# Table of Contents

Letter From the Editor - Sarah Weissman .................................. 1  
A Season of Champions: Trial Moot Court at the Pinnacle ............................................. 3  
Duquesne’s Bar Pass Rate Sets a New Record High ........... 5  
From the Courtroom to the Capitol: Duquesne Lawyers Active in Politics ................................. 6  
New Director of Student Organizations ......................... 7  
Newest Legal Research and Writing Professors Join Duquesne’s Award Winning Department .......... 9  
One of Duquesne’s Newest Professors Teaches the School’s Newest Course: Islamic Law .............. 10  
Alumna Joins Faculty as New Contracts and Trial Advocacy Professor ................................. 11  
The Nor’ester of Grant Street: An analysis of the Wecht trial and its affect on the Third Circuit ....... 12  
Students Begin Researching and Writing During First-Ever Week-Long Orientation ...................... 16  
Student Organizations Fulfill Duquesne’s Mission of Service to Others ................................... 17  
Law Students Help Predict, Alter Pollution Levels in Local Areas .................................... 22  
Pittsburgh Celebrates its 250th Year ................................. 24  
Milestones of the Judges of the Allegheny County Courts .............................................. 26  
Taking Care of Business ............................................................................................... 29  
The Bear is Hungry ................................................................................................. 30  
Advice You Won’t Get From Your Financial Adviser ... 32  
All Politics are Local: The Politicization of the National Labor Relations Board and Pittsburgh Labor/Management Relations ................................................................. 34  
ABA To Require Students To Complete Bar Exam Course Prior To Graduation ............................. 37  
Pennsylvania’s Puppy Mills Draw National Attention . 38  
MySpace Changes the First Amendment Landscape in Pennsylvania ...................................... 40  
A Student Bar Association Update ........................................ 42  
Allegheny County Bar Association’s Law Student Mentoring Program Wins National Award .......... 43  
Lawyers Fall Prey to Pricey Internet Scams ........................................ 44  

---

**JURIS STAFF 2008-2009**

**EDITOR-IN-CHIEF:**  
Sarah R. Weissman  
**EXECUTIVE EDITOR:**  
Edward R. Duvall  
**MANAGING EDITOR:**  
Ben Steinberg  
**ASSOCIATE EDITORS:**  
Christina Horton  
Paul Batyko  
**CONTRIBUTORS**  
**FALL 2008-2009**  
Sarah Riley L’07  
Marla Presley L’03  
Brandon Neuman (3D)  
Richard Gaffney  
Joel Fishman, Ph.D.

---

*Juris Magazine* is a biannual student publication of the Duquesne University School of Law. The views and opinions expressed herein are not necessarily those of *Juris* or the Duquesne University School of Law.

*Juris Magazine* can be reached at juris@duq.edu
Letter From the Editor

This fall our new student organization director gave me the password to unlock two rooms that had been all but forgotten in the basement of the law school. I knew no one from Juris had been inside either room for at least two years. On the day all the student organizations met to swap rooms (better size depending on the org’s needs), I found bug-infested candy in one room, and the other was doubling as a storage space for one of the school’s janitors. I also found 40 years of Juris archives that had also been all but forgotten.

My editors and I spent hours learning about the law school’s past through the eyes of the magazine. We decided we wanted to get back to the roots of Juris; a more “hard-hitting” law school journalism of sorts. We did not want to shy-away from controversial and important local and campus issues. I was pleased to uncover that Juris reporters had been on the front lines of breaking headlines, putting a legal spin on things, of course. We are bringing back the letters-to-the-editor and invite those who wish to speak out to write-in and share their thoughts on our coverage or other pressing legal or school issues.

In this issue, we took an in-depth look at the controversial W echt case and the Third Circuit’s removal of the judge after Dr. W echt’s mistrial. Pittsburgh celebrated its 250th birthday in 2008. We took a fresh look at this monumental birthday and considered its impact on law students.

The ABA Journal reports there are currently at least 150,000 law students nationwide. Everyday the media reports layoffs, and not just blue-collar workers, either. The economic downturn has affected professionals, including those in the legal field. Law firms are laying-off associates and non-equity partners, paralegals and support staff in large numbers, 30, 40, 80 or 100 at a time. Fall-back positions are no longer secure; many government agencies have a hiring freeze now or no turn-over because there is no opportunity for those attorneys to go anywhere else at the moment. In fact, the U.S. Department of Labor reports the legal industry lost 7,000 jobs in 2008. This number reflects layoffs that include paralegals and other legal support staff in addition to attorneys. To put this in perspective, 2.6 million jobs were lost in 2008, across all industries, the largest job loss in six decades. There was a small bit of good news for the new year as the Am Daily reported legal jobs increased by 1,300 in December.

Some have compared this crisis to the despair of the Great Depression. I attempted to contact the few remaining alumni from that era, to ask them how they found legal jobs in an arguably worse market. Arthur Cohen, ‘33, told me it was practically impossible to get a job when he graduated because times were so bad. He never finished law school, but was a graduate of the University with a degree in accounting and said he still vividly remembers people selling apples on the street corner just to make a few cents. After graduating college, Mr. Cohen says he looked for work at big corporations and was turned down at all of them, in part because he is Jewish and they all inquired about religion in those days. Finally, he took an exam to be an auditor for the liquor control board, where he remained for the next forty years of his career. Mr. Cohen’s advice to those graduating this year is look for a government position, in his own words, those jobs “are as safe as you can get,” in terms of job security and benefits. After forty years, rising to head supervisor of county auditing for western auditing, Mr. Cohen did not want to retire. When asked about the state of the economy today, he says he is a little optimistic, because at 97 years old, he has seen things like this be corrected before. Mr. Cohen offers hope to those at Duquesne now, worried about their job prospects in this economy, because he is still grateful for what his Duquesne degree enabled him to do with his life. He remembers back to his four years at Duquesne and says things were so financially dire for him, he could never once afford to ride the bus to school—even in the harshest of winter—and never went on a date once, because he couldn’t afford it, “even though a corned beef sandwich was only twenty-five cents.”

Daniel J. Parent spent seven years at Duquesne, four of them were during the Depression as an Undergraduate (’37), and he graduated from the Law School in 1941. He had to work his way through college, and was in charge of keeping the music school clean and firing up the boiler—a far cry from today’s frat parties and spring breaks. He taught his senior year. He said almost all the students worked, especially in law school. Duquesne was strictly a night school at that time, so he worked as an insurance adjuster while studying the law. Mr. Parent didn’t have to worry about finding a legal job after graduation, he was almost immediately drafted, and spent four years in the army. When he was released, he was unable to immediately
find work as an attorney. He wanted to do something with insurance law, so he returned to working as an adjuster. He eventually went to work for the Veterans' Administration, in the Chief Attorney's Office, where he became Chief Counsel for the Pittsburgh Regional Office. His career there spanned thirty-seven years.

When asked about his advice to students looking for permanent work in this economy, Mr. Parent said not to give up, and persevere—go to door-to-door, if that’s what it takes. He also recommends not over looking a quasi-legal position, like an insurance adjuster, if you cannot find work initially as an attorney. Mr. Parent says to remember you are capable and to concentrate on your strengths—like research or writing—and "pray real hard."

Statistics aside, my class is larger than usual, and in addition, there is the night division graduating too. Not to mention whatever portion of that 150,000 nationwide law student body that is also graduating this June. Bar passage rates are better than ever before, and even with every one of my peers passing in July, is the school going to manufacture jobs that aren’t there? We are on the front lines and competing for employment opportunities—summer or permanent—that by all accounts have shrunk.

The news is not all bad, depending on where you get it. The ABA Journal reports in-house counsel project a jump in legal disputes, and twenty percent of those surveyed predict they will need to hire more attorneys to manage the load. Other articles have reported a rise in opportunities in the bankruptcy field or banking area. Regardless of projections, all the employers are looking more closely at costs and spending.

Like the Juris rooms that had been all but forgotten in the basement of the law school—I think many of us, on the verge of graduating, are worrying we too may suffer this fate. In the midst of one of the worst economic crisis in almost ninety years—while employers are tightening purse strings and cutting back new-hire programs—are our newly acquired JD degrees going to go the way of this magazine’s archives; lost amid the thousands of other American professionals looking for work, waiting to be needed?

Sarah Weissman

Sarah Weissman is the Editor-in-Chief of Juris. She also serves as a research editor on the Duquesne Law Review. Sarah will be graduating in June 2009 and plans to practice with the law firm of Meyer, Darragh, Buckler, Bebenek & Eck. She can be reached at srw2777@yahoo.com.

Call for Letters to the Editor:

Letters should address a current legal issue facing the region, law school, or law students or an issue at the law school. Letters should not exceed 250 words. We plan to pick two or three letters to publish per edition of Juris. Letters should be submitted to juris@duq.edu with your contact information. Letters can also be left in the mailboxes of Sarah Weissman or Edward Duvall (both 3D). Letters can be mailed to the law school at:

Duquesne University School of Law
600 Forbes Avenue
Pittsburgh, PA 15282
ATTENTION: JURIS MAGAZINE
On Saturday, November 1, 2008, one of Duquesne Law’s Trial Advocacy Teams was awarded the trophy that is presented each year to the winner of the National Tournament of Champions. Within nine days, another of the Law School’s Trial Advocacy Teams won the championship at the Buffalo-Niagara Mock Trial Competition. Then, just a week later, the Law School’s third Trial Advocacy Team won the Regional Championship at the ABA Labor and Employment Law Mock Trial Competition in Chicago, Illinois. This undefeated record is both unheard of and unprecedented.

THE TOURNAMENT OF CHAMPIONS

Each year, the National Institute for Trial Advocacy (NITA), and LexisNexis, sponsor the Tournament of Champions Mock Trial Competition. This year’s competition was held at the University of Maryland School of Law, which won the Tournament in 2006.

Sixteen law schools from across the country with the top rankings in mock trial competition (based upon a three-year achievement in nationally recognized trial competitions) are invited to compete. This “Sweet 16” of trial power-houses compete head-to-head for 3 days before over 150 judges consisting of members of the trial bench, appellate bench, accomplished trial practitioners, and former attorneys general (both state and federal). After the final round with South Texas School of Law, which stretched into Saturday evening, the Duquesne team was awarded the championship trophy.

This year’s team members were Brock McCandless, Lisa Barnett, Megan Lehman, and Linda Obioha, who was awarded Best Advocate. The team was coached by Peter Giglione (L’02), Professor S. Michael Streib, Professor Amelia Michele Joiner, Michael Gianantonio (L’02) and Michelle Mantine (L’05).

“It was an honor just to get the invitation to compete,” said Professor Streib. “Every trial at this competition is like a Super Bowl. There are no easy wins. To be named the best is astounding. I am incredibly proud of our team, which held up better than me.”

By virtue of this win, Duquesne University School of Law will host the competition in 2010. The trophy will reside at the Law School for the next year until it is taken to the competition in New York City in 2009, where the best team will again be determined.

THE BUFFALO-NIAGARA INVITATIONAL TRIAL COMPETITION

In yet another stellar achievement, on November 10, 2008, a Duquesne Law Trial Advocacy Team captured another invitational championship by defeating Akron School of Law in the final round of the Buffalo-Niagara Trial Competition. Thirty schools competed in this event (including eight from the Tournament of Champions), which is the largest invitational trial tournament in the country, attracting schools from all over the nation. Duquesne advocated their way to the top of the pool.

This year’s team members were Kelly Kaufold, Adrienne Sadosky, who also won Best Cross Examination in the preliminary round and Best Advocate in the final round, Alicia Nocera and James McGraw. The team was coached by Peter Giglione (L’02), Professor S. Michael Streib, Professor Amelia Michele Joiner, assistant coach J. Richard Narvin (L’74) and Michael Gianantonio (L’02). Professor Bruce Antkowiak also acted as an assistant coach to the team.

According to Professor Joiner, “Our team was comprised of a group of the hardest working students with whom I have ever worked. They fought through seven tough rounds of trials against many highly qualified teams including the University of Wisconsin and the University of Akron, who they faced in the final round. While each of the teams was
equally impressive, they repeatedly com-
plimented the Duquesne advocates. In
one instance, a coach from another team
indicated that one of our competitors
was the best advocate he had ever seen in
all his years of teaching and coaching.
Such wonderful compliments were com-
mon for the Buffalo team and are a
credit to the Law School’s trial advocacy
program."

**ABA LABOR & EMPLOYMENT LAW
TRIAL COMPETITION**

Over the weekend of November
14-16, 2008, a team of four more
Duquesne Law students won the presti-
gious American Bar Association Labor
and Employment Regional Trial Moot
Court Competition in Chicago, Illinois.
The team members of Megan Arrington,
Emily Fullerton, Tara Fertelmes, and
Michael Watson are third year students
who were competing for the Law School
for the first time in their careers.

Thirteen teams participated in this
competition, which was held at the
Dirksen Federal Courthouse in Chicago.
It was presided over by some of the fin-
est judges and litigators in the field of
labor and employment law nationally.

The Duquesne Team defeated the
University of Illinois in the final round
of the competition to advance to the
National Championship to be held in
Chicago January 24-25, 2009, where
they will face teams from seven
other regions.

This year’s team members were
Megan Arrington, Tara Fertelmes, Emily
Fullerton and Mike Watson. The team
was coached by Peter McClennen
(L’02), Professor Bruce Antkowiak,
Marla Presley (L’03), and Ann Schiavone
(L’03). The Director of the Trial Advocacy
Program is Professor S. Michael Streib.
Professor Antkowiak commented:
“The ABA Competition is one of
the most challenging in the country. The
judges are all experienced, top flight
labor and employment attorneys from
major firms and government offices
around the nation. The level of competi-
tion was as high as I have ever seen it.
The team from the University of Illinois,
which we faced in the final round, was as
skilled a team as I have ever seen in any
trial competition. For our team, com-
prised entirely of students who have
never competed for the Law School
before, to prevail in this was a truly
remarkably achievement attributed to
the dedication of our competitors. They
have earned my enduring respect.”

The ABA Team followed up its
victory in the challenging regional com-
petitions by finishing as a national
Semi-Finalist in the final round of this
prestigious competition held in January
2009. They faced the winners of 7 other
regional competitions, making this entire
competition one of the most grueling
our teams participated in this year.

Congratulations to the students,
faculty and coaches of each team for
these outstanding accomplishments and
their continued contribution to the
prestige and success of Duquesne Law
School!

Contributed by:
Professor S. Michael Streib
Professor Amelia Michelle Joiner
Professor Bruce Antkowiak
Jeanine DeBor

*Benjamin Steinberg (‘10), Managing Editor, graduated from the University of Delaware, and is currently interning with Caroselli, Beachler, McTiernan & Conboy.*

---

ABA team. L-R: Tara Fertelmes, Megan Arrington, Joe Tilson (National Co-Chair of the ABA Competition), Adele Rapport (Regional Co-Chair of the Competition), Emily Fullerton, Michael Watson.
Duquesne’s Bar Pass Rate Sets a New Record High

Contributed by Richard C. Gaffney, Esq. - Director of Bar Services

Juris Magazine, along with the faculty, administration and staff of the Duquesne University School of Law congratulate the Class of 2008 for its performance on the July 2008 Pennsylvania Bar Examination. Duquesne’s pass rate for first-time applicants was 97.04%, placing Duquesne second among nine law schools in the Commonwealth area for the second straight year. Duquesne’s first-time pass rate was 8.17 percent higher than the average pass rate for all law schools in the state.

The overall pass rate for Duquesne graduates, which includes graduates taking the Bar Exam for the second or later time, was 88.24%, ranking Duquesne third in the Commonwealth among nine law schools. This is the highest overall pass rate that Duquesne has experienced since the Pennsylvania Bar Examination changed format in 1995.

The exceptional pass rate for Duquesne graduates was the product of diligent preparation and hard work. As a part of their preparation, most of Duquesne’s 2008 graduates took advantage of the law school’s comprehensive Bar Examination Preparation program, which was instituted by the law school in 2006 to improve results on the Bar Exam.

Recognizing that more than passive participation in a commercial bar preparation course is often needed to pass the Bar, Duquesne Law School provides substantial resources to help students and recent graduates maximize their scores. Professor Astorino conducts a year-long course that focuses on objective (multiple-choice) exam questions and a review of substantive law tested on the MBE. This course is available to all 3rd and 4th year students on Tuesday evenings and Sunday mornings. In addition, Duquesne offers a spring semester course that incorporates the nationally acclaimed Bar Examination Accelerated Training (“BEAT”) program.

In 2007, Duquesne expanded its spring semester offering into a two-credit course that included live lectures on substantive law by Duquesne law professors, a multistate testing workshop, an essay writing workshop, a Performance Test workshop and practice Bar Exam-type essay assignments. In this course, students had the opportunity to work one-on-one with instructors to improve their essay writing skills. In addition, students had the opportunity to practice writing answers to sample Performance Test questions.

These courses are having an impact. Since the introduction of the spring semester Bar Preparation Course in 2006, Duquesne’s First-Time Bar Pass Rate has soared from 88.32% (in 2006) to 91.39% (in 2007) to 97.04% (in 2008) and compares favorably with the eight year period from July 1998 through July 2005, when the rate averaged just 74.62%.

“Why did you decide to go to law school?” This is the question that every law student is asked time and time again, whether it be on an admissions essay, in a job interview, or during an informal conversation with a friend. For many, the answer is simple: “I have always wanted to be a lawyer.” But for others, law school serves as a stepping-stone that can lead to opportunities that are not necessarily fixed in private practice. Many Duquesne Law alumni use their law degree to work in the political arena. This article discusses three alumni that have successfully expanded their law know-how into careers as Pennsylvania politicians, these include: Pennsylvania State Senator Jane Orie, L’87, Pennsylvania State Senator Jay Costa, L’89, and Pennsylvania State Representative Elisabeth Bennington, L’00.

Each of these public servants acknowledges the role that their law school education has played in their political success. “My law school education trained me well to practice traditional law through my role as a prosecutor, but it also prepared me to negotiate and advocate for legislation on issues of importance to me and the constituents I represent,” said Orie, who served as President of the Student Bar Association while attending Duquesne.

Senator Orie was elected to the Pennsylvania House of Representatives in 1996 and served in the House for more than four years. In March 2001, Senator Orie was elected to the State Senate to fill the vacancy in the 40th Senatorial District and was subsequently re-elected in 2002 and 2006. Moreover, for the 2007-2008 legislative session, Senator Orie was selected by her fellow Republicans to serve as Majority Whip for the Republican Caucus, which made Senator Orie the first woman selected for this esteemed leadership position.

A former prosecutor, Senator Orie has found many parallels between the practice of law and public service. “My practice of law involved representing the Commonwealth, the people, in criminal court so now I am still practicing law on behalf of the people, but as a legislator,” Orie elucidated. Because Senator Orie previously served as an Assistant District Attorney for Allegheny County and as Deputy Attorney General, Division of Criminal Prosecution, she is often asked to work on and comment on criminal justice legislation. As such, although her role as a Senator is a full-time commitment, she has been able to indirectly continue her legal career in some ways.

Duquesne Law School provided Senator Costa with knowledge and resources that he says continue to guide him to this day as a member of the Pennsylvania State Senate. “The first-rate education I received, along with the moral and ethical guidance that Duquesne University provides to each of its students, has taught me how to evaluate, understand and approach just about every situation I have encountered in my political career,” Costa expounded. “Duquesne Law School is an institution that attracts the best and brightest from across the globe, both students and teachers, because of the educational atmosphere it provides, and it is these people who breathe life into the University.”

Senator Costa, who previously served as the Allegheny County Register of Wills, was elected to the State Senate in 1996 and continues to represent the 43rd Senatorial District today. The decision to enter the political arena was not one that Senator Costa took lightly. “It is a decision based on a lifetime of experience, watching my parents strike a balance between serving the community and raising their family,” Costa explained. “I knew from the start that it would take a strong commitment on my part, as well as the support of my family. But the value and responsibility of public service passed onto me is something I have felt since a very young age.”

Senator Costa’s political service is rooted in his devotion to give back to the community he loves. “Pittsburgh is undoubtedly a special place,” Costa provided. Senator Costa’s legal education and career allowed him to easily transition to his current position as a public servant, where he is actively involved in protecting and improving the community in which he was born and raised. “The lessons I learned from my family, from my schools and from the constituents I now serve continue to guide me in improving our Commonwealth and striving to make it the best place to live,” Costa added.

Representative Bennington used her time at Duquesne Law School to explore the numerous avenues she could take with her legal education. “Professors like Dean Sekula and Professor Taylor were always supportive of finding the right ‘fit’ with my law degree,” Bennington provided. Through Duquesne’s legal
For Representative Bennington, her decision to run for the House of Representatives was made, in part, because she wanted to see more women active in state politics. “I decided to run for the State House in December 2005 when I learned that there were no Democratic women serving in the House from Western Pennsylvania,” Bennington explained. “In 2006, when I was elected, I became the first-ever woman to be elected to a full-term in the State House from the City of Pittsburgh, along with my colleague Chelsa Wagner, who was elected at the same time. Coming from an all girls high school and then attending a women’s college gave me the inner strength to believe that women can be great achievers,” Bennington said. In the House, Representative Bennington was appointed to the Judiciary, Environment and Energy, and Finance and Commerce committees. In 2007, Representative Bennington was appointed by the Speaker of the House to the Pennsylvania Commission on Crime and Delinquency.

For Representative Bennington, balancing her work as a member of the House with the obligations of her family law practice proved to be quite difficult. In addition to her service in the House, Bennington continued her law practice at Pollock Begg Komar Glasser, LLC in Pittsburgh.

During her first term in the House, Bennington recognized the need to commit to her family law clients on a full-time basis. Consequently, Representative Bennington announced in January 2007 that she would not seek re-election. “Being a politician was not for me,” Bennington explained. “I am much more engaged when practicing law.” Upon conclusion of her term in the House at the end of 2008, Bennington returned to Pollock Begg Komar Glasser, LLC on a full time basis.

For those law students or young attorneys considering a campaign for public office, these successful politicians have a few words of advice. “Stay focused and work hard,” Orié advised. “When you choose to run for office, give honest answers and do not abandon your principles.” Representative Bennington, whose passion is based in the practice of law, has a slightly different offer for those aspiring to enter the political arena. Bennington encourages anyone wishing to do so to meet her downtown for lunch to discuss the commitment and her experience in the courtroom, I found it a rather easy transition to speaking on the floor of the House of Representatives,” Bennington continued.

Joseph Williams is a third year student, graduating in June 2009. He plans to focus his practice in family law and civil litigation. Joseph received his undergraduate degree cum laude from Bethany College. Joseph can be reached at jwilliams245@comcast.net.

Lara Shipkovitz is a third year student, graduating in June 2009. Lara received her undergraduate degree in Communications from Penn State. She can be reached at LaraShip@gmail.com.
Duquesne University School of Law Welcomes Five New Faculty Members
Newest Legal Research and Writing Professors Join Duquesne’s Award Winning Department

By Jennifer N. McDonough

Assistant Professor of Legal Research and Writing Erin R. Karsman is a magna cum laude graduate of George Mason University School of Law, where she was the winner of the school’s upper-level moot court competition as well as a national moot court competition. Professor Karsman is the recipient of the Virginia Trial Lawyer’s Association Student Advocacy Award for Excellence in Trial Advocacy. During law school, Professor Karsman was a teaching fellow in George Mason’s legal writing program. She also taught appellate writing as an adjunct Professor at George Mason School of Law in the Legal Research and Writing program. While teaching as an adjunct at George Mason, Professor Karsman was an associate with Smith, Pachter, and McWhorter in Vienna, Virginia. There, she focused on Government contract issues and was involved in protests and appeals before the Government Accountability Office, the Armed Services Board of Contract Appeals, the U.S. Court of Federal Claims, the Federal District Courts and the U.S. Court of Appeals for the Federal Circuit.

Professor Karsman is co-author of “Strayhorn v. Raytheon E-Systems: Determining the Government’s Share of Taxes, Sales and Use Tax Refunds to Federal Contractors,” which appeared in the Fall 2006 edition of the Public Contract Law Journal. She is a member of the Virginia and Washington D.C. bars. Prior to law school, Professor Karsman was an analyst with Accenture, which is a global management consulting, technology services, and outsourcing company. She has a husband, Chase, and two children, Lily and Chloe.

Assistant Professor of Legal Research and Writing Tara Wilke is a magna cum laude Graduate of University of Pittsburgh School of Law and was elected for membership in the Order of the Coif. While at the University of Pittsburgh, Professor Wilke served as the Senior Managing Editor of the Law Review and was a Teaching Assistant for Legal Research and Writing. After graduating from law school, Ms. Wilke was a litigation associate with Babst, Calland, Clements, and Zomnir P.C. in Pittsburgh. Her practice there included commercial, construction and environmental litigation, as well as other types of complex litigation matters. She is currently a member of the Pennsylvania Bar. Professor Wilke is a native of North Dakota and received her undergraduate degree from Southern Illinois University after serving four years on active duty in the United States Air Force as a Command Post Crew Commander. She and her husband are currently restoring a 165-year-old farm house. She will be teaching legal research and writing as well as an upper-level course in the department.

Assistant Professor of Legal Research and Writing Julia Glencer is a magna cum laude graduate from the Dickinson School of Law. She spent five years as a judicial clerk, serving the Honorable Joseph F. Weis, Jr. and the Honorable D. Michael Fisher of the United States Court of Appeals in the Third Circuit, and more recently and the Honorable Joan Orie Melvin of the Pennsylvania Superior Court. Professor Glencer also practiced law for five years with K&L Gates LLP, where she concentrated in appellate litigation and governmental affairs. She has co-authored briefs filed before all three Pennsylvania courts and various federal courts, including the U.S. Supreme Court.

Professor Glencer also plans to utilize her position on the faculty to write some articles related to teaching Legal Research and Writing. She graduated summa cum laude in English from Carlow College. She is married with a 6-year-old daughter.

Jennifer N. McDonough is a third-year law student, graduating in June 2009. Jennifer earned her Master in Education degree from the University of Maryland magna cum laude, and hopes to incorporate it into her career as an attorney. Jennifer can be reached at j.mcdonough3@yahoo.com.
Ever since her undergraduate days at Texas A&M University, Professor Susan Hascall was intrigued by the law. As the daughter of a professor, she was raised among academicians and considered following a scholarly career path. Most of her undergraduate mentors held both Doctor of Philosophy and Juris Doctor degrees, allowing them to contribute to bodies of scholarship in many ways. Thus, it was first at Texas A & M, as a political science major and philosophy minor, that Professor Hascall became interested in combining her love of learning and her love of the law.

After graduating from college, she earned her Masters degree in cultural anthropology from Wichita State University, while working for several small non-profit organizations. One of her main focuses in graduate school included the analysis of various relationships between divergent cultures, ideas, and geographical relationships.

Professor Hascall continued to study the interplay between different societies and cultures while earning her Juris Doctor at Washburn University. Professor Hascall’s cultural studies in law school focused on Islamic law.

By attending lectures sponsored by Washburn’s Islamic Law Student Association, Professor Hascall was introduced to an area of law that she described as a “great tradition, [which is] not studied in the Western standard curriculum.” Professor Hascall integrated her knowledge of this niche area into her commercial litigation practice.

At Duquesne University’s School of Law, Professor Hascall will be teaching Sales, a required course for all graduating students, offered in the spring semester. The law school has added Islamic Law to the list of courses, with the addition of Professor Hascall to the faculty. Professor Hascall believes that the course in Islamic Law fills a gap in Duquesne’s course offerings, because she says other courses currently offered, such as first-year common law survey course, civil law electives, canon and Jewish law, do not cover legal principles unique to Islamic law. In explaining the importance of Islamic Law, Professor Hascall says that Islam is one of the most significant and widespread traditions of law practiced in the Middle East, Asia, Africa, and even the United States. For instance, many Muslims chose to take their civil cases before Islamic arbitration courts, instead of initiating claims in traditional Western-style courts.

Professor Hascall intends to use her background to provide Duquesne law students with a different perspective of the law and a more integrated approach to learning a pervasive area of the law. Many in modern society do not understand Islam or Islamic law, she says, and the culture has become stigmatized in recent years. Education is the best means of quashing these misconceptions, Professor Hascall says, in explaining part of her intentions in bringing the new course to the law school. The course in Islamic law began this fall semester, and Professor Hascall reports positive responses from both faculty members and students. She hopes to add a course in Native American Law in the future.

Professor Hascall received her J.D. magna cum laude from Washburn University School of Law where she served on the Law Journal and Native American Moot Court team. She holds a BA in political science from Texas A&M University. She clerked for the Honorable Wade Brorby of the Tenth Circuit Court of Appeals and Chief Judge J. Patrick Brazil of the Kansas Court of Appeals.

Elizabeth Lamme is a third year day division student who will graduate in June 2009. She is interested in criminal, family, and health care law. Elizabeth received her Bachelor of Arts, summa cum laude, in History and Political Science in 2006 from Bridgewater College in Bridgewater, Virginia. Currently, she is also pursuing a dual Master’s of Science in Health Care Administration/Master’s in Business Administration from University of Maryland, University College. She can be contacted at lamme@duq.edu.
Duquesne School of Law brought back one of its own shining stars to teach as a full-time professor this year. Professor Amelia Michele Joiner, L’02, graduated from Duquesne University’s School of Law evening division cum laude and joins the faculty as a contracts and trial advocacy professor.

Professor Joiner was already an adjunct trial advocacy professor at the law school. As a full-time faculty member, she will be returning to her roots in the evening division to teach contracts. Professor Joiner is also a coach for the Trial Moot Court teams. Under her coaching, the teams have won numerous awards this year, including first place in the prestigious National Tournament of Champions. Professor Joiner also serves as an advisor to the Black Law Student Association (BLSA).

Professor Joiner earned her Bachelor of Arts degree from the University of Pittsburgh magna cum laude. During law school, Joiner worked full-time in the Litigation Department for PNC Bank while raising her four young children. She was also actively involved in numerous law student organizations. She was a member of Law Review; BLSA, serving as President for one year; the Trial Moot Court Board; and the Student Bar Association.

Currently, Professor Joiner is a member of the Louis L. Manderino Honor Society for Distinguished Achievement in Moot Court Competition. In the 2006-2007 school year, Duquesne Law School’s Women’s Law Association nominated Professor Joiner as that year’s “Distinguished Woman of the Year,” in the “Recent Graduate” category.

Professionally, Professor Joiner continued the success she began as a student in a diverse range of positions. Most recently, Joiner served as a clerk for the Honorable Joy Flowers Conti of the United States District Court for the Western District of Pennsylvania. She also worked as a litigation associate for K & L Gates, LLP, and as a litigation associate in the Financial Services Litigation Department for Reed Smith, two of the largest firms in the region.

Professor Joiner balanced all of her professional success with personal success as well. She has four children: Ashley, Pierce, Christian, and Maia with her husband, Pierce.

Having such an accomplished alumna as part of the faculty can only serve as an inspiration of what a Duquesne Law student can achieve with a little hard work and determination.

“My goals in returning to the Law School to teach were pretty simple. I wanted to be a part of helping Duquesne Law students become excellent attorneys so that they can continue to serve this University proudly,” Joiner explained. “Being a professor affords me with the opportunity to do something that I love – teach – and help achieve this goal.”

Jennifer N. McDonough is a third-year law student, graduating in June 2009. Jennifer earned her Master in Education degree from the University of Maryland magna cum laude, and hopes to incorporate it into her career as an attorney. Jennifer can be reached at j.mcdonough3@yahoo.com.
Part I: The Perfect Storm

The 1991 “Halloween Nor’easter,” championed as “The Perfect Storm” in Sebastian Junger’s 1999 non-fiction novel of the same name, was an unusual nor’easter to say the least. Meteorologist Robert Case described the storm as a “strong disturbance associated with a cold front moved along the U.S.-Canadian border on October 27...At the same time, a large high-pressure system was building over southeast Canada. When a low pressure system along the front moved into the Maritimes southeast of Nova Scotia, it began to intensify due to the cold dry air introduced from the north. . .These circumstances alone, could have created a strong storm, but then, like throwing gasoline on a fire, a dying Hurricane Grace delivered immeasurable tropical energy to create the perfect storm.” Metaphorically speaking, this “perfect” chaos can be attributed to last winter’s prosecution of Dr. Cyril Wecht. In Judge Arthur Schwab’s courtroom, with the Pittsburgh winds whipping through Grant Street outside, a “perfect storm” arose.

The elements of this storm are three distinctively different legal figures: the Assistant United States Attorney Stephen Stalling, under the guidance of U.S. attorney Mary Beth Buchanan; Dr. Wecht’s defense counsel, Jerry McDevitt, Mark Rush, and Amy Barette of K & L Gates LLP; and Federal Judge Arthur Schwab. And there in the eye of this storm, the famed Dr. Cyril Wecht. The national and local media has been rather thorough in their coverage of the Wecht trial, so for the purposes of this article, we as writers wanted to examine the legal significance of the ultimate jury deadlock and the Third Circuit’s decision to remove Judge Schwab from the case. In order to meet this goal, we will examine both the Third Circuit’s opinion removing Judge Schwab as well as discuss the nature of the trial with those involved.

Part II: Dr. Cyril Wecht’s Defense Team

As 14 counts of the original 84 felony charges are still pending against Dr. Wecht, defense counsel could not go on record to discuss all of the elements of the case. They were willing to discuss their personal opinions on the nature of the trial, the removal of Judge Schwab, and the legal significance Judge Schwab’s recusal has on the Third Circuit as a whole. The contentious battle between Judge Schwab and Wecht’s defense attorneys Jerry McDevitt and Mark A. Rush is hardly a courtroom secret. The local and national media wrote endless articles on the numerous motions filed by defense counsel citing Judge Schwab’s alleged improper courtroom procedure and practices. As a spectator of the Wecht trial at its various stages, there were times when I was overwhelmed by the tension in the courtroom. This being said, however, after speaking with defense counsel, this seemingly contentious nature, at least for the defense, stemmed from a positive source.

When asked about the decision to remove Judge Schwab from the Wecht trial, Mr. McDevitt explains in his gruff “Sam Elliot” tone, “Please understand, we would have never even thought of recusing a federal judge until this case. We have the utmost respect and admiration for the [Third Circuit judges] on the bench. The recusal of Arthur Schwab should in no way...
be a reflection of the Circuit as a whole.” Partner, Mark A. Rush, adds, “The significance of the Circuit’s decision to recuse Schwab begins and ends with Arthur Schwab.”

When then asked to describe the nature of the Wecht trial before Judge Schwab, Mr. McDevitt describes it with one word: “Kafka-esque.” It is Mr. McDevitt’s belief that the reported contentious nature of the second Wecht trial (herein “Wecht 2”) is due to the fact that Judge Schwab’s procedural “faults were . . . more so personal attacks against [Mr. McDevitt] rather than mere procedural errors.” Defense counsel cites the manner in which Judge Schwab read the final deadlocked decision as being one such error. “[Judge Schwab] never gave the jury’s note to the parties; he just read it into the record,” Mr. McDevitt states, “[Judge Schwab] brought in both the jury and media to read the jury’s deadlock. We were all thinking ‘verdict.’”

Mr. Rush adds, “Furthermore, prior to reading the deadlock decision, [Judge] Schwab asks the government if they would retry the case. It was only after [Assistant U.S. Attorney] Stallings said the government would retry that [Judge] Schwab read the jury decision and hung jury.” Amy Barrette, another K&L attorney who was part of Dr. Wecht’s defense team, adds, “Immediately after reading the hung jury, [Judge] Schwab pulled out his calender right there at the bench…[as if he was] ready to set the retrial date…[a] month [later],” she says. Defense counsel found such behavior not only unbelievable, but “cruel.”

When asked why they thought the Circuit removed Judge Schwab from the case, Dr. Wecht’s defense team all exclaim that the case needed a new set of eyes. Mr. McDevitt cites the Ninth Circuits decision to recuse Judge Manny Reale1 as a concerted effort by the Circuit courts to curb federal judges seemingly personal investment in the cases before them. “Simply put,” states Mr. McDevitt, “the Circuit wanted a less invested adjudicator.”

So when asked about the precedential value of Judge Schwab’s removal, Mr. Rush states that the recusal decision has “no precedential value beyond Judge Schwab…[for the Circuit] it was the final chapter in years of failing discipline.” Mr. McDevitt, however, believes that there is some value in the Circuit decision to recuse Judge Schwab from the Wecht case: “Before the Circuit’s recusal of Judge Arthur Schwab, there was not remedy for trial lawyers who believed that a judge’s specific errors in procedure were personal attacks against counsel. If anything, when you read [the recusal opinion] you will see that the court is offering up a remedy for situations like [Wecht 2].”

Part III: The Government and Bench

Both Mr. Stallings and Judge Schwab were contacted for comment, however, both believe that as the 14 counts are still pending against Dr. Wecht, it would not be appropriate to comment. Former Assistant U.S. Attorney Thomas Farrell commented regarding the unusual nature of the Wecht case. Mr. Farrell is a partner at Drier LLP, the firm where Mr. Stallings was recently made a partner after his decision to leave the U.S. Attorney’s Office once the Wecht case ended in a mistrial last spring.

When asked if he agreed with Mr. McDevitt’s contention that the Circuit’s opinion that removed Judge Schwab offers a remedy for future Third Circuit trial attorneys. Mr. Farrell replied: “Trial lawyers frequently seek removal of the trial judge when they succeed on appeal and face remand to the same judge who ruled against them. Lawyers fear that the judge will try to find some other way to reach the same result, whether it is a sentence or an adverse legal ruling. Appellate courts generally are not hospitable to these arguments, and usually the trial judge approaches the issue with an open mind and tries to follow the appellate court’s directions and rule fairly.”

Such an answer thus begged the question if the Wecht case was as unique as it seemed. Mr. Farrell explained, “The Wecht case is not sui generis - there have been other instances in which appeals courts have directed that a new judge be assigned on remand. Sometimes, they are cases in which the trial judge may have demonstrated an inability to be fair; sometimes, as in Wecht, they are cases in which trial counsel and the trial judge, for whatever reason, and by whoever’s fault, have developed such animosity that the appeals court believes that the case will proceed more smoothly with a different judge. It does not mean that either the trial counsel or the trial judge behaved improperly.”

Ultimately, Mr. Farrell agrees with Mr. McDevitt in that recusal remains a remedy in circumstances similar to Wecht. Mr. Farrell notes that the primary difference between the appellate decision to remove Judge Schwab is that “[u]sually…the appeals court does not give reasons nor set a standard for such removals.” However, Mr. Farrell opines “trial counsel should be aware that [recusal] is a remedy that can be sought in…[these] unusual case[s like Wecht].”

Part IV: The Recusal Opinion of the Third Circuit

In order to understand the impact, if any, of Wecht on the Third Circuit, an examination of the Circuit’s recusal opinion is paramount. During the course of the litigation, the defense had submitted three motions to remove Judge Schwab from the case, all were denied. The defense finally got their wish without even having to ask, when the Third Circuit Court of Appeals made its determination on Wecht’s motion to dismiss. In what the Third Circuit itself called “yet another chapter in the ongoing appellate saga surrounding the criminal prosecution of Dr. Cyril H. Wecht,” Judge Fisher concluded that while the District Court could try Wecht again without violating the Double Jeopardy Clause, Judge Schwab would be removed from the next trial. The opinion does not say Judge Schwab was removed from the case due to bias, even though defense counsel accused him of this in their prior motions. The Court decided that if Wecht was to be tried again, “both sides and the interest of justice would benefit from a reduced level of rancor in the courtroom, fresh eyes on the case, and fewer forays to this Court by the parties.”

After a trial spanning from January to March, and deliberations that lasted three weeks, the jury twice indicated that it was first “at an impasse,” and then “hopelessly deadlocked” and could not reach a unanimous decision on any of the 41 charges in the indictment. On April 8, 2008, after the second note from the jury, Judge Schwab declared a mistrial and dismissed the jury. How Judge Schwab came to this decision, and whether the manner in which it was made was cause to grant Wecht’s
motion to dismiss made up the bulk of the Third Circuit’s decision on W echt’s motion to dismiss.

The Court laid out the proper procedure for declaring a mistrial based on a deadlocked jury. This procedure has three steps, and was compiled from the comment following the Third Circuit’s model criminal jury instruction 9.06. First, the court should question the jury foreperson to determine whether a supplemental charge to the jury is necessary. Second, if the foreperson states that the jury is in fact deadlocked, the court is to question the jurors individually and ask “Do you agree that there is a hopeless deadlock which cannot be resolved by further deliberations?” Third, if through this questing, the jurors state that there is a hopeless deadlock, then the court is to excuse them and hold a hearing with counsel and the defendant. During this hearing, the court has to ask each party for its input, with close attention being paid to the position of the defendant and his or her counsel on whether a mistrial should be declared. If the court concludes that a mistrial is necessary, the court should make an explicit finding of “manifest necessity.” Without this finding, the Double Jeopardy Clause will “bar a retrial of the case unless the defendant consented to the mistrial.” Finally, the Court should bring the jury back from deliberations and discharge them from their duties.

After outlining this procedure, the Court stated that it was not followed by the District Court. In spite of this, since Comment 9.06 was just a recommendation, and not a mandate, the Court could not say it was violated. However, the Court did find that the District Court did breach Federal Rule of Criminal Procedure 26.3. This rule states that that a court must consult with counsel before ordering a mistrial; here counsel was consulted, but five days prior to the declaration, after the jury first declared that it was at an impasse in its deliberations. The Court stated that this early discussion with counsel was insufficient and to allow this consultation to count would be inconsistent “with the spirit and purpose of the Rule.” Unfortunately for W echt, the Court found that the violation of this Rule was not enough to cause the Court to dismiss the indictment.

The Court then turned to the meat of the appeal, “whether, under the substantive law governing mistrials, the indictment against W echt must be dismissed because the District Court improperly declared a mistrial.” The Court stated that the “Double Jeopardy Clause permits retrial following a mistrial when, ‘taking all the circumstances into consideration, there is a manifest necessity for a mistrial.’” The facts that were relevant to a finding of manifest necessity in this case were the two notes from the jury, the consultation between the District Court and counsel after the first note from the jury, and the violation of Rule 26.3 after the second note from the jury. The Court found that the “record as a whole in this case support[ed] the District Court’s conclusion that there was ‘manifest necessity’ to declare a mistrial without W echt’s consent.” Therefore, the Court concluded W echt was able to be retried without violating the Double Jeopardy Clause.

So where did this leave Judge Schwab? The Court noted the political and public nature of the case and stated that Judge Schwab had to serve as “the referee in a heavyweight fight,” and “has generally made the correct calls, with some exceptions.” Due to the totality of factors comprising the W echt “saga” the Court used its supervisory powers under 28 U.S.C. § 2106 and decided to remove Judge Schwab from the case. In doing so, the Court reiterated that it was doing so not because of bias, but because there was an “appearance of litigation at a combative tenor that likely [would] not abate were Judge Schwab to stay on the case. [The Court] therefore direct[ed] that a less invested adjudicator take over from [t]here.”

Recusal Breakdown

Even though this was not a traditional recusal, a discussion of the process might be helpful in piecing together the weight and nature of the Court’s decision. Generally, the process of recusal or disqualification is should begin with the Judge him or herself. The Code of Conduct for United States Judges states that “[a] judge shall disqualify himself or herself in a proceeding in which the judge’s impartiality might reasonably be questioned.” This includes situations where the judge feels he or she has a personal bias or prejudice against a party. If the judge does not do so, and a party feels that the judge should be disqualified, that party can petition the judge to recuse himself. That occurred several times in the W echt case, and on Judge Schwab’s refusal to do so, defense counsel appealed the matter to the Third Circuit, who, in turn denied the motions. Traditionally, the Third Circuit’s views toward recusal have been “more sympathetic to the needs of the parties than the needs of the judges, favoring judicial accountability over judicial independence.”

That being said, recusal as a practice is rare, and the Court reiterated this in its opinion, stating “[t]he decision to remove a judge from an ongoing trial should be considered seriously and made only rarely.”

In terms of precedent, what can be taken away from the Court’s decision to remove Judge Schwab? Unless you are tying the decision to the facts of the case, not a whole lot according to Professor Bruce Ledewitz of Duquesne University School of Law. He contends that if you were a practicing attorney in the Third Circuit trying to get another judge removed, and cited the W echt case, the reference would not get you far. “This [was] a purely pragmatic judgment about how the case should go forward,” said Ledewitz. And where does the case go from here?

The Third Circuit denied W echt’s request to have a stay on his retrial until the matter was considered by the Supreme Court of the United States. On December 1, 2008, the Supreme Court denied W echt’s petition for a writ of certiorari. The U.S. Attorney’s office stated that it will proceed with the trial on the remaining counts unless the ongoing mediations are successful in resolving the matter. It is important to note that by stating that the District Court could retry the case, the Third Circuit was not expressly endorsing any such decision. In fact, in a rather bold statement, the Court concluded, “[o]ur holding today that there is no constitutional bar to retrying Dr. W echt does not stand for the proposition that he must be retried.” In
an editorial to the Pittsburgh Post-Gazette, Duquesne Law Professor Ken Gormley took this statement to mean that "patience is wearing thin with this rancorous courtroom melodrama." 10

Part VI: Conclusion

The significance of the Wecht trial on Third Circuit jurisprudence, at this stage, remains to be seen. If the trial has any impact on the Circuit, the signs will not be made visible for years to come. The Wecht trial, in its many stages, leaves more questions and frustration, than answers and justice.

At the date of this article's completion the government has since cut down the initial 84 charges against the Allegheny County Coroner to 14. Furthermore, Assistant U.S. Attorney James R. Wilson requested earlier this month that Judge Schwab's replacement, U.S. District Judge Sean J. McLaughlin, move the jury selection and trial to Erie because Mr. Wilson believes potential jurors in Erie will not be tainted by the extensive media coverage of the trial in the Pittsburgh region. Although, Mr. McDevitt argued that moving the trial to Erie would not only prejudice his client, it would also cost a fortune in hotels and transportation, Mr. Wilson plans to present to the court an "extraordinary list" of articles and Internet links to "the absolute saturation of the media on this case."17 And so the legal oddity that is the prosecution of Dr. Cyril Wecht continues.

Ultimately, this article can best conclude with a statement by Mr. McDevitt at the close of his interview:

"High profile cases are a test for all parties involved. They test your will, convictions, merit, and character. This goes for any moment where someone is under the extreme scrutiny of the spotlight. Those tests can make or break someone."16 When reflecting on the Wecht trial and the parties directly and indirectly involved, the question of who passed this high profile test remains. Perhaps a jury verdict on the 14 counts will help guide public opinion as to the "winner" in the Wecht profile test remains. Perhaps a jury verdict on the 14 counts will help guide public opinion as to the "winner" in the Wecht saga; however, from this vantage point, at this stage of the trial, any victory will still look blemished and flawed.

Edward R. Duvall is a third year student, graduating in June 2009. He is interested in practicing criminal and entertainment law - which he believes go hand-in-hand - and hopes to work for the Pittsburgh District Attorney's Office upon graduation. He graduated Cum Laude from Dickinson College in 2003 with a B.A. in English/Literature. He can be reached at Edward.Duvall@gmail.com.

Christina Horton is a second year law student. She is an Associate Editor for Juris, a Junior Staff member on the Duquesne Law Review, and a member of the Women's Law Association. Christina received her undergraduate degree from West Virginia University. She can be reached at horton1725@duq.edu.

References


2 Turn on any forensic show, Dr. Cyril H. Wecht is sure to make a cameo, explaining the unexplainable, or flying across the country to perform an autopsy on the latest tragic deceased celebrity. World-renowned forensic pathologist Dr. Wecht holds both an M.D. and J.D. and spent from 1970-1980 and 1996-2006 as coroner in Allegheny County, before the position was eliminated. In 1981 Wecht was acquitted of theft of services charges in state court. Recently, after a federal investigation, Wecht was tried on 41 counts, including wire and mail fraud and theft of honest services, in federal court during a trial that lasted nearly eleven weeks.

3 See Living Designs, Inc. v. E.I. DuPont de Nemours & Co., 431 F.3d 353 (9th Cir. 2005).

4 United States v. Wecht, 541 F.3d 493, 495, (3d Cir. 2008).

5 Wecht, 541 F.3d at 511.

6 Id. at 500.

7 Id. at 500.

8 Id. at 502.

9 Id. at 504.

10 Id. at 511.

11 Stating that a court of appellate jurisdiction may: “affirm, modify, vacate, set aside or reverse any judgment, decree, or order of a court lawfully brought before it for review, and may remand the cause and direct the entry of such appropriate judgment, decree, or order, or require such further proceedings to be had as may be just under the circumstances.”

12 U.S. v. Wecht, 541 F.3d at 512.


14 U.S. v. Wecht, 541 F.3d at 511 (quoting, Huber v. Taylor, 532 F.3d 237, 251 (3d Cir. 2008).


Students Begin Researching and Writing During First-Ever Week-Long Orientation

A Look at Duquesne’s New Nationally Ranked Program

By Matthew B. Wachter

A week before the official start of upper-division classes, the Law Library was bursting with the incoming first-year class. Duquesne School of Law’s new First-Year Orientation Week took the previously untested first-years and prepared them for the start of their doctrinal courses.

Organized around the Legal Research and Writing (“LRW”) Program, the new week-long orientation introduced students to the foundational skills that “are needed for success inside and outside of law school,” said Professor Jan M. Levine, the Law School’s first full-time LRW director.

With Monday and Friday addressing most of the introductory and administrative matters covered in Duquesne’s past orientations, the incoming first-years were given three intensive days of LRW classroom instruction and research in the library and online. Law School Dean Donald J. Guter asked Professor Levine to develop a “law school boot camp,” and many of the students would agree with that description. According to Guter, first-year orientation was a daunting experience in the past. “We found that students were overwhelmed and we wanted to try something different,” he said. Previously, orientation took place during one eight to ten hour long day. Guter explained that the new weeklong format allowed LRW professors to identify first-years struggling with the adjustment to law school. Brian Walsh, a second-year LRW teaching assistant said orientation, “helped ease the first-years into law school” in ways that should be of direct and immediate benefit to their work in all their courses.

The Duquesne LRW program changed dramatically last year. Following the appointment of Professor Levine and the implementation of a new curriculum, Duquesne undertook a national search for three full-time LRW professors, including students in the interview process. The new LRW professors are eligible for long-term contracts and have voting rights, enabling the law school to count them in calculating the student-to-faculty ratio for ABA accreditation purposes, as well as the U.S. News & World Report rankings. “The writing professors are available all times of day to answer our questions,” said Margaret McNamara, a first-year.

“The writing program has focus and direction,” said one of the new Assistant Professors, Tara Wilke. She explained that the program has increased emphasis this fall on traditional print research, and acquired additional print-based finding tools and indexes. According to Professor Wilke, traditional print research “demystifies electronic databases,” Professor Levine shared the sentiment, adding that use of print materials by first-year students also promotes closer reading of primary and secondary sources, and encourages collaborative work.

Duquesne’s alumni as well as the infamous U.S. News & World Report rankings have taken notice of the new emphasis on legal research and writing. The University secured a $500,000 gift from an unnamed alumnus to fund construction of a Alfred and Bridget Pelaez Legal Research and Writing Center on the first floor of the Law Library, named in honor of one of the law school’s senior faculty and his late wife. This gift and the investment in four new LRW professors were critical in the law school’s new ranking as one of the nation’s top 30 Legal Writing Programs, according to writing program directors surveyed by U.S. News & World Report. This specialty ranking is higher than schools such as Georgetown, Marquette, and American University.

One of the Law School administration’s top priorities has been to respond to alumni requests that the law school produce students proficient in research and writing. Alumni had made it very clear that law schools, in general, were not producing graduates ready to hit the ground running. Ultimately, the goal became producing Duquesne Law School graduates able to research and write, outwork their peers, pass the bar, and who were good colleagues.

Professor Levine explained that incoming students should expect a “high-quality, consistent, and demanding program that gives them state-of-the-art training in legal analysis and research, making Duquesne’s students competitive with students from any school, and superior to most.”

Matt Wachter is a second year student, graduating in June of 2010. Last summer, Matt was a summer associate with Knox McLaughlin Gornall & Sennett, P.C. in Erie, Pennsylvania, and participated in Duquesne Law School’s Vatican City Study Program. A graduate of Penn State University, State College campus, Matt majored in History. He can be reached at mwachter26@gmail.com.
Student Organizations

Fulfill Duquesne’s Mission of Service to Others

By Vivian B. Taylor
Anna Ryjkova contributed to this article

Recently, the law school hired Jodi Gill, L’99, as Coordinator of Student Organizations. Ms. Gill’s vision as Coordinator is to build bridges between the students, faculty, staff, alumni, and professionals in the legal field to foster the mutual missions of the individual student organizations and the law school. Ms. Gill plans to re-introduce On the Record, a news publication and forum to showcase recent news and events taking place in student organizations, including cross-organization projects and jointly-sponsored law school events. Collaboration among student organizations will improve networking and benefit students and faculty alike, Ms. Gill says.

Ms. Gill cautions that law students may be lacking practical experience if they are not involved in student organizations, despite ample academic preparation. Employers seek well-rounded individuals who bring skills such as time-management, budget planning, networking, and the ability to market the firm’s services, all while possessing a philanthropic mindset. Ms. Gill says that participation in
student organizations allows law students to develop each of these characteristics. According to Ms. Gill, law firms looking to hire new associates often approach Duquesne Law School because they have worked with a certain student organization and were impressed by the dedication to work and the energy of its students.

In addition to honing socialization and community activism skills, student organizations offer an opportunity for personal awareness and satisfaction. James Thornburg, a second-year day student, and member of the Federalist Society says his involvement in the organization has been one of the most rewarding experiences he has had in law school. He says its “open[ed] my mind to a whole world of exciting issues that, as a law student and future lawyer, I have a privilege and duty to know about.” Through his participation in the Federalist Society, Mr. Thornburg had the opportunity to meet United States Supreme Court Justice Antonin Scalia. The Federalist Society for Law and Public Policy Studies is founded on the principles that the state exists to preserve freedom, that the separation of governmental powers is central to our Constitution, and that it is emphatically the province and duty of the judiciary to say what the law is, not what it should be. The Society seeks to promote an awareness of these principles and to further their application through its activities.


The Black Law Students Association (BLSA) promotes the idea of cultivating future lawyers. For the past two years BLSA has partnered with the Public Policy Magnet Program of Oliver High School located in Pittsburgh’s North Side. BLSA’s objective is to work in urban communities where students have limited access, knowledge or aptitude for higher education. BLSA brings a group of high school students in for a tour of the Law School, to meet many of the BLSA members, and to participate in a legal fact pattern exercise. The goal is to mentor students and to educate them about the legal profession. Lisa Barnett, fourth-year-part-time day student and BLSA President, says that this year BLSA plans to open this on-campus event to other Pittsburgh area schools. Ms. Barnett says, “If we have not enticed them to want to become future lawyers, we hope we have encouraged them to think that higher education is a possibility.”

Student organizations, such as the Environmental Law Society, the Sports and Entertainment Law Society, and the Health Care Law Society, can provide each student a means to learn more about a specialized legal field. Other organizations, for example, Moot Court, Duquesne Law Review, Business Law

Student Organizations

**Alternative Dispute Resolution and Client Counseling Board** – Introduces and strengthens students’ negotiation and counseling skills

**American Bar Association/Student Division** – Provides law students with information concerning their current needs as students, as well as future endeavors

**American Constitution Society for Law and Policy** – currently defunct, but is an organization of professors, judges, lawyers, and students who seek to revitalize and transform the legal debate by restoring the fundamental principles of respect for human dignity

**Animal Law Society** – Promotes awareness of problems facing animals and to work towards bringing about needed changes

**Appellate and Moot Court Program** – Provides upper division students with the opportunity to represent the Law School at national moot court competitions

**Association of Trial Lawyers of America/Student Chapter** – Dedicated to encouraging and supporting law students who have an interest in becoming trial attorneys

**Black Law Students Association** – BLSA fosters and encourages professional competence, provides academic support to first-year students

**Christian Legal Society** – A part of a national non-profit organization serving thousands of Christian attorneys, judges, law professors, law students, and paralegals

**Corporate Law Society** – Promotes discussion and study of all areas of corporate and business law

**Criminal Law Society** – Serves as a crossroads between Duquesne’s unique resources in the practice of criminal law, including faculty, students, and alumni working in government and private practice
Journal, and Juris Magazine, provide a means to practice litigation and interviewing skills as these organizations require an application, interview, and other prerequisites.

The Student Bar Association (SBA) provides law students a voice in the policies and operations of the law school and links the school nationally to other SBAs through SBAs elected representative to the American Bar Association. Adrienne Sadosky, fourth-year-part-time day student and SBA Secretary, tells us that the SBA strives to promote professionalism and to lead students and other organizations in a way that exemplifies the mission of the law school and what it means to be a Duquesne lawyer.

Taking its lead from the school’s mission, SBA sponsors several community events. One of the major events sponsored by the SBA is the Katie Westbrook Race, in memory of Katie Westbrook who wanted to be an attorney. At the age of fifteen, and on the morning of the day Katie was to address Duquesne University faculty and students and receive an honorary degree, she lost her battle with Osteosarcoma, a rare bone cancer. The 5K race raises money for cancer research and the Duquesne Trial Advocacy Program. SBA’s goal this year is to raise $10,000, to promote cancer awareness, and to promote preventative education among the student community.

“When we volunteer our time, we do it because we feel that that’s what the Duquesne Law student is supposed to do. Through our leadership, we hope that others will see that the Duquesne Law student lives beyond the Bluff and perhaps be inspired to do the same,” Ms. Sadosky says.

Another SBA annual event involves partnering with the Central Blood Bank in Pittsburgh to conduct a blood drive twice a year in the Law School’s lounge. The SBA also promotes volunteerism in the community, whether it is a community clean-up project or working with Variety Young Professionals, a group of young professionals helping children in need. SBA marks the major social event of the year by hosting the Barrister’s Ball. The Ball, held at the beginning of the Spring semester, is a formal dinner and dance for the students, faculty, staff, and alumni also attend.

The Christian Legal Society (CLS) is a national non-profit organization that allows students to continue volunteering after they become practicing attorneys. CLS conducts local and national Legal Aid Clinics where attorneys provide free legal advice to persons with limited access to legal services based on

Student Organizations (continued)

Delta Theta Phi Law Fraternity International – Delta’s objective is to instill in its members the application of the highest standards of personal integrity, diligence, candor and trust, of individual responsibility, of respect for law, rights and property of others and the highest ethical and professional standards of conduct

Duquesne Business Law Journal – The bi-annual publication publishes articles written by students, faculty, alumni and practicing attorneys throughout Pittsburgh that range from securities issues to contracts to international business

Duquesne Law Review – The flagship journal of the law school is entirely student-run and publishes scholarly works by legal professionals and academics four times annually

Education Law and Policy Society – Presents students and faculty with pertinent issues facing lawyers who represent educational institutions, whether in public school systems or institutions of higher learning

Environmental Law Society – Provides law students with the opportunity to participate in various environmental awareness programs

Federalist Society – A national group of conservatives and libertarians interested in the current state of the legal order

Health Care Law Society – Enables students interested in both legal and health care careers to share ideas with each other

Intellectual Property and Technology Law Association – Dedicated to promoting the introduction, study, awareness, and advancement of intellectual property law among students and faculty
“When we volunteer our time, we do it because we feel that that’s what the Duquesne Law student is supposed to do. Through our leadership, we hope that others will see that the Duquesne Law student lives beyond the Bluff and perhaps be inspired to do the same”

limited income. Elizabeth Diller, third-year day-student, is President of Duquesne’s CLS. Ms. Diller says CLS's goal is to foster spiritual growth among members, to provide compassionate outreach to the student population and local community, and to integrate the Christian faith into the practice of law. CLS participates in Pittsburgh Work Days, a joint project with the Public Interest Law Association (PILA), another student organization. This project is hosted by The Pittsburgh Project, a non-profit community development organization that serves vulnerable populations. Law student volunteers perform free home repairs for elderly homeowners. PILA and CLS use this program with the dual goal of developing leadership skills in their members and respecting the dignity of vulnerable homeowners. In 2008, CLS will conduct a children’s Christmas present collection drive. CLS will partner with the University of Pittsburgh (Pitt) CLS chapter for the Angel Tree Christmas ministry by helping to meet the needs of local prisoners and their families at Christmas time. Duquesne's CLS goal is to provide presents for 30 children, while Pitt's goal is to provide presents for 50 children.

In addition to co-sponsoring Pittsburgh Work Days with CLS, PILA conducts several of its own events. PILA’s vision is to educate law students about the inequities in the legal system and to encourage public service. PILA sponsors several major events throughout the year. Dennis Biondo, third-year day student and PILA Chair, says that PILA will continue the “table talks.” This is where professionals and students share their experiences with public interest associations. PILA will also host an event to raise awareness of those who cannot afford legal services. As a fundraiser, PILA accepts used textbooks as donations and resells them at discounted prices. Duquesne students get first choice at these books before they are listed for sale on Half.com to the general public. By far, the largest and most well known event at the school is PILA’s silent auction held in the spring. PILA has raised between $8,000 and $15,000 annually on hot-ticket items, which can get into the thousands-of-dollars range; especially for box-seats to Steelers or Pirates games. PILA receives donations for the silent auction from major law firms and corporations in town as well as from Duquesne Law School alumni. All funds raised go toward sponsoring awards for students who volunteer with public interest organizations over the summer.

Debbie O’Dell-Seneca, ’77, President Judge, Washington County, was involved in WLA while at Duquesne and she was...
also the student representative to the American Bar Association (ABA). Judge O’Dell-Seneca’s responsibilities included attending several regional ABA meetings and the annual ABA meeting held in Montreal, Canada. She recommends membership in student organizations because she found that active participation opened doors for her later in life. Judge O’Dell-Seneca attributes her national contacts to the work that began with these organizations, attending conferences with other schools in the Third Circuit and around the country.

The Animal Law Society (ALS), reestablished by interested students in 2007, is led by Heather Brooks, third-year student and ALS President. Ms. Brooks says the society’s mission is “to assist law students in becoming lawyers with the highest of professional skill and with a strong sense of ethical and moral concerns for all sentient beings.” This year, ALS is working with the Doberman Pinscher Rescue Organization to help them secure their 501(c)(3) non-profit designation, according to Ms. Brooks. Non-profit status will allow the organization to receive tax-deductible donations from the public so that they can rescue, rehabilitate, and re-home mistreated and abused Dobermans, Brooks says. ALS meetings often attract a diverse audience, including many non-law students that are simply interested in hearing about animal rights issues.

Although membership is highly recommended, students do not need to be a member to participate in activities held by any student organization. Membership drives are typically held at the beginning of each school year, but students may join at any time. The Organizations are open to all students. Participation is encouraged, but is voluntary and not limited to any number of organizations, recognizing, however that a law student’s time is constrained. Many of the activities sponsored by the various student organizations are advertised by posted announcements, bulletins, emails, or student representatives’ invitations.

For additional information on any student organization, please feel free to contact Jodi Gill at gillj@duq.edu. For a detailed mission statement of each student organization, please consult the Student Organization section of the Duquesne Law School Website.

Vivian Brand Taylor is a second year student graduating in 2010. She has an interest in working in community redevelopment, specifically with non-profit organizations. She holds an MBA and BSBA from the University of Phoenix, AZ, with a professional background that includes Administrative Management, Human Resources, Architecture, and Engineering. Vivian can be reached at taylor4555@duq.edu.

Anna (Anya) Ryjkova is a third year student, graduating in June 2009. She is Russian, and she is interested in international corporate law. Anya received her undergraduate degree from the University of Edinboro in math and marketing. Anya can be reached at annaryjkova@gmail.com

References
1 Duquesne University and Duquesne Law School mission statements are excerpted from the law school’s Prospectus Magazine.
2 Id.
3 See Public Interest Project in the Duquesne Law School Student Organization Handbook.
4 Central Blood Bank’s website can be found at www.centralbloodbank.org.
5 For information on Variety Young Professionals, a group of young professionals helping children in need, visit www.vyp-pgh.org.
6 Anyone can participate in Project Work Days, visit www.pittsburghproject.org.
Law Students Help Predict, Alter Pollution Levels in Local Areas

By Rebecca Yanos

When you imagine the rigors associated with law school, piles of books, highlighters, pens and regular late nights in the library may come to mind. What you probably do not picture are law students using software to help local municipalities predict their carbon footprint. This fall, fourteen Duquesne Law students had the opportunity to participate in an interdisciplinary project that does just that.

The project is run through the School of Business’ Sustainable MBA Program. It mixes the law students among four different interdisciplinary teams, each consisting of graduate students from the Sustainable MBA Program and the Master of Environmental Science Management Program. These graduate students were among the first to work with a new version of computer software known as the MARKAL (MARKet ALlocation) Model.

The MARKAL Model software allowed the student teams to predict and alter various practices in order to help local municipalities to avoid or lower greenhouse gas emissions, particularly carbon dioxide emissions. In the near future, the use of such software will help local governments across the country comply with future environmental regulations that will mitigate and control the impact of carbon emissions throughout the nation.

Each team of students worked with a different local Western Pennsylvania municipality, inputting pertinent energy use data into the MARKAL Model. The students were trained to use the MARKAL software by Dr. Nagaraj Sivasubramaniam, the Director of the MBA Sustainability Program at Duquesne, who received intensive training on the MARKAL Model software program. Originally, this software was used to perform a cost/benefit analysis based on energy data. The software has since been modified so that it can process local data and establish municipal carbon dioxide baseline measurements. These baseline statistics are also referred to as carbon footprints. Once quantified, carbon footprints become extremely useful and important tools in developing strategies to curb activities that negatively affect climate and otherwise harm the environment.

In this study, which is being conducted at Duquesne University, the data generated from the MARKAL Model will enable the local municipalities to make appropriate decisions about mitigating carbon emissions. More specifically, discovering a municipality’s carbon footprint allows it to consider alternative practices to lower emissions, which ultimately impacts the climate. The municipalities participating in the study agreed in advance that there is a need to reduce their local carbon emissions. As this version of the MARKAL Model software becomes more widely used, a greater number of municipalities will be able to address the problem of global climate change at a local level.

Law school Professors Nancy Perkins and Kirk Junker are advising the law students in their research on the project. As part of the research study, each law student has written a twenty page paper based upon the findings of the MARKAL Model. Law students are focusing on the legal ramifications of and ability to measure local government carbon footprints. More generally, the law students will focus their efforts on the ways in which scientific modeling, such as this, is utilized in the promulgation of environmental regulations. According to Professor Junker, for law students, the study is a rare opportunity to work with students from other disciplines to witness the intermingling of science and business within the environmental arena.
The MARKAL model was brought to Duquesne’s attention by Edward Linky, an alum of the Law School who currently serves as the Senior Policy Advisor of the United States Environmental Protection Agency, Region II. Mr. Linky has been closely involved with a case study that applies the MARKAL Model to heat islands in Manhattan, and has co-authored an article entitled “Analytical Tools Shaping the Next Generation of Carbon Regulation and Trading: The New York Metropolitan Area Case Studies.” The article describes the current state, local and regional efforts to regulate greenhouse gases, and provides an analysis of the advantages of the MARKAL Model in assessing the viability of policy alternatives aimed at reducing carbon footprints in various localities.

Because of its ability to make urban energy projections, Professor Perkins explains that the MARKAL software has the capacity to greatly impact the future of environmental planning and regulation, including carbon trading. This software modeling is particularly relevant because the federal government caps the amount of a specified pollutant that can be emitted nationwide under the carbon-trading program. Under the trading program, companies are issued a number of allowances, each of which allows them the right to emit a specific amount of the pollutant. Companies that have emission needs that exceed their allotted allowances may buy allowances from cleaner companies that have extra allowances to sell. In essence, companies that purchase allowances pay a charge for polluting, and companies that sell allowances are monetarily rewarded for polluting less. Currently, carbon dioxide and other greenhouse gases are not regulated in the United States. However, it is widely believed that carbon regulation in the United States is imminent and will take the form of a cap and trade program.

Results were presented to local governments on March 20 and at a student research seminar with Carnegie Mellon and Pittsburgh Universities on April 16 at the Regional Enterprise Institute. The students participating in this research program at Duquesne have the unique opportunity to work with cutting edge technology that is likely to have a significant impact on the future state of the environment and public law across the country. Anyone who is interested in more information regarding the study and the ramifications of this new technology can obtain more information by contacting Professor Perkins at perkins@duq.edu or (412)396-6298, or Professor Junker at junker@duq.edu or (412)396-1047.

Rebecca Yanos is a third year evening division student, graduating in June 2010. She is currently a law clerk at Zimmer Kunz, a firm based in Pittsburgh. Rebecca received her undergraduate degree from the University of Delaware in United States History and Sociology. Rebecca can be reached at Rebecca.Yanos@gmail.com.

References


Rebecca Yanos is a third year evening division student, graduating in June 2010. She is currently a law clerk at Zimmer Kunz, a firm based in Pittsburgh. Rebecca received her undergraduate degree from the University of Delaware in United States History and Sociology. Rebecca can be reached at Rebecca.Yanos@gmail.com.
As Pittsburgh celebrates its 250th birthday, one may want to run to the bookstore to read up on this city’s vast and colorful history. He or she could find books about the history of different neighborhoods in the city, tales of Fort Duquesne and later Fort Pitt, biographies of Frick and Carnegie, and even numerous books on the ghosts of Pittsburgh. An area where there may be a deficit in selection would be the history of the legal community of the area. This year, the Allegheny County Bar Association (ACBA) decided that needed to change.

The Ad Hoc History Committee asked Ron Schuler, Esq., president of Greyfriars Global, to compile a history of lawyers, legal events, and ACBA. Schuler began his foray into Pittsburgh’s legal history in the early 1990’s, while working at Buchanan Ingersoll Rooney, becoming the firm’s unofficial historian. He compiled oral histories of retired Pittsburgh lawyers, with some having practices that began as far back as the 1920’s, and also wrote an eight-part serial history of the firm from 1850 to the 1920s. After being asked to give the keynote address at the annual dinner of the Pittsburgh Chapter of the Academy of Trial Lawyers in 2002, Schuler began to be sought after to give speeches and write pieces about Pittsburgh’s legal history, and in his own words, “got a reputation for being the guy who does this stuff.” He has now been green-lighted by the ACBA to write the tentatively titled book, “Steel Bar: The Lives and Times of Pittsburgh’s Lawyers and the Allegheny County Bar Association 1788-2009.”
Schuler has been working on the book since June and anticipates completing the project in Fall 2009. The research is vast and at times complicated. In addition to the traditional forms of research, Schuler is taking oral histories of various bar members and digitizing them, to be made available as part of a database he is creating which will contain information about every individual who has been an attorney in Allegheny County. Schuler’s goal is that the book will give a sense of the people who have practiced law here, not just the procedural and technical history of the law. The book will be split into various historical eras, giving the reader an overview of the practice of law in that era, the demographics and statistics of exactly who made up the legal community at that time, and then “tales of the era,” a collection of stories and anecdotes that shaped the legal history of that period. Still in the depths of research and writing, Schuler shared some of the historical tidbits he has found so far.

Pittsburghers know that this city prides itself on its unique character and independent spirit. Schuler finds that the men of the city’s early legal practice shared this same attitude. In the late 1700’s to mid 1800’s, Pittsburgh was still considered the backwoods of Pennsylvania, a frontier quite different from its eastern counterpart of Philadelphia. The attorney’s job was physically demanding, not only due to the rough terrain to be traveled on the circuit, but also due to the demands of the job. Unlike practice in the eastern cities, where lawyers had the opportunity to be book smart due to the easier access to legal tomes, the lawyers of this region had to be street smart, relying on their wits and the ability to make an argument. The knowledge that one of the more skilled attorneys of the day was to appear in court was like news that a new show was opening at Heinz Hall; the citizens would come in droves to witness the spectacle, which could include two day closing arguments packed with dramatics and skilled oration. Schuler states this type of early reality show kept people coming up until the Civil War.

The ACBA itself officially came into being in 1870. An organization of its kind had been previously attempted in 1831 with the Pittsburgh Law Academy, however this organization was more akin to a social club, where like-minded men would get together to socialize and get to know each other outside the courtroom. The ACBA of 1870, still with us today, was one of the first modern Bar Associations in the United States, with the objectives of developing young attorneys and providing instruction.

Schuler relates that legal education in the city has certainly changed over the years. In the 18th and into the 19th century, if one wanted to study the law, he (and later she) would find a member of the bar to be his or her preceptor with whom to “read the law.” This was the extent of the legal education; the student would read the law, consult with the preceptor, and then when ready, the preceptor would present the student to the bar. At that time the student would be given an oral examination, likened to a firing squad shooting questions, and upon passing such an exam, would be accepted to the bar. The first attempt to start a more formal legal education in the city was in the early 1840’s with the predecessor the University of Pittsburgh School of Law. Several attorneys founded a program where they would give lectures and instruct students in a group setting. However, the facility where the lectures were housed burned in the Great Fire of 1845, and no attempt was made immediately rebuild the school. This was partially due to the resistance in the legal community for such an institution; the preceptor system garnered decent fees for the sponsoring attorneys who were not so excited about losing this cash flow. However, that changed with the founding of the School of Law at the University of Pittsburgh. Duquesne University School of Law followed in 1911.

According to Schuler, one of the earliest law firms in the region was W.W. and N.P. Fetterman started in the 1820’s, with Metcalf and Loomis following in 1831. Interestingly, four of the city’s largest law firms began as just two. Reed Smith, then Knox & Reed, was founded in 1871. The firm soon began to represent some of the giants of Industrialization, including Carnegie, Frick, Heinz, Mellon and Westinghouse. After World War II, some of the young lawyers of the firm returning home decided to strike out on their own, forming Kirkpatrick and Lockhart, now K&L Gates. Buchanan Ingersoll and Rooney traces its roots to 1850 with a practice established by Moses Hampton and his son John. A century later, in 1958, nine attorneys left the firm to form Eckert Seamans.

There are many fascinating stories and events to be discovered in Schuler’s forthcoming book. The famed Whiskey Rebellion can count as one of its rabble-rousers the 11th lawyer in Allegheny County, David Bradford, while the first lawyer in Pittsburgh, Hugh Brakenridge, was almost executed due to his misconstrued participation in the event.

Looking at a map of the suburbs of Pittsburgh can give you a who’s who list of some of the attorneys and judges of Pittsburgh’s past. Ross Township, established in 1809, was named in honor of James Ross, a prominent attorney at the height of his career. Baldwin Township, established in 1844, was named for Henry Baldwin, a Justice of the Pennsylvania Supreme Court from 1830-1844. McCandless Township, incorporated in 1857, was named for District Judge Wilson McCandless and these are just a few examples.

The first woman president of the ACBA, Rosilyn Litman, who initially had trouble even finding some one to sponsor her admission to the bar, took on the NBA for her client Connie Hawkins, and won. Hawkins had been banned from playing in the NBA due a point shaving scandal. He sued, with the counsel of Litman, and finally was able to settle with the NBA, play for the Phoenix Suns, Los Angeles Lakers, and Atlanta Hawks, and was inducted into the Basketball Hall of Fame in 1992.

These tales are just examples of the rich and vibrant history of the legal community in Pittsburgh that will be included in Schuler’s book, due to be available through the ACBA in late 2009. Schuler can be contacted through the ACBA, or by email at rschuler@greyfriarsglobal.com.

Christina Horton is a second year law student. She is an Associate Editor for Juris, a Junior Staff member on the Duquesne Law Review, and a member of the Women’s Law Association. Christina received her undergraduate degree from West Virginia University. She can be reached at https://webmail.duq.edu:443/mail/mall/src/compose.php?send_to=horton1725%40duq.edu “horton1725@duq.edu.”

References

1 Greyfriars Global is a technology and energy law/consulting firm.
In highlighting the history of the bench and bar of Pittsburgh, it is almost impossible to do so without looking at the local county courts that exist in Allegheny County. Before 1968, there were a variety of individual courts of record created by statutes since 1788: common pleas, quarter sessions, family court, orphans' court, county courts, and juvenile court. Under Article V of the 1968 Constitution, the lower courts were reorganized under a single Court of Common Pleas. Of the 225 plus judges who have sat on the court the following are some of the highlights of individual judges based on their professional positions. Space limitations have limited the number of judges for this article. This information is derived from my forthcoming book, *Judges of Allegheny County, Fifth Judicial District, Pennsylvania (1788-2008)*.
Ruggiero Aldisert (1962-68): elevated to Judge of the U.S. Circuit Court of Appeals for the Third Circuit (1968 to present) by President Lyndon Johnson; Chief Judge (1984-1986); senior status, 1986 to present; author of several law treatises.


Anne X. Alpern (1953-59; 1962-74): first woman City Solicitor, City of Pittsburgh; first woman Pennsylvania Attorney General (1959); first woman Associate Justice of the PA Supreme Court appointed by Governor David Lawrence (1961).

Max Baer (1990-Jan. 2004): Associate Justice of the PA Supreme Court (2004 to present)

Cynthia Baldwin (1990-February 16, 2006): Associate Justice of the PA Supreme Court (February 17, 2006 to December 2007); third African-American and second African-American woman on the PA Supreme Court

Francis A. Barry (March 26, 1974-July 11, 1983); Judge, PA Commonwealth Court (July 12, 1983 until January 1990; senior judge until his death in 1991.


Maurice B. Cohill, Jr. (July 1965-June 1, 1976): Judge of the U.S. District Court for the Western Dist. of PA (June 1, 1976-November 28, 1994), Chief Judge (July 2, 1985-July 1, 1992).


James B. Drew (1911-1931): Judge, PA Superior Court (Jan. 1931-September 28, 1931) Associate Justice, PA Supreme Court (September 28, 1931-November 1, 1952); Chief Justice (March 21, 1950-November 1, 1952).


Walter Forward (Jan. 1852-Nov. 24, 1852): Member, House of Representatives, Congress (1822-25); First Comptroller of the U.S. Treasury (April-Sept. 1841); Secretary of the Treasury (Sept. 13, 1841-March 1, 1843); Charge d’Affaires to Denmark (Nov. 8, 1849-Oct. 10, 1851).

Robert S. Frazer (Jan. 1897-Jan. 1915): Member, Pennsylvania House of Representatives (1877-80); Justice, PA Supreme Court (Jan. 1915-Nov. 23, 1930); Chief Justice (Nov. 24, 1930-July 31, 1936).


Charles H. Kline (March 24, 1919-Jan. 1926): Pennsylvania Senate (1907-8, 1911-12, 1915-16); Mayor of Pittsburgh (1926-33).


John B. C. Lucas (1794-1800): Member, House of Representatives, Congress (1803-5); Judge, Northern District of Louisiana (1805-20); Commissioner of Land Claims, Northern Louisiana (1805-12).


Charles F. McKenna (June 6, 1911-Dec. 3, 1922): Judge of the U.S. District Court of Puerto Rico (1904-6).


William D. Porter (May 27, 1891-July 6, 1898): District Attorney, Allegheny County (1884-90); Judge, PA Superior Court (June 6, 1898-Feb. 9, 1930), President Judge (1926-Feb. 9, 1930).


David Ritchie (May 22-Dec. 1862): Member, House of Representatives, Congress (March 1853-March 1859).

John D. Shafer (June 5, 1897-1926): Organizer and first Dean, University of Pittsburgh Law School (1894-1920), Dean Emeritus (1920-26).


Joseph Stadtfeld (June 24, 1930-Jan. 4, 1932): Judge, PA Superior Court (Nov. 7, 1931-Dec. 12, 1943).


Joseph F. Weis, Jr. (Judge, U.S. District Court for the Western Dist. of PA (April 24, 1970-March 27, 1973); Judge, U.S. Circuit Court of Appeals for the Third Circuit, (March 15, 1973-April 1, 1988; senior judge from April 1, 1988 to present).


William Wilkins (Dec. 18, 1820-May 25, 1824): Member, Pennsylvania House of Representatives (1819); Judge, U.S. District Court for the Western Dist. of PA (May 10, 1824-1831); Senator, Congress (Mar. 4, 1831-June 30, 1834); Minister to Russia (1834-35); Secretary of War (Feb. 15, 1844-Mar. 4, 1845); Senator, Pennsylvania Senate (1855-57).

Henry W. Williams (Nov. 1851-Oct. 28, 1868): Associate Justice, PA Supreme Court (1868-Feb. 19, 1877).

James S. Young (Feb. 1905-Feb. 1, 1908): U.S. Attorney for Western Dist. of PA (Feb. 8, 1902-05); Judge, U.S. District Court of Western Dist. of PA (1908-14).


Taking Care of Business

By Edward Preston

After a period of relative placidity, the student run Duquesne Business Law Journal is going through a process of reinvigoration. In just the past four months, the Journal has instituted a more rigorous membership application process, doubled the number of its publications, and has taken steps to increase the quality of the academic writing. These efforts are part of an overhaul designed to enable the Journal to provide the legal community with a practical and unique resource, while exposing them to hot topics in the business law community.

The Journal’s Editor-and-Chief, third-year law student Alex Morrison, believes that the “staff entered this year with the intent to make the Journal into an organization where being a member is truly beneficial in [helping the student’s] writing, editing, and legal research skills.” With Morrison at the helm, the Journal has established itself as Duquesne’s second academic law journal, alongside the Duquesne Law Review.

Morrison explains that the scholarly articles from law professors, judges, and practitioners, as well as student written casenotes and comments on issues “of pressing concern to the business law community” will remain the Journal’s core. However, due to the fairly unique content covered by the Journal, Morrison hopes that it “will be able to branch out… and provide its staff members with first-hand legal exposure in the future through better internal networking among its current members, as well as maintaining relationships with past members and authors.” Eventually, Morrison anticipates the Journal will develop beyond the bounds of academia and become a networking tool for both current and past members.

As part of this effort, the Journal has created a new website, www.duquesneblj.com, where archived articles, announcements and previews of upcoming issues will be posted. Morrison says that a key function of any successful law journal is providing legal information to practitioners, judges, professors, and students alike. “Since a large part of the future of legal information and research is online and electronic, the website will provide pressing business issues expeditiously,” Morrison says.

Managing Editor and third-year law student, Christina Panarello, spearheaded the digital Journal. Panarello says the Journal will also remain in its traditional hardcopy form. Currently, the Duquesne Business Law Journal is one of only a handful of Business Law Journals nationwide to offer a website, joining the likes of Harvard Law and University of California-Berkeley Law.

Additionally, Morrison notes that readers can expect to “see an improved final product in the quality of its published articles.” For instance, the Journal’s spring issue will take an exclusive look at the controversial proposed amendments to Article 2 of the Uniform Commercial Code. Although several articles have already been written on the current problems of Article 2, the spring issue will feature seven different articles tackling the subject of the future of contract law in regards to Article 2. The Journal’s Submission Editor, Clara Shuster, worked with Duquesne Law Professor Dr. John E. Murray to develop the idea of writing on this topic. However, rather than merely identifying the current problems with Article 2, the staff believed it would better serve the legal community if the Journal provides direction anticipating statutory law under the revised Article 2. Members of the American Law Institute, who participated in drafting the proposed amendment to Article 2, authored the spring issue’s seven articles, which shed light on different solutions to the Article 2 issue. Based on his discussions with Dr. Murray, Morrison predicts that the coming issue “is really going to be interesting, and likely very influential by providing state lawmakers unique insight into the thinking behind those who drafted the amended Article 2.”

The Journal’s current subscribers include the Library of Congress, as well as law schools such as Harvard, University of Pennsylvania, Stanford, Yale, and Northwestern. Morrison explains the Journal was restructured to maintain its status as a strong resource in the business law community.

Ultimately, however, the “goal is to become the leading Business Law Journal in this region and then potentially even a leading resource in the nation on business law issues,” according to the Journal’s Executive Editor, third-year law student Don Lewinski. He says that the Journal’s staff members have the unique experience of working for a law journal, sharpening their research and writing skills, and, hopefully, interacting with past members, authors, and other alumni to get first-hand exposure to the business law community.

Edward Preston is a third year student, graduating in June 2009. He is interested in all facets of commercial and real property law, both transactional and litigation. Edward is a 2004 graduate of the University of Pittsburgh, with degrees in Information-Computer Science and History. Edward can be reached at prestone@duq.edu.

With all of the recent changes on Wall Street occurring during one of the most confusing and uncertain periods in modern American finance, it is practically impossible to predict what tomorrow morning’s newspaper headlines will announce. While the demise of several high-profile investment banks combined with the current credit crunch and housing slump are clearly issues of national concern, the primary question on attorneys’ minds remains: What are the implications for the legal profession?

Historically, job stability in the legal profession has remained unaffected by economic downturns, largely because the field encompasses a wide variety of practice areas and specialties. Consequently, economic downsizing is a rare and essentially unheard of practice in law firms, resulting in a degree of job security that is virtually nonexistent in other industries. Unfortunately, with recent market instability and the increasingly weak economy in the United States, law firms nationwide have experienced profit margin compression, meaning their expenses are growing at a more rapid rate than their revenues. According to a report published in *The American Lawyer*, on average, law firms saw their profits-per-equity-partner decrease by approximately 9 percent, while expenses increased over 10 percent during the first half of 2008.

The report further indicates that law firm revenue in the United States is growing at the slowest pace recorded since 2001, and similarly, the demand for legal services has hit a record low since the beginning of the new millennium. Additionally, several national firms have noted a significant falloff in productivity among associates as well as a sizeable decrease in associate attrition during the first two quarters of 2008. As a result of these less than ideal financial conditions, a handful of major law firms have started handing out pink-slips to their less productive employees. While such statistics are often the cause of industry-wide alarm, attorneys need not panic. In reality, the legal profession is resilient, and the recent layoffs in the legal industry are only minor in comparison to the mass layoffs occurring in other major industries.

Although it appears that the legal profession is no longer immune from the current state of economic affairs, it is important to remember that the legal industry continues to offer better pay and more job security than many other trades. Despite rumors of future downsizing, many of the recent layoffs were executed by firms solely as an attempt to decrease expenses by eliminating a few of their less efficient staff members. Such cost-cutting measures are not indicative of future mass layoffs, and it is unlikely to become routine in the industry. As Martha Fay Africa, the managing director of the legal recruiting firm Major, Lindsey and Africa, explained in a recent interview with *BusinessWeek*, firms with "less than ideal books [of business] or in practice areas that cannot demand top dollar are being reevaluated from an economic point of view and are vulnerable" to market conditions. Thus, driven by financial pressure resulting from the fallout of the United States economy, many managing partners have started monitoring their expenses more carefully and have implemented plans to gradually reduce the number of unproductive associates and staff members in their firms. As associate compensation accounts for approximately 23 percent of firm expenses, associate pay has proven to be a significant contributing factor to the increase in expenses among major law firms; therefore partners are forced to reevaluate the
necessity of retaining some of their less productive junior associates when the economy is soft.¹

Consequently, law firms must essentially “clean house” during economic slowdowns to reduce unnecessary expenses and overhead, which in some unfortunate circumstances results in downsizing. Although layoffs are a cause for concern for practicing attorneys and law students alike, it is important to remember that downsizing is often a routine part of a normal business cycle. However, unlike other industries that distribute pink-slips at the first indication of decreased productivity, downsizing is rare in the legal industry because during periods of high demand, attrition rates are high and firms are often willing to retain unproductive lawyers. A study conducted by the National Association for Law Placement found that in stable market conditions, firms generally lose 80% of law school hires within five years of graduation.² However, when the economy is soft, associates are less likely to search for new employment, causing attrition to drop significantly. Consequently, during periods of low demand, firms experience a decrease in productivity due to an excess of attorneys sharing a limited amount of work. Although economic downsizing may become a necessary measure to secure the financial health of a firm, most law firms remain reluctant to resort to mass layoffs. Managing partners generally prefer to retain their junior and senior associates to ensure that the firm will not experience a shortage of mid-level talent when the economy turns around and business picks up again. Accordingly, many firms are willing to retain the majority of their less productive attorneys, despite the resulting underutilization, in anticipation of the next economic upswing.

Fortunately, it appears that associates who remain productive and take proactive measures to secure work in their firm will not face unemployment anytime soon. However, fears attributed to the recent economic conditions have also surfaced among the current generation of law students who worry they will not be able to find employment upon graduation. According to a study published by the American Bar Association, 50 percent of third-year law students, 68 percent of second-year students and 63 percent of first-year students reported they fear that the recent bankruptcy of Lehman Brothers and the sale of Merrill Lynch will harm their legal careers.³ Despite the shrinking market for legal work and the corresponding highly-competitive job market, these fears remain generally unfounded. In fact, the number of practicing lawyers has actually risen in 2008, despite the drop in demand for legal services and the resulting decrease in firm productivity. Moreover, it does not appear that firms have any hiring freezes planned for the near future, meaning many will continue to add attorneys despite the additional expenses they may incur while the economy is soft.

Furthermore, as attorneys fret about the state of the economy as well as job security, the old adage “with change comes opportunity” comes to mind. While many managing partners are faced with decisions concerning restructuring their firms and downsizing, technology has simultaneously created new avenues through which attorneys can offer differentiated services. As the Internet and electronic communication technologies offer more people with more information than ever before, analysts predict that legal services will become more commoditized. Thus, it appears that law firms across the country will begin to offer diversified products and services by becoming more attuned to their clients’ needs.⁴ In fact, according to futurist Richard Susskind, lawyers will soon begin to offer a variety of proactive legal service whose focus will be on anticipating clients’ legal problems.⁵ As clients indicate time and again that they are more interested in avoiding legal problems than resolving them, it is likely the demand for legal risk management services will increase significantly in the near future. Thus, many opportunities have become available to lawyers and law firms who are willing to bite the bullet and seek to develop methods, tools, techniques and systems to help clients review, identify, quantify and control the legal risks their clients face.⁶ Although the legal profession has started to feel the impact of the economic downturn, it appears that lawyers have not amounted to anything more than a bland and unfulfilling snack to the mighty bear market. Sure, law firms have let some of their more unproductive attorneys go and many have moved toward a performance-based associate compensation system, but in reality, attorneys should remain appreciative of the fact that they chose to work in the legal profession instead of some of the other, tastier industries. After all, the bear does not spare its victims, and it is far better to be a tempting snack than its main course. And it is not like legal work is going to disappear anytime soon…who else is going to clean up the mess left by the bear’s unyielding appetite?

Amy L. Vanderveen is a third-year law student at Duquesne. In addition to pursuing her law degree, Amy is also a candidate of Duquesne’s Joint Degree Program and expects to graduate with both her J.D. and M.B.A. in June 2009. Amy graduated from The Smeal College of Business at The Pennsylvania State University in 2006 with a B.S. in Marketing and a minor in Spanish. Amy can be contacted at vanderveena@duq.edu.

References
2 Id.
8 Id.
Advice You Won’t Get From Your Financial Adviser

By Lara Shipkovitz

The implications of the current economic crisis on our society are profound. The legal profession is hardly exempt from the toll that the current financial predicament is having on our country. However, there are many unconventional ways to supplement your income in times of financial need.
My suggestions for making extra money to ease financial anxiety is not to make light of the current economic struggles, but rather to provide some simple, everyday advice that is often overlooked with today’s cultural emphasis on 401Ks, IRAs, and other investment opportunities. As the familiar adage goes, “When life hands you lemons, make lemonade.”

Many times the opportunities to earn extra income already exist; however, we just do not realize that our hobbies, specialties or professions could be potential for additional income. For example, lawyers may want to consider opening their own consulting firms in their fields of expertise as a side job or to consider advertising their talents for more widespread recognition. For those who have the time and are willing to balance a side job, there are several relatively unknown websites that may offer occasions to ease economic woes.

These websites allow professionals to find freelance work from the convenience of their home or office computer. For example, Sologig.com helps connect employers with independent talent. This website allows the professional to search for available projects within a mile radius from his or her locale using keywords. The professional is then able to choose a project that interests him or her and negotiate directly with the employer. The length of the projects ranges from short-term to long-term, as desired. Some of the employment opportunities posted on this website are full-time positions.

Another website providing access for the legal community to solicit freelance professionals is Gur.com. While this site offers a number of categories for employment, the legal category has its own searchable database and other resources for the freelancer or professional. Another popular website that provides similar opportunities is Elance.com. This site allows an individual to find professionals or projects, depending on particular needs and then post or bid on the desired project. The website GetAFreelancer.com also includes a wide range of jobs to pick and choose from, and it even outsources projects all over the world. This site also provides a specialized section for legal expertise.

Many websites that are not necessarily catered to the legal profession can offer plenty of opportunity for the entrepreneur. For example, Helium.com is a marketplace for freelance writing. This site has its own category for politics, news and other issues. Projects are listed in a searchable database that details the project’s guidelines, deadlines, pay and required word count.

What if a part-time or side job does not suit your lifestyle? It turns out that the simplest solutions for making extra cash can sometimes be the most lucrative. From having a garage sale to growing pumpkins for Halloween, simple solutions can provide opportunity to earn extra cash during financially volatile times. Below I have listed twenty ideas, particularly useful to law students and recent graduates, that can help ease some of the anxiety regarding financial struggles:

- Selling “stuff” on E-bay, Amazon, etc. (Amazon is an especially good marketplace for selling used and new textbooks)
- Holding garage sales
- Participating in paid on-line surveys (the ones that are not scams will not make you pay to sign up)
- Freelancing talents in different specialties, such as teaching Microsoft Office Suite, home repairs, landscaping, foreign language instruction, etc., Freelancing can be done using various media from handmade flyers to Craig’s List (Craigslist.org).
- Performing household services for others
- Selling homegrown fruits and vegetables
- Performing home maintenance for the elderly
- Providing man-with-van services charging the use of your van for a fee
- Renting out a room
- Turning a hobby into extra income. For example, launching a blog, creating crafts, etc.
- Trade/Barter Skills. For example, providing marketing support for legal advice.
- Coaching a school team
- Teaching an LSAT/Bar review course
- Becoming a personal assistant to other professionals (or providing organizational services)
- Having your car wrapped (many companies will pay to have your car wrapped with their advertisements)
- Helping others prepare their income tax filings for a fee
- Growing pumpkins and Christmas trees to sell during Halloween and Christmas
- Detailing automobiles
- Turning old VHS tapes to DVDs by charging standard rate for the first copy and a price for each additional copy
- Keeping a piggybank and converting already saved coins into cash

And if that does not work, there are always lemonade stands!

Lara Shipkovitz is a third year student, graduating in June 2009. Lara received her undergraduate degree in Communications from Penn State. She can be reached at LaraShip@gmail.com.
All Politics are Local:

The Politicization of the National Labor Relations Board and Pittsburgh Labor/Management Relations

by Sarah M. Riley

In the days before a coherent national labor policy was articulated, workers were at the mercy of their employers. The “at will” doctrine of employment prevailed. If workers were unhappy with the conditions in which they were forced to work, they could always leave their jobs. Efforts by workers to unite to demand better working conditions and wages that reflected the cost of living were often suppressed through the clever use of injunctions, resulting in imprisonment and high fines for labor leaders. In other instances, uniting workers were met with police brutality as employers called on the constabulary to “bust” strikes, picket lines and often the heads of protesters. Workers who demanded humane conditions were terminated and rendered virtually unemployable through the use of blacklists.

As one of the birthplaces of organized labor in the United States, Pittsburgh experienced much of the violence that surrounded the early years of the labor movement. Organized labor’s history here began with the 1881 formation of the national Federation of Organized Trades and Labor Unions. It is famous for the Battle of Homestead in 1892. The strike at the Homestead steel mill in 1892 was different from previous large-scale strikes in American history such as the Great Railroad Strike of 1877 or the Great Southwest Railroad Strike of 1886, which had been largely leaderless and disorganized, resulting in mass uprisings of workers. The Homestead strike was organized and purposeful, a harbinger of the type of strike which would mark the modern age of labor relations in the United States. Gun fights erupted between union members and Pinkerton agents sent to cross the picket line, with several left dead or wounded.

As strikes like the Homestead strike became more prevalent nationally, it was clear that legislative measures needed to be undertaken at the federal level. It was not until 1935, however, under the driving force of the New Deal, that Senator Wagner was ready to meet that challenge with a bill known as the National Labor Relations Act (Act).
The Act was meant to provide for the “establishment and maintenance of industrial peace to preserve the flow of interstate commerce.” Congress sought to achieve this goal by protecting the right of employees to self-organize and bargain collectively through chosen representatives through the heart of the Act, Section 7, which affords employees the “right to self-organization, to form, join or assist labor organizations, to bargain collectively through representatives...and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection.”

Section 8 of the Act details the variety of employer activities that constitute unfair labor practices, and it is illegal for an employer “to interfere with, restrain or coerce employees in the exercise of the rights guaranteed in section 7.” It is important to note that under the Act, a union is not required for employees to engage in “concerted activities for the purposes of...mutual aid or protection.” It is also illegal for an employer to “interfere with the formation or administration of any labor organization...” Additionally, discrimination in hiring or awarding tenure or any other condition to employment which either encourages or discourages membership in a labor organization is deemed an unfair labor practice. Discharging or discriminating against an employee who has filed charges or testified under the Act is deemed illegal, as is a refusal to bargain collectively with a duly elected and recognized organization.

The Act also provides for a National Labor Relations Board (Board), which under Section 10 of the Act is “empowered. . .to prevent any person from engaging in any unfair labor practice.” The Board accomplishes this task by issuing any of several remedial orders available to it under the Act.

The Board may issue an affirmative remedy, such as the reinstatement of a wrongfully terminated employee, as well as back-pay for the time the employee was unemployed. This remedial power is also applicable to employees who were wrongfully denied tenure or promotion based on the exercise of their Section 7 rights. The Board may also issue “cease and desist orders,” ordering the employer to halt its unfair labor practice and refrain from any such practices in the future, and “bargaining orders” when an employer refuses to bargain with a duly elected union. Additionally, the Board may seek an equitable injunction from a federal district court pending the outcome of an unfair labor practice charge. Such an injunction shall only be issued if the petition offers reasonable grounds to believe that an unfair labor practice has occurred, and the relief sought is just and proper — that is unless the injunction is issued, substantial and irreparable injury to the charging party will occur.

The Board also has the affirmative power to issue pre-election bargaining orders when outrageous and pervasive unfair labor practices have taken place and the union can make a fifty percent plus one showing of interest based on signed cards from members of the prospective bargaining unit. The Board thus has a variety of remedies it can utilize to further the core purposes of the NLRA, and was intended to function as a neutral enforcer of the national labor law policies articulated by the Act.

Over the last several decades, however, the Board has become a more highly politicized entity. While the Board’s objectivity had been questioned as early as 1939, labor law commentators have noted that since 2004, the Board “has issued a remarkable series of decisions weakening the rights of workers to engage in organizing and collective bargaining under the National Labor Relations Act.” These decisions overall have limited the Act’s coverage over numerous distinct groups of employees and restricted workers’ rights to exercise Section 7 rights. Moreover, instead of promoting the underlying purposes of the Act, many of these decisions have undermined a range of employee protections and overturned well defined precedent.

What has been the effect of this shift to the right on employees’ abilities to undertake coordinated efforts for mutual aid and protection, particularly in a union strong-hold like Pittsburgh?

According to Jack Shea, President of the Allegheny County Labor Council, the ability to unionize is “worse now than it’s ever been.” When questioned on the topic of unions’ abilities to organize, he indicated that over the last eight years, it has become much harder to do so. According to Mr. Shea, Board proceedings drag out the process of arriving at a collective bargaining agreement, such that by the time any agreement is reached, many of the workers who originally voted for a union are no longer working for the employer. Mr. Shea noted that 65% of all workers would like to be unionized, but that with the current climate, employees have a difficult time in exercising their rights to unionize.

He explained that since the current Board has reinterpreted many earlier precedents, unions and employees have used other tactics and have adapted to the new climate — for example, unions will tend to seek neutrality agreements directly with employers in an effort to avoid dealing with the Board and its procedures all together.

According to Hayes Stover, a partner and labor law specialist at K&L Gates LLP, the real issue unions are facing is that the world is changing and becoming more economically globalized. It is not necessarily any easier for employers to prevent unionization today, although he did note that given the choice, most employers would rather not unionize. The real issue, according to Mr. Stover, is that employees are realizing that in order for their employer to stay competitive, unions are not always the answer and that realization explains the recent drop in union organization and membership. He further stressed that issues in reaching a collective bargaining agreement have little to do with the Board and more to do with the current economic climate and the need to remain competitive. He explained that even in European Union states, which have much higher instances of unionization than the United States, bargaining agreements are being restructured to increase competitiveness in the world market.
Finally, Mr. Stover noted that recent issues regarding the politicization of the Board are not so recent – the Board has been politicized for 30 years, and the present era is no different.

Today in Pittsburgh, and Pennsylvania as a whole, labor-management relations have improved from the days of the Homestead Strike. In 2001, statewide strikes had decreased by more than two thirds from 123 in 1990 to 36 in 2001, the latest year for which totals were available. According to the Bureau of Labor Statistics, 14 percent of all Pennsylvania workers belong to a union, slightly higher than the national average of 12 percent. Experts have noted that while a high rate of unionization may give some businesses pause, it often leads to less turnover in the work-force and the presence of more highly-skilled workers, clearly a boon for prospective employers. Unions also still play an important political role in the swing-state – in fact, the 2004 election results in Pennsylvania kept the state "blue" in large part due to the efforts of union workers going door-to-door, and strong union backing provided much support for President-Elect Barack Obama during the 2008 campaign.

Despite the recent politicization of the Board making it more difficult for workers to organize over the last eight years, it is unlikely that unions and employees will be unable to adapt and under a new administration, unions will receive more Congressional and Executive support. It is undeniable that while changing economic realities coupled with the recent Board hostilities have led to a decrease in union power and overall unionization, organized labor has shown its ability to adapt by avoiding the Board when possible. Moreover, the immediate future might see renewed union resurgence.

Traditionally, Democrats have been seen as more supportive of organized labor, and unions can look forward to more political allies in the coming four years. Of particular concern to union leaders is the passage of the Employee Free Choice Act (H.R. 800, S.R. 1041), a bill supported by both President-Elect Obama and Vice President-Elect Biden when they were members of the Senate. Should the bill pass under the incoming Congress, it would amend the National Labor Relations Act to make it much easier for employees to organize and would impose greater penalties on employers who violated the Act. Enactment of the Employee Free Choice Act would result in a shift of power in favor of organized labor, again changing the dynamics of labor/management relations here in Pittsburgh and across the country.

Ms. Riley received her J.D. cum laude from Duquesne University in 2007. She currently serves as a judicial clerk for the Honorable Dan Pellegrini of the Commonwealth Court of Pennsylvania. All opinions expressed in this article are the author’s alone and in no way reflect the beliefs or opinions of the Commonwealth Court or its employees.

References

2. U.S.C. § 157. The full text provides as follows: “Employees shall have the right to self-organization, to form, join or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for the purposes of mutual aid and protection, and shall also have the right to refrain from any or all such activities except to the extent that such right may be affected by an agreement requiring membership in a labor organization as a condition of employment as authorized in section 8(a)(3).” Id.
3. 29 U.S.C. § 158(a)(1). The full text provides as follows: “It shall be an unfair labor practice for an employer – (1) to interfere with, restrain, or coerce employees in the exercise of the rights guaranteed in section 7.”
5. 29 U.S.C. § 158(a)(2). The statute provides in relevant part: “It shall be an unfair labor practice for an employer – (2) to dominate or interfere with the formation of administration of any labor organization or contribute financial or other support to it.”
6. 29 U.S.C. § 158(a)(3). The statute provides in relevant part: “It shall be an unfair labor practice for an employer – (3) by discrimination in regard to hire or tenure of employment or an term of condition of employment to encourage or discourage membership in any labor organization.”
7. 29 U.S.C. §§ 158(a)(4),(5). The full text provides: “It shall be an unfair labor practice for an employer – (4) to discharge or otherwise discriminate against an employee because he has filed charges or given testimony under this Act; (5) to refuse to bargain collectively with the representatives of his employees, subject to the provisions of section 9(a).”
8. 29 U.S.C. § 160(a). The statute provides in relevant part: “The Board is empowered, as hereinafter provided, to prevent any person from engaging in an unfair labor practice (listed in section 8) affecting commerce.
9. 29 U.S.C. § 160(c). The statute provides in relevant part “The Board shall state its findings of fact and shall issue and cause to be served on such person an order requiring such person to cease and desist from such unfair labor practice, and to take such affirmative action including reinstatement of employees with or without backpay, as will effectuate the policies of this Act.”
10. Id.
12. Id.
15. See, e.g. Oakwood Healthcare, Inc., 348 N.L.R.B. No. 37, (2006), defining charge nurses as “supervisors” under the Act; Dana Corp, 251 N.L.R.B. No. 28, (2007), determining that voluntary recognition must be subject to two preliminary requirements and effectively undermining the voluntary recognition mechanism. Recent decisions have also allowed employers greater leeway in coercing employees in a pre-election setting and restricting employees’ ability to solicit union support. Crown Bolt Inc., 343 N.L.R.B. No. 86 (2004); Delta Brands Inc., 344 N.L.R.B. No. 10, (2004).
17. 50 years ago, around 1/3 of the national labor force was unionized.
ABA To Require Students To Complete Bar Exam Course Prior To Graduation

By Elizabeth E. Lamm

In August 2008, the American Bar Association approved a resolution which requires law students to take and successfully complete bar examination preparatory courses offered by the schools prior to graduation. Resolution 112B passed without opposition. This legislation was aimed at improving the bar passage-rates at law schools.

At Duquesne University School of Law, two such courses are currently offered. One course, taught by Dr. Samuel Astorino, is a year-long review course which focuses on the “Big Six” subjects tested on the Multistate Bar Exam – Contracts, Real Property, Constitutional Law, Criminal Law, Torts, and Evidence. It is offered twice during the week and students have the option of attending a weekday evening class or a Sunday early afternoon class.

The other course Duquesne offers is a two-credit Bar Exam Preparatory class that meets on Saturdays during the spring semester. All graduating law students are eligible to attend this course at no extra cost. The class focuses not only on the Multistate Bar Exam, but on the Essay and Performance Test portions of the Pennsylvania Bar Exam. Students take practice examinations, which are graded by instructors and returned with comments and suggestions for improvement. The course meets for thirteen weeks and students who attend a minimum of ten sessions receive two academic credits; however, these credits do not count toward a student’s grade point average or the minimum number of credits needed for graduation.

Richard Gaffney, the Law School’s Director of Bar Services, explained that this resolution means that law schools that offer a bar preparatory course can count the credit it awards students who take the course towards the minimum credits required to graduate. This is obviously an incentive for more schools to offer in-house bar-prep courses, such as Duquesne’s. The ABA requires 83 credits for accreditation purposes; Duquesne’s required minimum credit level for graduation is 86. Although Gaffney said some questions remain regarding the breadth of the bar preparatory course – for instance, should a course satisfying the new resolution focus on only one state or must its focus be national? Gaffney said that Duquesne’s courses provide a good foundation for students. Importantly, the courses will teach graduating students how to take the exam and will lead them on the way to passing the bar exam.

Elizabeth Lamm is a third year day division student who will graduate in June 2009. She is interested in criminal, family, and health care law. Elizabeth received her Bachelor of Arts, summa cum laude, in History and Political Science in 2006 from Bridgewater College in Bridgewater, VA. Currently, she is also pursuing a dual Master’s of Science in Health Care Administration/Master’s in Business Administration from University of Maryland, University College. She can be contacted at lamme@duq.edu
This summer, Bureau of Dog Law Enforcement was doing a routine inspection of E & A Kennel, following a slew of citations for violations of Pennsylvania’s Dog Law. Instead of finding the owners had complied with the Bureau’s orders, Dog Warden Orlando Aguirre (of the Bureau of Dog Law Enforcement) uncovered the slaughter of 80 small breed dogs, including poodles, shih-tzus and cocker spaniels. The massacred bodies were left, rotting, shot-to-death, on a compost pile on the property of brothers Elmer and Ammon Zimmerman, owners and operators of E & A Kennel located in Kutztown, Berks County, Pennsylvania.

Needless to say, the brothers surrendered their kennel license and Elmer Zimmerman pled guilty to four charges of violating the Pennsylvania Dog Law.¹

Prior to the discovery of the massacre on July 24, 2008, the Zimmerman brothers had been cited numerous times for violations of the Dog Law. Previously, the Zimmermans were ordered to seek veterinary examinations for up to 37 of the animals due to flea and fly bites. Instead of paying the cost of veterinary care, the Zimmermans chose to eliminate 80 of the dogs by shooting them and throwing them away like trash.

Warden Aguirre did not believe that anyone could slaughter dogs like this, until he arrived on the scene and saw the lifeless bodies on the compost pile.²

In an attempt to defend his actions, Elmer Zimmerman alleged that a veterinarian recommended he shoot the dogs, though he declined to name the vet. Zimmerman also claimed he acted out of fear that the Department of Agriculture was attempting to close his kennel.

The “Zimmerman killing” is just one of the most recent horror stories illustrating blatant animal cruelty at a commercial dog kennel in Pennsylvania. Animal cruelty has become a serious issue in Pennsylvania, with new stories appearing in the news daily. Beginning two years ago, Governor Edward Rendell promised to work with the state legislature to improve the conditions in commercial kennels across the state. Rendell promised improvements in addition to adding more staff to the Bureau of Dog Law Enforcement for kennel inspection purposes.³

Animal cruelty in Pennsylvania has gained national attention. The horror at these commercial kennels or more commonly called “puppy mills” was featured on the Oprah Winfrey Show in May 2008. On the show, Winfrey displayed video footage and photographs of the kennels, which included pictures of sick dogs and dogs squeezed into undersized cages. Winfrey has been a vocal supporter of Rendell’s proposed changes to the Pennsylvania dog law.
The two newly proposed bills seek to amend the current Pennsylvania dog laws and specifically target commercial kennels and dog breeders. Rendell introduced these changes on May 14, 2008. The legislation seeks to raise standards in order to heighten the safety, health and wellbeing of all dogs in the kennels.

Under the Pennsylvania statutes pertaining to dogs, all kennels throughout the state “shall be maintained in a sanitary and humane condition in accordance with standards and sanitary codes promulgated by the secretary throughout the regulations.” A license to operate a kennel is required if an individual possesses, transfers, sells, or harbors twenty-six or more dogs in any one calendar year. Also, the current dog law permits state dog wardens and other various state employees to inspect all kennels and enforce the provisions of the dog laws. The “dog wardens” are required to inspect the kennels at least once per calendar year.

Furthermore, the current law permits state dog wardens, police officers, and other animal control officers to humanely kill dogs that are found running free. This is only permitted after the officer finds it a necessity within his or her discretion. Likewise, the act provides that any person may kill a dog upon finding that it is in the act of wounding or killing another domestic animal, or wounding or attacking a human. Anyone who kills a dog under these conditions is free of any liability. The owner of a dog causing damage may be directed to immediately kill the dog. Once directed to kill any such dog causing damage, the removal or the leaving of such dog on the premises is illegal. Finally, under these statutes it is illegal for anyone to abandon or attempt to abandon any dog or to intentionally poison any dog. These rules make up the Pennsylvania Dog Law.

The legislation introduced in May 2008, titled House Bill 2525, suggests, among many changes: the elimination of all wire floor cages, the doubling of minimum cage size standards, stricter temperature requirements and mandatory annual veterinary examinations for all kennels. Most importantly, HB 2525 requires outdoor exercise space for dogs, something which is not currently required. Additionally, the legislation places more power in the hands of dog wardens to authorize the revocation of kennel licenses when the owners fail to comply with orders and standards in place to ensure the safety of the animals.

This Bill also includes a significant increase in fines and other penalties for any acts of animal cruelty. Finally, House Bill 2532 mandates that no individual, except a licensed veterinarian, would be permitted to perform the removal of dog’s vocal cords or a cesarean section. The new legislation includes these drastic protective measures because, unbelievably, many kennel owners – with no medical or veterinary training – perform these types of surgical procedures, typically resulting in devastating and painful consequences.

Major opponents of stricter legislation include a very powerful lobbying group, the Pennsylvania Dog Breeders Association. The Association claims that the proposed amendments to the current dog laws and kennel requirements would be financially devastating on its members.

Despite any opposition, Governor Rendell officially signed the House Bill 2525 into law on October 9, 2008. Subsequent to the enactment of the bill, on October 27, 2008, Governor Rendell ceremonially signed a copy of House Bill 2525 during a visit to the Center for Animal Referral and Emergency Services. Rendell explained that the bills will not hinder the ability of reputable kennels to continue breeding animals for show or sporting purposes. Rather, he said, they force the most offensive kennels owners to raise their standards. Most importantly, Rendell explained that with the enactment of House Bill 2525, kennel owners are now officially banned from euthanizing dogs. Finally, Rendell explained that the new legislation is essentially targeted towards the largest kennels, which are known for breeding dogs solely for profit.

As for the ramifications of the new dog laws, it is too soon to gauge any impact upon the industry. The doors are closed on the Zimmerman brothers’ business and hopefully will soon be closing on others that harbor animal horror throughout the state, thanks to this new legislation.

For more information on the enforcement of the Pennsylvania dog laws, kennel licensing, and inspection across Pennsylvania, please contact The Bureau of Dog Law Enforcement, 2301 N. Cameron Street, Harrisburg, Pennsylvania 17110, or call (717)787-4833.

Rebecca Yanos is a third year evening division student, graduating in June 2010. She is currently a law clerk at Zimmer Kunz, a firm based in Pittsburgh. Rebecca received her undergraduate degree from the University of Delaware in United States History and Sociology. Rebecca can be reached at Rebecca.Yanos@gmail.com.

References
2. Id.
5. 3 P.S. § 459-207.
7. 3 P.S. § 459-302(a).
8. 3 P.S. § 459-501(a).
9. 3 P.S. § 459-704.
10. 3 P.S. § 459-601.
12. Id.
14 Id.
15 Id.
MySpace Changes the First Amendment Landscape in Pennsylvania

By Zachary Smith

The rise of online social networking sites has forced the courts to re-examine First Amendment applications. These constitutional issues have become paramount in the education system: on one side, teachers tirelessly maintain a positive professional record, and on the other side, students are turning to online networking sites to vent against their instructors.

Since the 1969 Supreme Court decision *Tinker v. Des Moines School District* – where students were disciplined for wearing armbands to protest the Vietnam War – educators may not prohibit expression unless there is evidence that the contested speech is substantially interfering with school discipline or the rights of others on school grounds. However, both the courts and educational institutions have been unable to apply the rule this strictly. Since the *Tinker* ruling, various exceptions to the liberal rule have surfaced, otherwise this rule allows students virtually undisturbed expression in school in the name of the First Amendment.

For example, in *Bethel Sch. Dist. v. Fraser*¹, the Supreme Court found an exception for lewd, sexual, and profane speech conducted on campus. In *Hazelwood Sch. Dist. v. Kuhlmeier*², the Court carved out the exception for school-sponsored speech – in a school newspaper, for example. Finally, in the famous 2007 "BONG HiTS 4 JESUS"⁴ case the Court held that pro-drug speech might also be restricted.

Recently, the “Free Speech Debate” has expanded to involve cases of restrictions on popular social networking websites like Facebook and MySpace. With the hiring of younger teachers and training tenured faculty, educators are proficient with these websites, and generally, more aware of on-line expressive mediums. These online profile cases have caught the attention of the ACLU and school administrators, both here in Western Pennsylvania and across the country.

In 2000, a Washington-state District Court held that on-campus punishment of a student for creating a webpage that featured a list of other students he wanted dead was acceptable under the *Tinker* rule. The website featured a disclaimer warning visitors that the site was not sponsored by the school and was for entertainment purposes only.⁵

A student in Central Pennsylvania also claimed the student’s First Amendment rights were violated and filed suit against the school district for the student’s off-campus speech and conduct. The student involved had created a MySpace page depicting his principal as, among many things, a “bisexual man” who enjoyed “hitting on his students.” The court noted that the speech was indeed “off-campus,” but still held that a school is still able to “regulate this speech if it substantially disrupts school operations or interferes with the rights of others.”⁶

To better understand the effect technology has had on the lives of educators, *Juris* sat down with experienced Pennsylvania teachers John Lesjack, a history teacher, and Michael Wright, a math teacher and soon-to-be administrator:

**Q:** In your professional opinion, what factors should school administrators take into consideration when dealing with this type of situation?

**John:** The primary factor to consider is the effect the situation has on the educational process. A student that can harass an educator...
without fear of punishment embolds other students to do the same. While lawsuits are ultimately more effective, they also take more time. The student body must see the perpetrator being punished or else they will feel it is “ok” to do this kind of thing. If a situation is not dealt with publicly and swiftly, it will quickly grow into a much larger issue for the school district.

Michael: In this situation the major factor any administrator should consider is whether the action causes a substantial disruption to the school environment as in Tinker v. Des Moines. On another note, if the administrator sees this as a personal attack, he may wish to pursue a suit for slander.

Q: Is there any particular example that comes to mind?

Michael: Thankfully, I haven’t encountered this on a personal level.

John: Last year I had a student who fought another girl on school grounds. The first girl had read the other’s MySpace page and took exception to the fact that the second girl found the first girl’s boyfriend to be cute. While the fight was about more than just the website – rumors about the boy, their relationship, etc., – the MySpace page was a prominent factor.

Q: In your professional opinion, at what point does off-campus expressive activity become on-campus expressive activity?

John: When an off-campus situation is caused by an on-campus relationship, I think it has to be considered on-campus activity. If teachers have to control their actions outside of school – personal blogs, photos, drinking within the school’s area code – then there is clearly some precedent for off-campus actions having an on-campus result. Furthermore, I doubt that a student would create a fake MySpace profile if not for an on-campus relationship.

Michael: If it causes a substantial disruption to the school environment, and causes emotional harm, or diminishes the financial potential of the administrator and tarnishes his or her reputation.

Q: How far would you say the “normal” high school disciplinary code stretches between on-campus and off-campus activity?

John: The administration where I teach seems to take a pro-active stance. The biggest impact seems to be fighting; I have had several students called to the office because they threatened to fight a student after school at the 7-Eleven. The administration takes steps to diffuse the situation, even though it will occur off of school property. While the administration has never, to my knowledge, used on-campus punishment to resolve an off-campus action, they do try and offer on-campus solutions to off-campus problems.

Pennsylvania teachers like Mr. Lesjack and Mr. Wright deal with critical-social online issues on a daily basis. The case that has perhaps garnered the most prevalent and lasting media attention is Layshock v. Hermitage School District. In that case, Justin Layshock, a student at Hickory High School, decided to air his contempt for his principal publicly by creating a fake online profile of him on MySpace.

While initially harmless, the information about the principal that Layshock posted – favorite foods, bedtime, what shoes he wore – quickly became dark, offensive and vulgar. In the complaint filed by the ACLU, Layshock admitted to using the terms “big hard ass,” “big faggot,” “big dick,” or just plain “big” to describe this principal. Layshock also wrote that the principal desired to engage in certain sexual acts with his students, enjoyed doing drugs, and abused alcohol. Layshock echoed this vulgar display of juvenility on at least three other MySpace pages as well.

Most of the students at Hickory High School learned of the webpage. Layshock even took the liberty of showing the profile to his friends on school computers, though he never claimed that he created the webpage. Once the principal discovered the site, the school’s computer system was locked down and later disabled so that social networking sites could not be accessed. In a meeting with the principal and his parents, Layshock admitted that he created the site. Soon after, Layshock was suspended from school, and his parents filed suit in response to the suspension.

Juris spoke with Sara Rose, a Staff Attorney for the ACLU of Pennsylvania and legal counsel for the Layshocks.

“Although the government, when acting as employer, can restrict the speech of its employees within limits,” Ms. Rose stated, “School employees who reject those restrictions can quit their jobs. Public-school students, on the other hand, do not have that option – they are required by law to attend school . . . Although students do not have a First Amendment right to criticize the principal while they are at school if their criticism is offensively lewd or vulgar or is likely to cause a substantial disruption to the normal operation of the school, they do have a right to criticize their principal and other school officials outside of school.”

When asked about Mr. Lesjack’s concerns that conduct such as Layshock’s will embolden other students to do the same, Ms. Rose stated that “school officials . . . are essentially ‘public officials’ within their schools,” and as such, students “have a right to criticize their principal and other school officials outside of school . . . [and] if officials believe that the students’ off-campus statements about a principal or teacher are inappropriate . . . they can take steps . . . such as calling the student’s parents . . . [or] they can contact the police.”

In the Layshock decision the District Court for the Western District of Pennsylvania considered the modern application of the First Amendment in the high school setting. In one of the few rulings that have not simply created another exception to Tinker, Federal District Judge Terrence McVerry interpreted the 5-4 decision in Morse very narrowly.

Through a strict reading of Morse, Judge McVerry applied the “basic framework” of the jurisprudence governing student speech cases – most of which was built in Tinker. In holding that Morse reaffirms those principles, Judge McVerry cited the
famous *Tinker* maxim to support his holding: students do not “shed their constitutional rights to freedom of speech or expression at the schoolhouse gate” and that student speech can only be regulated by a school if a “substantial disruption” occurs within the operations of the school.9

Judge McVerry recognized the online profile was not created at school, and determined that even though Morse seemed to hold questionable speech must be “school-related,” to be regulated, Judge McVerry held that Morse was not controlling under these facts. Judge McVerry held that the Hermitage School District failed to show the “substantial nexus” between Layshock’s conduct and any substantial disruption of school operations required to justify punishment under Tinker.

This clearly marks a move towards a stricter application of Tinker. It is encouraging to those in the educational system looking for a more clear standard upon which to judge expression, as technologically continues to expand. Unless the law in this area is clearly established, teachers and administrators, fearful that students’ online commentary may tarnish their professional reputation, may react in an unconstitutional manner for their own self-preservation. The *Layshock* decision is a progressive legal step in this arena; however, as technology grows and more online expressive mediums are available to students, the courts of the Commonwealth cannot continue to carve out exceptions to the Tinker rule. Rather, the courts must build upon Judge McVerry’s holding to maintain an established constitutional analysis for these difficult First Amendment-student/expression cases.

Zachary Smith is a third-year law student interested in corporate and securities law, as well as civil litigation. He received his bachelor’s degree in Finance from the Smeal College of Business at Penn State. He can be contacted at ZJSmith104@gmail.com.

**References**
8. Id. at 596. (quoting, Tinker, 393 U.S. at 506).
Pittsburgh has the nation's second-highest number of lawyers per capita. Networking, resume building, and interview skills are crucial to successfully gaining employment in this turbulent job market. The key to this success is knowledge. Knowing local law firms and lawyers, knowing the types of candidates that hiring committees are actively seeking out, knowing precisely what to expect in an interview—can all make a monumental impact when law students seek to enter the profession. The best way to ensure that these skills are fully developed by the lawyers of tomorrow, is to learn from the lawyers of today. This is where the Allegheny County Bar Association Young Lawyers’ Division Law Student Mentoring Program (LSMP) can help.

The LSMP is an innovative program designed for law school students at both Duquesne University School of Law and the University of Pittsburgh School of Law. The purpose of the LSMP is to provide law students who are current members of the ACBA with the opportunity to contact a local legal professional who can offer a realistic view of the practice aside from what is typically experienced in the classroom.

The individualized program pairs students with attorneys working in their field of interest. Be it litigation, intellectual property, criminal law or even a field as specific as construction litigation or municipalities law, the LSMP strives to match the student’s interests as closely as possible with an attorney currently working in that area. This provides a unique experience for students to gain valuable information on fields of practice outside of the pressures of the interviewing process, where most students have their first contact with practicing attorneys.

The mentors hope to provide the law students with a wealth of knowledge before they graduate law school and take on the responsibility of representing the interests of clients. Many of the attorneys who participate in this program have found a new appreciation for their work after mentoring a student interested in pursuing a similar path.

The LSMP was honored in August with a “Service to the Bar” award at the American Bar Association Annual Convention held in New York City. The ABA reviews programs across the country and awards this honor to the most innovative and valuable programs developed by bar associations across the country.

The LSMP is also excited to announce a new database it is developing to allow students to search electronically among mentors through a series of fields to ensure that the best mentor possible is paired with the student.

Mentoring relationships give law students a better chance at succeeding. The LSMP will expand law students’ networking opportunities in the Pittsburgh legal community and provide students with contacts within the legal arena—an invaluable advantage when seeking a full-time position after graduation.

Students who wish to participate in the LSMP must be members of the ACBA. Applications for the ACBA can be found at www.acba.org. Once you are a member of the ACBA, please contact Marla Presley at marla.presley@odnss.com for more information on finding a mentor.

Marla Presley, L’03, is an attorney with Ogletree Deakins, concentrating on labor and employment law, and serves as the Chair-elect of the Young Lawyers Division of the ACBA. Ms. Presley is also an adjunct professor at Duquesne Law, teaching Legal Research and Writing and serving as a trial advocacy coach in the Law School’s championship moot court program.
Lawyers Fall Prey to Pricey Internet Scams

By Joe Williams

Lawyers are trained to take every precaution when performing legal services for a client. In fact, many lawyers spend more time in their office, making sure every single detail of each of their cases is accounted for, than they spend in their own homes. However, a series of recent internet scams has demonstrated that it is imperative for lawyers to use an equal amount of vigilance when handling their own affairs as they do when representing a client.
One recent scam has gained particular attention in the legal community, as lawyers are finding themselves the victims of e-mail fraud. The scam begins when an overseas company contacts a United States lawyer by e-mail with an offer that seems too good to be true. The e-mail provides that the overseas company discovered the lawyer’s website and found his or her profile to be interesting. The overseas company proposes to retain the attorney as a settlement agent to collect a debt from an American company. The proposed transaction only requires a few hours of work on the lawyer’s part, but will pay nearly $10,000. Once the lawyer accepts the collection work, the overseas company tells the lawyer the debtor company agreed to repayment of the debt merely because they were intimidated after this overseas entity retained the attorney. The American company then sends a settlement check to the lawyer, who deposits it into his trust account and wires the settlement amount, minus his fee, to the overseas company, whom he believes to be a client. Nevertheless, the settlement check turns out to be counterfeit and the lawyer loses the money that was wired abroad. Clearly, the offer was, in fact, too good to be true.

One Atlanta securities lawyer fell victim to this particular internet fraud when he received an e-mail setting forth what appeared to be an alluring offer. The lawyer accepted the company’s proposition and wired the money overseas. When the check was found to be counterfeit, the bank demanded the money from the lawyer. Ultimately, the bank initiated a lawsuit in federal court seeking reimbursement for nearly $200,000 that the bank wired, pursuant to the lawyer’s instructions, to a foreign bank on behalf of the company that had hired the lawyer via the internet. Similarly, two California lawyers, one in Long Beach and one in San Francisco, also fell for a similar internet pitch, but their banks noticed the counterfeit checks before any money was sent abroad. Additionally, Wells Fargo Bank in San Francisco and City National Bank in Los Angeles have reported at least six other lawyers who were drawn into what seemed to be a lucrative business transaction.

In 2007, the Federal Bureau of Investigation reported that almost $240 million was lost as a result of internet fraud – up from $200 million in 2006. The problem that the FBI faces with these particular hoaxes is that new types of scams arise each week. By the time the FBI obtains reports of internet fraud from the victims, the defrauders have changed the way they do their scams and are already engaging in a new scam. Moreover, the majority of the culprits are overseas, and the FBI has to work through foreign partners, which has proved to be very timely and ineffective. By the time the FBI communicates and formulates a strategy, the scammers have changed their approach or moved.

So what can lawyers do to assure that they do not fall prey to one of these internet scams? Experts emphasize the importance of thoroughly reviewing all e-mails that may lead to an attorney-client relationship, including the e-mail’s origin and the contact information that is provided. For example, in the case of the aforementioned securities lawyer in Atlanta, the culprits identified themselves as Hong Kong Yejian Technology. When you type this name into Google, there is such a company. In fact, the company is even listed on the Taiwanese stock exchange. However, the e-mail was sent from a Gmail account. Most large companies have a website and also have an “official” e-mail address which includes the company’s name. As such, one cannot assume that the e-mail is legitimate merely because a company web page exists. Even when the e-mail looks official, it might not be, especially when the e-mail is sent from a commercial account such as Gmail, Yahoo or Hotmail. Consider this: if an official from an American company asked you to reply to him or her at a Yahoo e-mail address, you would likely question the veracity of the correspondence and the legitimacy of the proposed transaction. The same is true for international companies. Even where the sender claims to be from a reputable company, the fact that the e-mail was sent from a provider other than the company’s official e-mail address is a sure sign that the e-mail is a scam. Similarly, one should always enter telephone numbers into Google or another search engine to verify that the number belongs to the purported sender of the e-mail. If the aforementioned Atlanta lawyer had performed a basic internet search, he would have discovered that Hong Kong Yejian Technology did not use Gmail as its e-mail server and that it maintained an official e-mail provider. Further, the telephone number listed in the e-mail belonged to a website called, ironically, “Scambuster.”

Simply put, taking approximately ten minutes to do some minor research concerning the sender could have saved this particular lawyer nearly $200,000.

Additionally, lawyers should always question the contents of the e-mail itself. For example, in the aforementioned incident, the scammers asserted that they wanted to enter into an attorney-client relationship because they found the lawyer’s profile to be “interesting.” However, most attorneys would agree that they would not allow a corporate client to hire an expert based solely on their impression from a web profile. Accordingly, most legitimate companies would not hire a lawyer for even the smallest of tasks simply because they were intrigued by his or her web profile. Likewise, consider the nature of the services to be performed. In the case of the Atlanta lawyer, he was allegedly being hired to collect a debt from an American company in order to eradicate delays due to intercontinental monetary transactions between Asia and America. However, both the lawyer and the debtor company were located in America, which eliminates the need for the lawyer to eradicate an “inter-continental” delay.

Without a doubt, attorneys are relying on the internet and e-mails to generate new business more than ever. However, as the use of technology grows, the list of potential frauds increases as well. Consequently, it is more important than ever for lawyers to take every precaution to protect the interests of their clients as well as themselves.

Joseph Williams is a third year student, graduating in June 2009. He plans to focus his practice in family law and civil litigation. Joseph received his undergraduate degree cum laude from Bethany College. Joseph can be reached at jwilliams245@comcast.net.

References