse backgrounds. Thus, their opinions are frequently derived from peripheral sources, so sometimes he has to work hard to overcome initial impressions and bias that may be inaccurate or prejudiced.

Smith’s advice is to always look to others who have walked similar paths for mentorship because their input and experiences can be invaluable. “Learned individuals and organizations know that having perspectives from a diverse group of contributors is superior to homogeneous thoughts and ideas,” he said. He also advises law students to get involved and try to make time to participate in events and to enroll in clinics and externships. The value of those activities and experiences continue to contribute to his professional and personal success and fulfillment. ■

► Smith’s advice is to always look to others who have walked similar paths for mentorship because their input and experiences can be invaluable.

# Young Alumni

## PROFILE

### Brazitte Poole, L'19

**Home:**

Pittsburgh, Pa.

**Education:**

Slippery Rock University of Pennsylvania, Bachelor of Arts (Political Science/Philosophy), Point Park University, Masters of Arts (Global Security and Intelligence Studies)

**Employment:**

Attorney at Ogletree, Deakins, Nash, Smoak & Stewart, P.C.

**Favorite restaurant:**

The Showcase BBQ (Homewood)

**What you are currently reading?**

*Becoming* by Michelle Obama

**Words you live by:**

"If you're afraid to use your voice, give up your seat at the table." – Michelle Obama

**What people might be surprised to know about you:**

I am a huge movie buff! I love finding new and exciting things to watch on popular streaming platforms. It's one of my favorite ways to relax and unwind.

**You have presented on the importance of diversity and inclusion in the workplace. Why is this important?**

Diversity, equity and inclusion are critical to virtually every aspect of life. The workplace, particularly law firms and other workplaces in the legal profession, are not exempt from that truth. The legal field remains one of the least diverse professions. As a Black woman attorney, I am committed to doing my part to help push the needle forward and help the profession become more accessible and inclusive.

I am fortunate that Ogletree Deakins is also committed to creating a more diverse and inclusive firm. Not only do we have several women on the firm's board of directors, I have had opportunities to work closely with brilliant attorneys—Kimya Johnson and Bonnie Puckett—assisting clients with diversity-related initiatives. In our Pittsburgh office, I have regular interactions with women in leadership: Ruthie Goodboe, one of the nation's leading attorneys in traditional labor; and Jennifer Betts, our office managing shareholder. All while receiving firm-sponsored professional coaching from renowned coach Tracie Ransom. Ogletree Deakins has also implemented several firm-wide initiatives to help create a more inclusive and equitable workplace, including a firm-wide associate sponsorship program, professional coaching, special work-credit for diversity-related activities and more. I have benefited personally from these initiatives, gaining mentorship and sponsorship from firm leaders Paul Lancaster Adams and John Gerak, which has been pivotal to my development.

I share these experiences to show the level of commitment it takes to provide the support systems that diverse attorneys (like myself) need in order to be successful. It is not enough to say that diversity is "important." We must start to create structures and systems that support diverse attorneys and



encourage their success. While we have a ways to go, as a firm and as a profession, I believe we are heading in the right direction.

**How has the COVID-19 pandemic affected these efforts?**

The COVID-19 global health pandemic has been a very difficult time for so many of us. It has affected everything from the way we educate our children to the way we work and provide for our families. COVID-19 has also required us to look at the realities of our work environments; which groups of people have access to opportunities and which groups of people do not. On one hand, this has led to outrage, in response to the lack of equitable opportunities and treatment of certain employees, particularly women and people of color. On the other hand, many companies and organizations are taking the opportunity to change entrenched systems and implement strategies to address internal inequities. I am optimistic that this trend will continue to move in the right direction, and we must insist on creating positive diverse, equitable and inclusive work environments.

**How did your Duquesne Law education prepare you for the practice of law?**

My educational experience at Duquesne Law has instilled in me the value in aiming for excellence in my advocacy, both written and oral. This has benefited me through my training and continued development as an associate attorney.

**How would you describe the value of a Duquesne University School of Law education?**

Duquesne University School of Law has blessed me with some of my most valued relationships. These relationships have been incredibly helpful throughout the changes brought about by COVID-19 and serve as my support system, outside of Ogletree. I have not only gained a true sisterhood in the practice of law with fellow alums Tami Mack, L'16, Tynishia Powell, L'16, and Taylor Corn, L'18, but I have gained role models through legal powerhouses like Leslie Britton Dozier, L'00, Tracey McCants Lewis, L'00, Andrea Clark-Smith and Samantha Clancy. These are bonds I will forever cherish and were made possible through my education at Duquesne University. ■

# ClassActions

Stay connected with Duquesne Law!  
Update your email at [duq.edu/lawalumniupdate](http://duq.edu/lawalumniupdate) or by emailing  
the Law Alumni office at [lawalumni@duq.edu](mailto:lawalumni@duq.edu).

## 1974

**Vince Quatrini** was named a recipient of the 2020 President's Award by the Workers' Injury Law and Advocacy Group.

**David S. Pollock** was reappointed for a second term as a member of the Pennsylvania Supreme Court Domestic Relations Procedural Rules Committee for a three-year term beginning Feb. 1, 2021.

## 1975



**Honorable Max Baer** became Chief Justice of the Pennsylvania Supreme Court on April 1. He succeeded Justice Thomas G. Saylor, who will be retiring at the end of 2021. Baer was elected to the Supreme Court in 2003. Prior to that, he served as Judge of the Court of Common Pleas for Allegheny County where he was a driving force behind the creation of the Office of Children and Families in the Courts, which established a statewide structure for accelerating permanent adoptions for abused and neglected children. Baer was inducted into the Duquesne University Century Club in 2015.

## 1976

**Cynthia M. Maleski** was installed as chair of the board of directors of The American Fraternal Alliance. Maleski is the National President of First Catholic Slovak Ladies Association.

## 1980

**Gretchen Haggerty** received the Leadership in Public Company Governance Award from NACD, Three Rivers Chapter.



## 1982

**Margaret Hill**, a partner at Blank Rome LLP, has been selected to join the Environmental Law Institute (ELI) Leadership Council.



## 1987

**John "Jack" Goodrich** was appointed chair of the Disciplinary Board of the Supreme Court of Pennsylvania effective April 1. He was first appointed as a member of the Disciplinary Board in April 2016.

## 1988

**Mary-Jo Rebelo**, partner at Burns White, was named Chief Executive Officer of the firm. She previously served as Chief Operating Officer, Western Region.



## 1989

**Chris Passodelis** is managing member of the newly opened downtown Pittsburgh location of Steptoe & Johnson PLLC.

**Anita Astorino Kulik** has been reelected as Pennsylvania State Representative for the 45th House District.

**Susan Paczak** was named partner at Abes Bauman. She has practiced more than 30 years in the areas of workers' compensation, social security and veterans' benefits.

## 1992

**James R. Hopson** retired on May 7 after serving 25 years in the Westmoreland County Office of District Attorney.

## 1995

**Gregory Mueller** was selected by the County Prosecutors Association of New Jersey as the winner of the 2020 Outstanding Advocacy Over the Course of a Career award. He is First Assistant Prosecutor of Sussex County, N.J.

## 1996

**John Tedder** has been promoted to Executive Vice President, Chief Legal Officer and General Counsel of Michael Baker International. He will serve as an important advisor responsible for guiding Michael Baker's legal, contracting, insurance and compliance activities.

**Douglas Williams** was named partner at Abes Bauman. He also serves on the Amicus Committee of the Pennsylvania Association for Justice.

## 1997

**Eugene Vittone** has been appointed to serve on the board of directors of the National District Attorneys Association (NDAA). Vittone, who is serving his third term as Washington County District Attorney, will serve as the Pennsylvania state director on the NDAA board. He also serves as vice president of the Pennsylvania District Attorneys Association's executive committee.

## 1999

**David C. Bruening** is a senior attorney at Everest Infrastructure Partners.

**Bruce J. Ferguson** and **Claudine E. Orloski** were married on Oct. 15, 2020.



## 2000

**Maria Comas**, director of Career Services, received the 2020 Carol Los Mansmann Helping Hand Award by the Allegheny County Bar Association's Women in the Law Division.



**Raeann Burgo** is Of Counsel in the Pittsburgh office of Fisher Phillips LLP.

## 2002

**Brian Balonick** has joined Fisher Phillips LLP and will serve as regional managing partner of its Pittsburgh office.

## 2003

**Rana Jewel Wright** has been elevated to chief administrative officer of Harris Associates and appointed as president of the Oakmark Funds.



**Melissa Devich Cochran** returned to Marshall Dennehey Warner Coleman & Goggin, P.C. as a shareholder, continuing her practice in the asbestos and mass tort litigation practice group.

## 2005

**Cessalie Harris** was named director of corporate compliance for Cleveland Clinic Florida.

**Jillian Nolan Snider** joined Frost Brown Todd LLC as a member in the bankruptcy and restructuring practice.

**Nicole Sloane** was promoted to first assistant public defender for the Erie County Public Defender's Office.





## 2006

**Danielle Salsi** is senior litigation counsel for Viatrix.

**Jason Lasser** was promoted to managing partner at Cordell & Cordell.



## 2007

**Michael V. Quatrini** has been appointed to the Board of Governors for the Pennsylvania Association of Justice for the Western District of Pennsylvania.

**Brad Breslin** is now Senior Vice President of AML RightSource.

**Melissa Mathias** and husband Steve welcomed their second child, Margaret Ann ("Maggie") on June 13.



**Katherine (Kate) Koop Irwin** joined Frost Brown Todd as a member.

## 2008

**Colleen Bratkovich** was promoted to partner at Zacharia Brown.

**Michael Moyer** was promoted to Senior Vice Present with PNC Bank. He also serves as the co-chair of the PNC National Practice Group for Business Owner Planning and recently accepted a new role as the Senior Wealth Planning Strategist for the Eastern Carolinas market. Moyer also serves as the Private Business Strategist for the Eastern Carolinas, advising business owners through business succession planning and their estate planning.

## 2009

**Patrick Barry** is Assistant Vice President of military benefits at USAA. He is a veteran of the active-duty Air Force and Air Force Reserve.

**James McGraw** is now a partner at The Lynch Law Group LLC.

**Bobby Bartle** was promoted to General Counsel at Aires.

## 2010

**Amanda M. Daquelente** was named partner in Meyer, Unkovic & Scott. She is a member of the firm's Corporate & Business Law and Real Estate and Lending Groups.



## 2011

**Robert Gemmill** has joined Argyle, a Canadian PR firm, as senior VP and head of its new Washington office.

**Daniel R. Schimizzi** was elected partner at Whiteford Taylor & Preston.

## 2012

**Elizabeth Parker** has joined Frank, Gale, Bails, Murcko & Pocrass, P.C. as an associate attorney.

**Alexander J. Papa** has been promoted to partner at Weber Gallagher.



**Alyssa E. Golfieri** was named shareholder at Babst Calland.

**Edward Hirschberg** is now a partner at Ryan Law Firm PLLC.

**Gabriela Steier** published her fifth book, *Food System Transparency*. She was also was appointed Distinguished Adjunct Professor at the Saveetha Law School in Chennai, India. Steier holds an LL.M. from the Vermont Law School and a Doctorate in Comparative Law from the University of Cologne. Steier teaches part-time at Northeastern University in Boston and continues her work on food law as a prolific scholar. She and her husband, Michael Nathenson, along with son Morrice, welcomed their second son, Fredrik Nathenson Steier, in March.



## 2013

**Brian Pepicelli** was promoted to partner at Tucker Arensberg, P.C.

**Erik Fargo** is assistant general counsel of EQT Corporation.



**Ginevra Ventre** has been promoted to partner at Reed Smith LLP in the firm's Pittsburgh office. Ventre is a litigator in the Financial Services Litigation group and principally focuses on the defense of putative class actions in the banking, consumer finance, investment management and securities industries. She also counsels clients on various compliance, employment and arts law matters as well. Before joining Reed Smith in 2014, she clerked for the Honorable Mark. R. Hornak of the U.S. District Court for the Western District of Pennsylvania, for whom she served as case manager for half of all civil cases. Ventre is also a cellist and was a co-founder of and cellist for The Elegua Duo, a touring classical music chamber group. She received her B.A. from Baldwin Wallace University and in 2009 her M.M. from the New England Conservatory of Music.

**Cara A. Murphy** has accepted a position as Counsel with Santomassimo Davis LLP in Parsippany, N.J., working with mid-cap businesses to provide practical legal and risk management counseling.

## 2014

**Megan DelVecchio** joined Pollock Begg as an associate attorney.



**Mary Kate Serratelli** has been promoted to partner at Cleary Giacobbe Alfieri Jacobs LLC, a New Jersey firm.

**Francesca Schiavone** was elected partner at Leech Tishman.

**Judy Hale** was appointed to the City of Pittsburgh Gender Equity Commission for a three-year term.

**2015**

**Emily Weiss** and **Aaron Weiss** welcomed son Carson Timothy on Nov. 6, 2020.



**Brittany Kriebel** married Curtis Miles on June 20 in Clarion, Pa.



**Martin McKown** is now Vice President, Compliance at BNY Mellon.

**Lindsay Fouse-Hopkins** married Greg Hopkins on Sept. 11 at the First Presbyterian Church, Downtown Pittsburgh, followed by an intimate reception hosted by their parents, the Honorable Dale and Kathleen Fouse and Mark and Diane Hopkins, in the backyard of Lindsay's childhood home.



**2016**

**Abigail Nath** is chief compliance officer at Mountaineer Integrated Care.

**2017**

**Molly (Emmett) Marshall** joined Reed Smith as an E-Discovery attorney.

**2020**

**Joshua Winters** joined Steptoe & Johnson PLLC as an associate attorney.

**Jacob Hanley** joined Gordon Rees Scully Mansukhani, LLP as an associate attorney.

**Benjamin Lehman** is now an associate at Pollock Begg.



**Madison Baric** has joined Robb Leonard Mulvihill LLP as an associate.

**Bridget Kearney** has been hired as an associate at The Webb Law Firm. She is an intellectual property attorney with a background in electrical engineering, having completed a Bachelor of Science degree in Electrical Engineering at the Rochester Institute of Technology in Rochester, N.Y.

**In Memoriam**

It is with deep sadness that we list the following School of Law alumni who passed away:

**Augusto N. Delerme, Esq.** 1989  
Delerme was born in Puerto Rico and became a medical doctor at the age of 21. He attended Duquesne University School of Law's evening program, driving to and from his family home in Hollidaysburg to fulfill a lifelong dream of being a lawyer. He practiced law and medicine until his 2006 retirement. His granddaughter, Simoné Delerme Harris, is a 2013 Duquesne Law alumna.

**Richard A. Dent** 1968  
At the time of his graduation from Duquesne's evening law program, Dent was director of Duquesne University's Office of Financial Aid. Father Henry McAnulty encouraged him to follow that career arc by accepting a position offered by the College Entrance Examination Board (aka The College Board) in Manhattan and later in Palo Alto, Calif. In the decades that followed, Dent worked at many universities in California, Oregon and Massachusetts, and researched and consulted at many others, ending his career as vice chancellor for student services at the University of Alaska in Juneau. Throughout his career, he followed the primary premise of making a college degree equitable and accessible for many thousands of deserving students, and was a respected teacher and mentor to many other professionals.

**The Honorable Terrence F. McVerry** 1968  
A pillar of the Pittsburgh legal community for over 50 years, McVerry tirelessly served the public first as a member of the Pennsylvania House of Representatives. He was a key architect of Allegheny County's Home Rule Charter and served as the first county solicitor under the new form of government. McVerry was appointed to the Federal District Court of Western Pennsylvania by President George W. Bush, where he served until his 2016 retirement. He was inducted into the Century Club of Distinguished Duquesne University Alumni in 2017, and a scholarship in his name was established at School of Law in the same year.

**Evelyn Tanner, Esq.** 1984  
After working for the Department of Housing for the State of Pennsylvania for years, Tanner decided to go back to school as a single mom. She graduated from the University of Pittsburgh with a B.A. and then from Duquesne Law's evening program. Tanner went on to have law careers at Westinghouse Electric Corporation, Northrop Grumman, the U.S. Environmental Protection Agency and the U.S. Department of Agriculture.

Harold J. Bender	1973	Joseph B. Green	1972	Randal E. McCamey	1974
William R. Bishop Jr.	1975	Mark P. Hanna	1982	David T. Mojock	1972
Thomas J. Coyne	1960	James W. Harkness	1989	Patrick W. Quinn	1984
Irwin J. Dean Jr.	1953	Thomas R. Hession	1972	George Raynovich Jr.	1961
Richard W. Dorfzaun	1968	James G. Kirk	1965	James M. Skorupa	1973
Peter E. Ferraro	1974	Martin Lubow	1957	Clifford Tuttle Jr.	1973
Gloria N. Fuehrer	1982	James R. Manion	1981	Curt M. Weber	1982
David J. Grecco	1997	Robert B. Marcus	1971		

*This list is provided through the Duquesne University Advancement Records Office and may not be complete. If you have information about an alumnus who passed away this past year and is not listed, please contact the Law Alumni Office at 412.396.5215 so that we may update our records.*

# FACULTY HIGHLIGHTS

**Steven Baicker-McKee**, Joseph A. Katarincic Chair of Legal Process and Civil Procedure and Associate Professor of Law, publications:

- *Federal Civil Rules Handbook*. Thomson Reuters (2021)
- *A Student's Guide to the Federal Rules of Civil Procedure* (with William Janssen). 2021-2022 edition, West Academic Press (2021)
- *The Federal Litigator*. Thomson Reuters (Dec. 2020, Feb. 2021 and April 2021)

**Robert S. Barker**, Professor Emeritus of Law, publication and presentations:

- *La Constitución de Los Estados Unidos y su dinámica actual*. Ediciones Olejnik, Buenos Aires, Argentina (earlier editions of this book have been published in Perú, Bolivia and Costa Rica)
- *La Teoría Falaz de 'la Constitución Viviente'*. Constitucionalismo en las Américas, Inter-American Bar Association virtual seminar (Feb. 2021)
- Panelist and commentator, *A Toast to the Peace Corps*. Commemorating the 60th anniversary of the establishment of the Peace Corps by President John F. Kennedy (March 2021)

**April Mara Barton**, Dean and Professor of Law, publications, presentations and appointments:

- Panelist, *Leadership Issues in Legal Education*. Santa Clara Leadership Symposium (Feb. 2021)
- Discussion Group, *Post COVID-19 Online & Hybrid Learning Pedagogy Best Practices and Standards Development*. AALS Annual Meeting (Jan. 2021)
- Interview, Women in Higher Education, *Building the Next Generation of Leaders*, Volume 30, No. 3 (March 2021)
- *Teaching Lawyers to Think Like Leaders: The Next Big Shift in Legal Education*. 73 Baylor L. Rev. \_\_\_\_ (2021)
- AALS Executive Committee, Leadership Section
- AALS Deans Steering Committee
- Board Member, Pittsburgh Legal Diversity & Inclusion Coalition

**Aman Gebru**, Assistant Professor of Law, media and presentation:

- Panelist, *Covid-19 and International Enforcement of Patent Rights*. Symposium, University of Victoria School of Law (April 2021)
- Interview, "Balancing restrictions on access to biodiversity and traditional (indigenous) knowledge with scientific research." *The Scientist* (Dec. 2020)

**Maryann Herman** was promoted to associate professor of legal skills.

**Richard Heppner**, Assistant Professor of Law, successfully completed his pre-tenure review. Publication:

- *Conceptualizing Appealability: Resisting the Supreme Court's Categorical Imperative*. 55 Tul. L. Rev. 395 (2020)

**Jalila Jefferson-Bullock**, Associate Professor of Law, publication, presentations and media:

- *A Little Child Shall Lead Them: Juvenile Justice, Aging Out, and the FIRST Step Act*. 87 Tenn. L. Rev. 569 (2020)
- *The Road to Freedom: Abolishing America's Prison System*. Dr. Sadie T.M. Alexander Commemorative Conference, University of Pennsylvania Carey Law School (Feb. 2021)
- *Let My People Go: A Call for the Swift Release of Offenders in the Wake of COVID-19*. Florida International University College of Law (Nov. 2020)
- *The Hate Crimes Prevention Act of 2009 and the Thirteenth Amendment*, Cyril Wecht Institute of Forensic Science and Law Annual Symposium, Duquesne University (Nov. 2020)
- *The Impact of Covid-19 on Congregate Facilities*, ABA Section of State and Local Government Law (Oct. 2020)
- *Race and Police Shootings, Say Her Name: Breonna Taylor*. University of Kentucky David Rosenberg College of Law (Oct. 2020)
- *Discrimination and Voting Rights in America*. Duquesne University School of Law Race and Democracy Lecture Series (Oct. 2020)
- KDKA1020 Radio (Pittsburgh, Pa.), "Impeaching a Former President" (Feb. 9, 2021)
- KDKA1020 Radio (Pittsburgh, Pa.), "Business Owner Hangs 'Biden Voters Keep Out' Sign" (Jan. 12, 2021)
- KDKA1020 Radio (Pittsburgh, Pa.), "Trump and GOP Lawsuits Challenge Election" (Nov. 6, 2020)
- KDKA1020 Radio (Pittsburgh, Pa.), "2020 Election Results" (Nov. 4, 2020)

**Rona Kitchen**, Professor of Law, publication, presentations and media:

- *Ruth Bader Ginsburg Lifetime Achievement Award Remarks*. 21 Geo. J. Gender & L. 541 (2020)
- Panelist, *Racial Equity and Religions*, Consortium for Christian-Muslim Dialogue, Duquesne University (March 2021)
- *Misinformation, Education, and the First Amendment*. Presentation at Baldwin High School (Jan. 2021)
- *Hate and the Law*. Duquesne University School of Law Race and Democracy Lecture/CLE Series (Nov. 2020)
- *Reconceiving Crimes Against Women as Hate Crimes*. When Hate Hits Home: Investigating, Prosecuting and Preventing Domestic Terrorism, The 19th Annual Forensic Science and Law Symposium (Nov. 2020)
- KDKA TV (Pittsburgh, Pa.), "The Role of Social Media in Spreading Misinformation" (Jan. 7, 2021)
- KDKA1020 Radio (Pittsburgh, Pa.), "Misinformation and the Attack on the Capitol" (Jan. 13, 2021)

**Bruce Ledewitz**, Professor of Law, bi-weekly contributor, *Pennsylvania Capital-Star* commentary page, including:

- “This year’s divided electorate is a reminder of why we need workable, governing majorities” (Nov. 18, 2020)
- “The San Francisco school board’s vote removing Lincoln’s, Washington’s names was wrong. Here’s why” (Feb. 10, 2021)

**Ashley London**, Director of Bar Studies and Assistant Professor of Legal Skills, publications:

- *Something Wicked This Way Thumbs: Personal Contact Concerns of Text-Based Attorney Marketing*. 58 *Houston L. Rev.* 99 (Fall 2020)
- *AI Report: Humanity Is Doomed. Send Lawyers, Guns, and Money!* (with James B. Schreiber) 58 *Duq L. Rev.* (2020)

**Emile Loza de Siles**, Assistant Professor of Law, publications, presentations and appointment:

- *Corporate Governance by Artificial Intelligence: Its Risks of Discriminatory Impacts and its Regulation*. 38 *Minn. J. Law & Inequality* \_\_ (2021)
- *AI, on the Law of Social Justice: Implications of Artificial Intelligence on a Just Society*. 8 *J. Int’l and Comparative Law* \_\_ (2021)
- *AI, on the Soft Law for Unbiased and Non-Discriminatory Artificial Intelligence*. *IEEE Trans. on Technology & Society, Special Issue on Artificial Intelligence and Soft Law* \_\_ (2021)
- *Artificial Intelligence: A Framework for Legal Understanding and Can Data Become Virtuous?* *Artificial Intelligence and the Law Symposium*, *W. Va. L. Rev.*, West Virginia University College of Law (Feb. 2021).
- Panelist, *Data as Power*. *Artificial Intelligence and the Law Symposium*, *W. Va. L. Rev.*, West Virginia University College of Law (Feb. 2021)
- AALS Executive Committee, Section on Minority Groups, 2021-2024

**Marissa Meredith**, Assistant Professor of Law, publication:

- *Starting Up with Start-ups: Pro Bono Services for the New Business Owner*, *TYL (The Young Lawyer)*, American Bar Association (Winter 2021)

**Joseph Sabino Mistick**, Associate Professor of Law, testified before the Pennsylvania Joint Senate and House Democratic Policy Committee on March 26 concerning *The Abandoned and Blighted Property Conservatorship Act*.

**Jane Campbell Moriarty**, Carol Los Mansmann Chair in Faculty Scholarship and Professor of Law, publication, presentation and appointment:

- *Scientific Evidence* (with Giannelli, Imwinkelried, Roth and Beety). 6th ed., three Volumes, Lexis/Nexis (2020)
- *From here to Reliability: Neuroimaging Evidence in Court*. Hennepin County Public Defenders’ Office, Minneapolis, Minn. (Feb. 2021)
- OSAC Scientific & Technical Review Panel (STRP) for the OSAC Proposed Standard “Standard for the Use of GenBank for Taxonomic Assignment of Wildlife”

**Katherine Norton**, Director of Clinical and International Programs and Assistant Professor of Law, successfully completed her pre-tenure review. Publication:

- *The Middle Ground: A Meaningful Balance Between the Benefits and Limitations of Artificial Intelligence to Assist with the Justice Gap*. 75 *U. Miami L. Rev.* 190 (2020)

**Wesley M. Oliver**, Director of the Criminal Justice Program and Professor of Law, publication and presentations:

- *The Search for Precedent in the Andrew Johnson Impeachment*. 39 *Quinnipiac L. Rev.* 107 (2020)
- *Prohibition’s Surprising Role in the Regulation of Modern Police*. Duquesne University School of Law Race and Democracy Lecture/CLE Series (Feb. 2021)
- *Identifying the Factors of Suspicion and Transformers for Classification of Bright-Line vs. Totality-of-the-Circumstances Rule in Fourth Amendment Cases*. Thirty-Third International Conference on Legal Knowledge and Information Systems, Czech Technical University, Prague, Czech Republic (Dec. 2020)

**Seth C. Oranburg** was granted tenure and promoted to Associate Professor of Law. Publication and presentation:

- *Encouraging Entrepreneurship and Innovation through Regulatory Democratization*. 57 *San Diego L. Rev.* 757 (2020)
- Moderator, *The Impact of Blockchain on the Practice of Law*. Panel and Continuing Legal Education presented by NYU Journal of Law & Business and The Classical Liberal Institute (March 2021)

**Grace Orsatti**, Director of the Externship Program, Pro Bono Program, and Assistant Professor of Clinical Legal Education, publication:

- *Sibling Conflict over a Parent’s End-of-Life Care* (with Colbert, Alison M.). *Nursing* (Nov. 2020)

**Ann Schiavone**, Associate Dean for Faculty Scholarship and Associate Professor of Law, presentation:

- *Police Dogs: Problems of Violence and Racism*. Duquesne University School of Law Race and Democracy Lecture/CLE Series (March 2021)

**Tiffany Sizemore** was promoted to Associate Professor of Clinical Legal Skills. Presentation:

- Panelist, *Stop Solitary Confinement and Pass Breonna’s Law*. Alliance for Police Accountability, Pittsburgh, Pa. (Jan. 2021)

# THE 2021 ANNUAL Three Rivers Intellectual Property and Technology Law Colloquium

Assistant Professor Aman Gebru hosted the 2021 annual Three Rivers Intellectual Property and Technology Law Colloquium. The event is a collaboration between the law schools of Duquesne University and the University of Pittsburgh, which take turns hosting the colloquium. This year's event was the fourth installment, and it was Duquesne Law's turn to host. While the colloquium is usually hosted in-person on campus, this year's event took place virtually on Zoom.

The event brings together professors from central and western Pennsylvania, West Virginia, eastern and northern Ohio, and western New York. Gebru sent out a call for submission of draft papers to all law schools in the region. He selected eight articles or works-in-progress on patents, copyrights, technology law and traditional knowledge. The event brought together 19 law professors



who either presented papers or provided comments. The event uses a unique scholarly format designed for an in-depth conversation. All participants read the articles ahead of time, and presenters spend a few minutes introducing their projects. Participants then spend the majority of the time on an extensive discussion of each work. The participants' feedback has been that the event was a success in improving their cutting-edge scholarship, which will guide legal reform.

The colloquium idea came from a conversation former Duquesne Law professor and current dean of Gonzaga Law, Jacob Rooksby, had with Pitt Law professor Michael Madison. The two professors decided that Pittsburgh's renaissance as an innovation hub called for a collaboration between the city's two law schools to create a platform where legal academics can discuss trends and essential changes in the law. Madison will host next year's event at Pitt Law in January 2022. ■



## IN MEMORIAM

### Rhonda Gay Hartman, Distinguished Lecturer of Law

The School of Law mourns the passing of Professor Rhonda Hartman, who taught at Duquesne for many years. Her work focused on legal and policy issues in innovative surgical procedures and on the rights of children and adolescents in health care including the intersection of medical ethics and the law. Hartman served as a peer reviewer for the *Journal of the American Medical Association* (JAMA) and *JAMA Pediatrics* and was interviewed by NPR, BBC and other media outlets. At Duquesne Law, she taught Health Care Law, Health Care Fraud, and Abuse and Children in the Law, among other courses.

Notably, Hartman was dedicated to her students and was honored to be their mentor. Dean April Barton noted that she "especially will be remembered at our school for her insightful lectures, her kind spirit and her unsurpassed elegance." ■

■ **Federal Loan Repayment** | *By Shreya Desai, Staff Writer*



Photo courtesy of Pixabay.com

On average, the United States charges the highest average tuition fees for baccalaureate degree programs. The average cost of private law school tuition and fees during the 2019–2020 academic year was approximately \$49,548, while the average cost at public schools was approximately \$28,264 to \$41,726, depending on whether the student went in- or out-of-state. The American Bar Association has reported recent law school graduates are feeling frustrated and depressed over their student loan debt. However, these feelings of despair associated with federal loan repayment may come to end for many. The Senate has approved President Biden’s \$1.9 trillion stimulus package which includes a major change for student borrowers who are on an income-driven repayment plan. If this bill gets signed into law, nearly 15 million students who acquired federal loans could have their loans forgiven.

■ **How Section 504 of the Rehabilitation Act of 1973 is Applied in Pennsylvania Schools** | *By Stephen Hodzic, Blog Editor*



Photo courtesy of Unsplash.com

Section 504 of the Rehabilitation Act of 1973 provides that individuals with disabilities shall not be excluded from nor denied benefits of programs or activities receiving federal financial assistance. Students who meet specific requirements of the act can request and create individualized plans to assist them while attending school. This includes educational planning, behavioral planning, and even nutrition and dietary planning. Section 504 is used for students who have an identified disability but are currently unable to meet the eligibility standards for special education under the Individuals with Disabilities Education Act. A student who was involved with special education previously but is no longer in the program may still be able to qualify for a 504 plan. These are used in college; however, the standards differ from those used at lower education levels.

■ **The Equality Act—Unintended Consequences for Female High School Athletes** | *By Falco Anthony Muscante II, Staff Writer*



Photo courtesy of Unsplash.com

Since the passage of Title IX in 1974, the number of women who participate in high school athletics has increased dramatically. For many women, athletics is not only a significant part of their high school experience but often leads to scholarship opportunities for those who choose to attend college. This past February, Congress reintroduced H.R.5, or the Equality Act of 2021, to a Democrat-controlled House and Senate. On its face, this act purports “[t]o prohibit discrimination on the basis of sex, gender identity, and sexual orientation.” However, women and men from across the political and ideological spectrum have expressed concerns that this bill could affect Title IX and irreparably harm high school women’s athletic programs throughout the country. Some support the bill but urge lawmakers to delete the sections which specifically reference its application to Title IX, while others oppose the bill in its entirety.

■ **Local Real Estate-Based Taxes as the Primary Means of Public-School Funding: The System that Fuels Education Inequality in Pennsylvania** | *By Elizabeth Fitch, Feature Editor*



Photo courtesy of Unsplash.com

In 2016, Pennsylvania enacted a new fair funding formula that claims to “remove politics from state school funding decisions, [and] direct money to school districts based on objective factors, such as student enrollment, the needs of the student population, and school district wealth and capacity to raise local revenues.” Despite this new formula, public school funding in Pennsylvania still heavily relies on local real estate-based taxes, creating a substantial opportunity gap between students in wealthy communities and students in impoverished communities. This large gap has impelled the federal secretary of education to rank Pennsylvania as having the nation’s worst “school-spending gap,” the difference between how much the wealthiest and poorest school districts spend per student. Unfortunately, this is not a new problem for Pennsylvania or the American public school system as a whole, as children in underprivileged neighborhoods have been receiving an inadequate education for years.

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■ **Balancing the Promotion of Educational Equality and Reopening Schools** | *By Margaret Potter, Feature Editor*

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Within days of taking office, the Biden administration announced its COVID-19 Educational Equity Gap Challenge Grant. The idea behind the grant is to provide federal funding to schools in which educational disparities have become more apparent during the pandemic. This grant, if implemented, would give the federal government more power in instituting initiatives in schools that promote equality while ensuring that schools are reopened safely. Yet the grant program was noticeably absent from the coronavirus relief bill signed into law in early March. Without the implementation of these competitive grants, many wonder whether the Biden administration can deliver on its promise of promoting equality in schools greatly impacted by the coronavirus. This article will discuss both perspectives of this issue as well as analyze the initiatives being taken by schools themselves to solve this issue.

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■ **Virtual Learning Leads to Drop in Mandatory Reporting of Suspected Child Abuse** | *By David McPeak, Blog Editor*

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Every state requires certain professionals responsible for the care of children to report suspected child abuse. The unprecedented move to online instruction in public K-12 schools limits the ability of mandated reporters, including teachers, school resource officers and counselors, to develop reasonable cause to suspect abuse. As a result, state child protective agencies across the country report a marked decrease in abuse allegations. This suggests an untold number of abuse cases are going undetected while children are limited to virtual interaction with those typically charged with their care. At the same time, the CDC reports a sharp increase in the number of mental-health related emergency room visits among both children and adolescents. In response, some states are reaching out to the general public to help fill the reporting gap. Others, like California, are expanding the definition of a mandated reporter through legislation.

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■ **Censorship in College Admissions: Courts (Finally) Offering Guidance in Balancing Fundamental Rights** | *By Giulia Schaub, Editor-in-Chief*

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Young adults today are accustomed to warnings from parents, teachers and authority figures about posting controversial or inappropriate content on social media websites. In a society that has enjoyed easy internet access for over two decades, seasoned social media users have experienced old posts now coming back to haunt them.

Recent social awareness and “cancel culture” have forced public figures to confront their past online faux pas, making this type of reckoning commonplace for celebrities; however, stringent online scrutiny is often forgotten about throughout the college admission process. Universities maintain the right to refuse or rescind admission because of offensive or hateful online posts, which often conflicts with prospective students’ First Amendment rights. In recent years, courts have provided insight on how to approach this precarious situation while maintaining a balance between the fundamental rights of both parties.

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■ **Fourth Amendment Protections for Students in Pennsylvania** | *By Sarah Thomas, Staff Writer*

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Students have certain Fourth Amendment protections against searches and seizures in an educational environment. In *New Jersey v. T.L.O.*, the Supreme Court of the United States originally established the standard for students’ Fourth Amendment protections when subject to searches and seizures at school. The educational landscape has changed since the case was decided in 1984, and students are now subject to searches and seizures of more than just lockers. For example, some students may find themselves subject to a search of their personal technological devices. Looking at the evolution of students’ Fourth Amendment protections in Pennsylvania provides insight into the modern implication of the protections against search and seizure in an educational setting.

# STUDENT BRIEFS

## Woman of the Year

Dominique Wiggins, 3L



Catrina A. (Rogers) Melograna, L'11

Tynisha Powell, L'16

This year, considering not only the current climate of our nation as we battle the COVID-19 pandemic but also the busy schedules of our awesome award recipients, the 2021 Woman of the Year event was presented virtually this spring. We had the honor of awarding Catrina A. (Rogers) Melograna, L'11 with the Woman of Year Award and Tynisha Powell, L'16 with the Recent Graduate of the Year Award.

Melograna was chosen as our 2021 Woman of the Year for the amazing work she is currently doing in the Netherlands in the area of air and space law. As a current student at Leiden University's Air and Space Law Advanced LL.M program, a prospective member of the International Institute of Space Law and a member of the United Nations Office of Outer Space Affairs' (UNOOSA) Space4Women mentorship program, Melograna is proving that not only do women belong in STEM but women thrive in all areas of STEM.

Powell was chosen as our 2021 Recent Graduate of the Year for the barriers she continues to break as a Black female attorney and the mentorship she provides to diverse Duquesne Law students. Powell currently serves as associate counsel and compliance manager with the Urban Redevelopment Authority (URA) of Pittsburgh. Due to her work with the URA of Pittsburgh and in the Pittsburgh legal community, she was awarded with the 2019 Allegheny County Bar Association's Homer S. Brown Young Leaders Award.

We'd like to thank these two amazing women for all of their contributions to the Pittsburgh community, and we are honored to highlight their accomplishments. ■

## IN-PERSON STUDENT ORGS FAIR

On Feb. 16-18, the Student Organizations Office held a three-day fair with 10 organizations represented per day to properly social distance. Due to COVID-19 gathering restrictions, the traditional Student Organizations Fair and Picnic could not be held during fall orientation (which was mostly virtual).

The fair was fighting an uphill battle during February in Pittsburgh, as the temperatures and snow tried to work against us; classes were cancelled and/or delayed, students who had to travel could not safely drive their vehicles on the uncleared roads, and the cold temperatures were extreme even for Pittsburgh natives. However, something amazing happened...

Students arrived IN PERSON to the School of Law one hour per day to safely gather and learn about how to get involved! The sounds of voices and laughter once again filled the year-long silent student lounge, as the pandemic has forced many students to attend classes remotely or in hybrid form. There were individually wrapped snacks and trinkets available, and even a socially distanced game! Dean April Barton attended all three days to see and interact with the students.

The weather and pandemic could not stop the students from grabbing a moment of an almost normal activity. The event was well-attended, and most importantly, many new student leaders emerged. ■



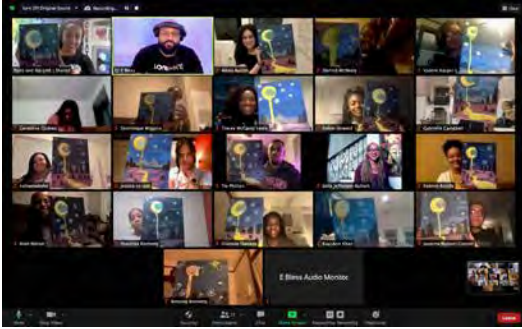
Dean Barton and Ben Kahn





# BLSA Virtual Paint and Sip

Dominique Wiggins, 3L



This year for Black History Month, the Black Law Students Association (BLSA) decided that the best way to celebrate was to embrace community and focus on personal self-care. Without having the ability to gather as we normally would for Black History Month, it was important that we still found an opportunity to come together despite the need for social distancing.

On Feb. 19, BLSA students were joined by BLSA alumni, our current BLSA advisor Professor Jalila Jefferson-Bullock and Duquesne Law Registrar Dr. Valerie Harper for a Virtual Paint and Sip Night. Alumni in attendance included Tracey McCants Lewis, L'00, Shanicka Kennedy, L'01, Brazitte Poole, L'19, and Derrick Maulsby, L'20. The event allowed students, alumni and faculty to come together for a moment to enjoy each other's company and paint a beautiful picture from the comfort of their own homes. BLSA students

also received a special wellness package complete with self-care items to promote healthy and positive ways to find peaceful moments in times of stress.

Thanks to the work of the BLSA executive board, the event was a huge success and is likely to become an annual event for the BLSA community. ■

# Comedy Night IN with Liz Glazer

Devyn Lisi 3L

On March 12, the Student Bar Association sponsored a virtual Comedy Night IN featuring Liz Glazer. Prior to the start of the show, Dean April Barton shared words of encouragement and comfort care packages—a treat for students to show how much they are missed on campus. The comfort packages included latte mugs, hot cocoa packages, hot tea and a mug cake treat! Barton walked us through how to make the mug cakes, and we discussed the ever-so-popular snack table and students' post-vaccine plans.

Around 8 p.m., we were joined by Glazer, a stand-up comedian, writer and actor who previously was a tenured law professor. Glazer gave a hilarious performance and took questions at the end on a variety of topics. It was a wonderful evening filled with socially distanced laughs. Thank you to Beth Bauer for organizing the event, Barton for the care packages and Glazer for sharing her talent with us! ■



Liz Glazer

## STUDENT TRIVIA NIGHT WITH THE DLAA

The Duquesne Law Alumni Association's Board of Governors hosted a night of trivia featuring Buzz Worthy Trivia on Feb. 26. Congratulations to the Red Hot Trivia Peppers, who edged out the Ruth Bader Yinzburgs by one point for the top prize. ■





Despite the challenges of the pandemic, our Trial Advocacy and Appellate Moot Court (AMCB) teams excelled in several virtual competitions this year. We are proud of the students and coaches who took on and conquered the challenges of these remote competitions.

# Moot Court Round-up

## 1 AMCB Brings Home the Title in National Competition

A team of third-year students won the prestigious 45th Annual **Robert F. Wagner National Labor and Employment Law Moot Court Competition** March 12-14. Caleb Setlock, Corey Stanford and Jonathan Veres emerged as the champions of this competition from a field of 40 teams from law schools across the country. The team argued on and off brief six times on their way to victory, beating teams from Emory University, Wayne State, the University of Cincinnati, Villanova University and the University of Illinois at Chicago, and defeating an impressive Loyola University Chicago team in the final round.

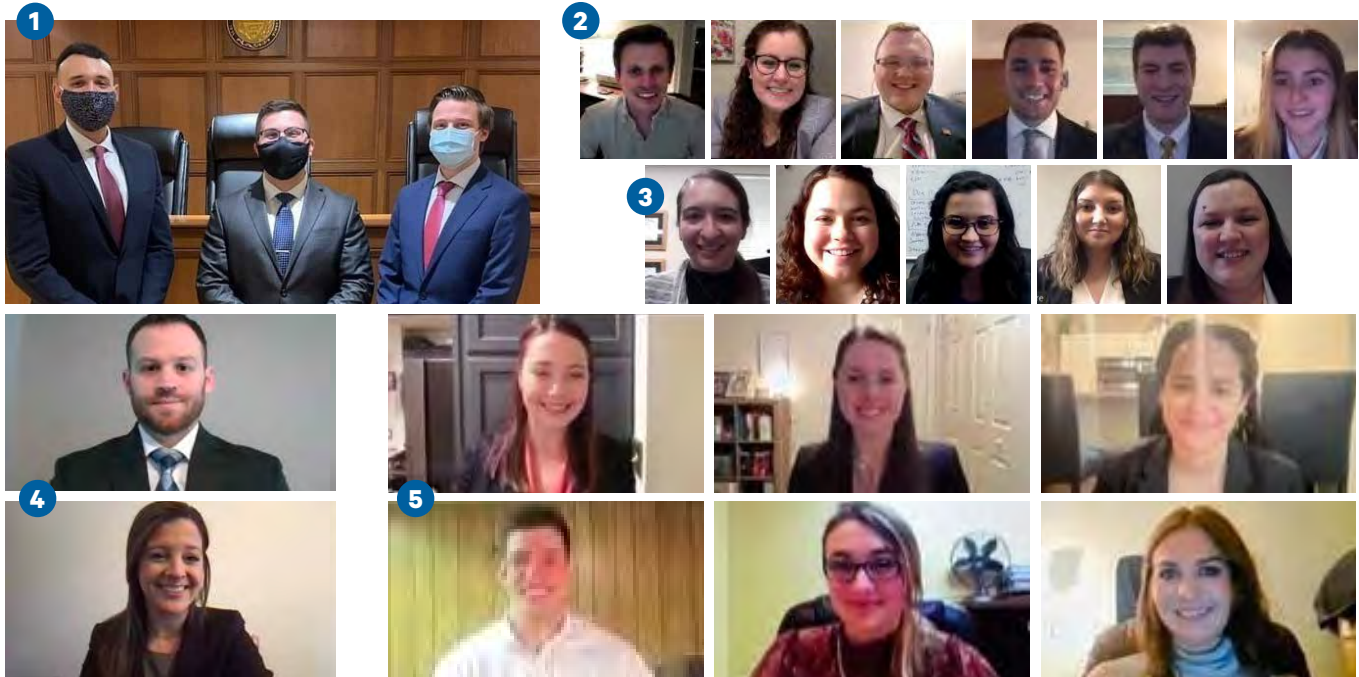
Additionally, Veres and Stanford were awarded **Best Oralists** awards at the competition. The team also produced the third best brief. These accolades are even more admirable considering the entirely virtual format of the competition, which was masterfully executed by New York Law School's Moot Court Association. The team was coached by Katelin Montgomery, L'16.

2 On the same weekend, two AMCB teams competed in the **Frank A. Schreck Gaming Law Moot Court Competition**. Duquesne's team of third-year students, Stanley Marciniak, Cassidy DeCosmo and Dakota Forsyth, advanced to the eighth round and were awarded the prestigious **Best Brief Award** for the highest scoring brief. The teams were coached by Emilia Rinaldi, L'15, and Frank Stoy, L'12.

3 Two AMCB teams earned national recognition for their strong performances at the **Judge John R. Brown Admiralty Moot Court Competition** March 26-28. This competition is one of the nation's most challenging interscholastic appellate advocacy tournaments. Out of 29 teams representing law schools from across the country, Duquesne's second-year team of Catherine George and Madison Maguire finished in the final four. In addition, George was awarded a **Best Oral Advocate** award. Duquesne's third-year team of Hannah French, Alexandria Iwanenko and Margaret Potter won one of five **Team Oral Advocacy** awards. Martin McKown, L'15, coached both teams.

4 A team of second-year students was sent to the **Giles Sutherland Rich Memorial Moot Court** competition March 19-21. This annual inter-law school competition focuses on cutting-edge issues of intellectual property law and is sponsored by the American Intellectual Property Law Association. Duquesne's team of Samantha Thompson and Donald Shelton advanced to the final four and narrowly failed to advance to the final round. The team was coached by Emilia Rinaldi, L'15.

5 Feb. 18-20, AMCB competed in the **ABA National Appellate Advocacy Competition-Boston Region**. After arguing on and off brief four times, Duquesne's team of third-year students Cara Brack, Alexandra Jones and Emily Peffer made it to the semifinal round where they lost in a very close split decision, emerging as regional semifinalists. Duquesne's team of 2L students-Michael Bethune, Jane Schleicher and Sarah Shumate-Connor-argued on and off brief three times and narrowly failed to advance to the semifinal round. Both teams received accolades from the judges along the way for their preparation, exceptional knowledge of the case law, extemporaneous ability and professionalism. The teams were coached by program director Erin Karsman.



**1: Wagner team**, l-r: Corey Stanford, Jonathan Veres and Caleb Setlock. **2: Gaming team**, l-r: Coach Frank Stoy, Cassidy DeCosmo, Stanley Marciniak, Dakota Forsyth, Harrison Zelt and Anna Hosack. **3: Admiralty team**, l-r: Alexandria Iwanenko, Margaret Potter, Hannah French, Madison Maguire and Catherine George. **4: Rich Memorial Team** of Donald Shelton, and Samantha Thompson. **5: ABA Team**, clockwise from top left: Cara Brack, Emily Pepper, Alexandra Jones, Sarah Shumate-Connor, Jane Schleicher and Michael Bethune.

## Intraschool Mock Trial Competition Returns

On March 13 and 20, the Trial Advocacy Program sponsored an Intraschool Mock Trial Competition for the first time in over 10 years. “Many national mock trial competitions were forced to cancel this year due to the pandemic,” said Pete Giglione, L’02, coordinator of the Trial Advocacy Program. “Years ago, Duquesne hosted an intraschool competition, but it was phased out after we received increasing numbers of invitations to compete nationally. This is the perfect time to bring it back, as it will allow our 2Ls to keep their courtroom skills sharp, and our alumni, prospective students, faculty and staff can watch the rounds virtually.”

Four teams of 2L students competed for the top spot of Duquesne School of Law Mock Trial Champion. Outside of the Trial Advocacy course, this was the first trial for all of the students involved. As with the 1L Oral Arguments, all judges were Duquesne alumni. This year’s winning team is Kelly Arbogast, Berit Klym, Keegan Miller and Malcolm Hines. Miller was also named Best Advocate of the competition. The team was coached by Courtney Brennan, L’19.

## NTC Team Reaches Finals

Duquesne Law’s **National Trial Competition (NTC)** team was a finalist at the regional competition Feb. 19–21. Duquesne’s team of 3L students, Devyn Lisi, Kirstin Kennedy and Veronica Micolot, were narrowly defeated by Drexel University in the final round in a 3–2 decision. Kennedy,



Kirstin Kennedy



**All Star National Challenge team**, l-r: Kathryn Olon, Samantha Beck, Marlee Debolt, Shreya Desai and Ariel Dickinson.

pictured below, took home one of two Best Advocate awards. A second team of 3L students—Kallie Crawford, Christian Seseck and Ellen Connally—excelled in two rounds of competition before being eliminated.

The NTC is sponsored by the Texas Young Lawyers Association. The team was coached by Robert Daley, L’98, Margaret Cooney, L’18, and Autumn Pividori, L’14.

Our Trial Advocacy program also put in an outstanding performance this past fall at the **All Star National Challenge**, hosted by St. Mary’s University School of Law. Duquesne’s 3L team placed fifth out of 34 teams. Samantha Beck, Shreya Desai, Marlee Debolt, Ariel Dickinson and Kathryn Olon received a team award for finishing in the Top 10. Beck also received the Best Advocate award. This team also competed in the South Texas Challenge March 25–27.

The team was coached by Robert Disney, Chelsea Disney, Anthony Hassey, L’17, and Matthew Newman, L’17. The Trial Advocacy program is under the direction of Adjunct Professor Peter Giglione, L’02. ■



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