

Maryland Daily Record

University of Baltimore law students take the food stamp challenge

by Joe Surkiewicz

Published: December 12th, 2010

Some University of Baltimore law students inadvertently put one foot in the real world last fall when they signed up for the Law and Poverty Seminar. In addition to reading case law related to poverty, they were required to get face-to-face with the poor.

Or stomach-to-stomach.

While some volunteered at homeless shelters and worked on expungement cases at the Homeless Persons Representation Project, a majority opted to take the “food stamp challenge”: limit their expenditure on groceries to \$26.75 for a week (the average food stamp benefit).

And no freebies from friends.

“I had never taught this seminar with an experiential component before. I didn’t know how they’d react,” said UB Law professor Michele Gilman, who co-taught the seminar with clinical fellow Erika Wilson. “But all the feedback was uniformly positive. Not one person was disgruntled.

“From teaching in the clinical program, I can see the value of what happens when students work with poor clients,” Gilman continued. “It can be a powerful experience. I tried to give these seminar students experience with the realities of poverty. We had some good discussions in class about their essays.”

In her essay, Sarah Mendiola said she noticed the little things — like “peanut butter costs \$2.50, even at Wal-Mart.”

“To stay under budget is hard and the fact that you have to plan out a week of meals is even harder,” wrote Mendiola, a third-year student. “I spent \$6.36 at Wal-Mart and \$20.10 at The Dollar Tree. My food costs for the week were a whopping \$26.46. Unfortunately, I ran out of food before the week was over.”

Mendiola said she found it difficult to imagine families actually having to feed themselves on such a small budget.

“If you want ... a good quantity of food, it is nearly impossible to afford any fresh fruits or vegetables, or anything healthy or organic,” she noted. “One thing I had to do was plan every meal and carefully control my portions. When I was hungry, I would munch on my splurge, a large box of granola bars I found on sale for \$2.28 at Wal-Mart.”

Mendiola, who plans to work with low-income people after law school, said that not only are the poor looked down upon, their lives become open books to every agency they seek aid from.

“It made me wonder how this group of people — who can barely afford enough food to make it week to week — can even navigate the complicated world of financial assistance,” she said in an e-mail interview. “Besides being sympathetic to the everyday plight of poverty, it makes you wonder if all of those that are eligible for benefits are even able to apply and receive them.”

Susan Francis, a third-year student, didn’t think the food stamp challenge would be difficult. After all, she and her partner (who joined her in the challenge) are a single-income household—and \$53 a week should have been enough.

“And then I started to think about all the other things we don’t count in that weekly grocery budget,” Francis wrote. “There’s the CSA (community supported agriculture), where we get fresh vegetables every week from a local, organic farmer. There’s the monthly trip to Costco and the liquor store. And there [are] the miscellaneous things we pick up along the way during the week. All of a sudden, the allotted amount didn’t seem so much.”

The hardest thing was not having choices.

“While I tend to live my life pretty frugally, the fundamental difference has been that I’ve always chosen to live that way,” Francis wrote. “We forego a lot of the niceties of life — new clothes, new household items, going out to eat and to cultural events. But it never seemed like a sacrifice because we decided together that our priority would be to pay off our bills and for me to go to law school.

“Missing those things doesn’t seem so harsh when it’s something that you’ve chosen to do,” she continued. “But when it’s not a choice, when there really isn’t any more money to stretch, and you still can’t purchase the basic necessities, that leaves one with a completely different feeling of frustration and powerlessness that I’ve never felt before, even when living on a shoe-string budget while working two jobs to pay my bills.”

Francis plans to become a public interest lawyer, and the challenge didn’t change that.

“But it gave me a very small window into one of the insurmountable challenges that people living in poverty are expected to overcome,” she added. “It gave me a real grounding in what we expect people to survive on, and what a challenge that really is.”

Second-year student David Beste kicked off his week by buying a quantity of bulk food (“Goya ended up being my brand of choice”).

“The largest problem ... was that I was bored with what I was eating and the nutritional value was minimal,” Beste wrote. “I am accustomed to large amounts of salads, fruits and vegetables, but these would not fit into my budget. The massive amounts of rice and beans were making me sick.”

As a law student who spends much of his time reading, a growling stomach didn’t go unnoticed: “I did not find any good ways to distract myself from hunger. If anything, I became repulsed at the idea of eating because it became so boring and work-like.”

Based on his experience, Beste made a policy recommendation — find a way to help people with food stamps buy fruits and vegetables.

“If the true intent is to provide healthy options to people in need, the current system falls short,” he wrote. “Perhaps more food stamp value should be available to people, but only for fruits and vegetables and nothing else Instead of raising the weekly amount, the ‘fruit/vegetable’ option could be available to those that want it separate from regular food stamps.”

Professor Gilman, who also directs UB Law’s Civil Advocacy Clinic, hopes the students will achieve a more “thoughtful and nuanced” approach with the poor in their careers.

“Our profession is one that is committed to advancing social justice,” the law professor said. “This exercise gave the students a broader framework and gave them experience. Obviously, it doesn’t mean that they know what it feels like to be poor.

“But it slowed things down so they could think,” Gilman added. “It made them reflect on the ways that poverty affects people. It made poverty less abstract, more real.”

Joe Surkiewicz is the director of communications at Maryland Legal Aid. His e-mail is jsurkiewicz@mdl.org.

Complete URL: <http://mddailyrecord.com/2010/12/12/university-of-baltimore-law-students-take-the-food-stamp-challenge/>

Community Service, Problem Solving and “Hands On” Learning

Kathleen A. McKee*

Introduction

The current economic downturn has affected the practice of law on several levels. First, it is forcing big law firms to rethink the billing structure of delivery of legal services to clients. A recent article in the WASHINGTON LAWYER noted that clients are reading their bills more carefully and challenging billing structure.¹ Consequently, in some law firms partners may be doing the work that they might previously have assigned to associates.² Second, with a change in the volume of business and billing practices, a number of firms have modified hiring practices as well. A number of law firms have deferred bringing new associates on board, allowing them to work at legal aid programs at a lower salary rate for their first year.³ These changes in the structure of the practice of law come at a point in time when some law schools are reevaluating the current model of legal education. Some schools are transitioning into a model that focuses more on practical skills and experiential education for the last year of law school.⁴

Modifying or completely changing the structure of legal education is usually the end product of an ongoing discussion and deliberate planning process. It implicates reviewing and modifying teaching assignments and the sequencing of course offerings. If instruction is to take place outside the law school, it entails developing linkages with governmental, judicial and nonprofit organizations where the student will work. It may require the law school to expand clinical programs. Where the law school directly supervises the student, it may require the allocation of additional resources to ensure that there is adequate staff assigned to supervise the work of the students.

While law schools are evaluating whether to change the format they currently employ to deliver legal education, they should not ignore the opportunities within the community to provide experiential education with their current framework. For example, while William and Mary School of Law offers a number of different clinical programs, it also currently partners with the local bar association to offer pro bono services to low income households. The students who volunteer for this program assist with the initial client screening. Once screened, the clients are referred to a volunteer attorney who provides the client with initial legal advice and may opt to represent the client on a long term basis. The Norfolk

Portsmouth Bar Association, Young Lawyers Division has partnered with STOP, a local community organization, to start a similar initiative and has recruited students from Regent University School of Law to assist with the initial client screening.

These bar association initiatives supplement the efforts of the local legal aid programs and law school clinics. The clinical programs also routinely get requests for assistance from the community at large. While these requests may entail work that is outside the expertise of a particular clinic, they still may afford an opportunity for students interested in public interest work to work on a project that exposes them to a wide range of problem solving skills. For example, the Civil Litigation Clinic at Regent University School of Law recently received a request to assist residents of a local mobile home park who were facing displacement due to the sale of the park. Most of the residents were low income households and would be financially limited in their ability to find replacement housing. Others had invested their savings in purchasing their mobile homes which were too old to be moved. They could not afford to simply abandon their investment. Approximately 109 households would be affected by the closing of the mobile home park. Clearly, this is not a case that can be concluded in a single semester, the duration of a student's enrollment in the Clinic. Moreover, taking this case on would necessitate reducing intake in other areas in which the Clinic provides services.

The first challenge in responding to the request was to define the level of assistance the Clinic might be able to provide and how it would be provided. Preliminary discussions with externs, clinicians and members of the law school's public interest group resulted in a group of eight to ten students who were interested in working on some aspect of the issue. The next step was to take the information provided and break it down into discrete tasks that the individual students could work on.

1. *Developing the Facts*

Based on the facts provided, it appeared that the most pressing task was to prepare the tenants to appear at a city Planning and Zoning Commission hearing which would decide whether the mobile home park owner's request to rezone the property would be granted. The students set about to research the scope of authority of a city planning and zoning commission and its hearing procedures. If the tenants were to submit or present statements on their own behalf, they needed to know if written materials needed to be submitted in advance and whether they needed to request to be placed on a witness list. They also needed to know if the Planning Commission had the authority to make a final decision or the decision would be subject to review by the city council.

At the same time, students needed to be able to access information on similar cases that had been handled by other advocates working on behalf of low-income communities. One of the listserves

that addresses poverty law issues was contacted. Attorneys throughout the country were asked for input on administrative and judicial strategies they had employed to advocate for the rights of mobile home tenants who were faced with displacement as a result of the sale or closing of their mobile home park.

2. *Ascertaining Client Objectives*

A number of suggestions were received in response to the listserve inquiry. The students learned that before initiating a course of action they needed to make sure the tenants would be comfortable with it. One response received suggested an aggressive media campaign. Another suggestion was to prepare and submit a social impact statement to the local Planning and Zoning Commission whose approval was needed to change the zoning designation of the property for redevelopment. These ideas were presented to the tenants at a community meeting for their reaction. With regard to the first, the tenants were hesitant to engage with the media. There was a concern on the part of some that it could result in retaliation by their landlord. There were others who did not feel comfortable with going to the media because the landlord had accommodated them from time to time when they got behind on their rent. Consequently, they did not want to depict the landlord in an unfavorable light now.

There was support among the tenant group to allow a social impact statement to be drafted on their behalf and submitted to the Planning and Zoning Commission. To that end, a simple questionnaire was drafted that would collect demographic data on the tenants. The questionnaire was translated into Spanish to reach those tenants for whom English was not their first language. The tenants assisted in distributing the questionnaire to each household in the mobile home park. The law students assisted in designing a simple table to tabulate the responses to the questionnaire.

Approximately 89 out of 109 households responded to the questionnaire. The information was used to draft a social impact statement which identified the number of households among respondents that had income levels at or below 125% of the federal poverty line, the number of households that included a member sixty years of age or older, the number of households that contained school age children who would probably be displaced from their current school district and the number of households that included a disabled member. The survey also disclosed that a significant number of households had pets that would probably need to be placed or would end up in animal shelters when the tenants moved into replacement housing because of restrictions on pets.

3. *Supplementing the Empirical Data*

To supplement the information collected in the questionnaire, the students also researched how many other mobile home parks there were in the area, how many vacancies there were in those parks and what criteria they applied in approving trailers for tenancy. This information disclosed that the tenants who owned their mobile homes and rented the lot exceeded the number of lots available for relocation. There were only a handful of lots available for rental in other mobile home parks. Moreover, their mobile homes would not be eligible for tenancy because of the age of the trailers in question.

The students also researched the availability of public or federally subsidized housing in the area to absorb the tenants who rented their mobile homes and would be displaced. This information was used to show that some complexes were not accepting applications for housing. Others anticipated a waiting period of six months to a year for household that applied and were approved. This research disclosed that some complexes required a satisfactory credit report to be approved for tenancy. Others accepted pets but required a substantial pet deposit which many of the tenants who were pet owners would not be able to afford.

4. *Coalition Building*

Community organizations were contacted to see what services might be available to tenants through the non-profit community. The local community mediation center indicated that it would be willing to facilitate discussions between the owner, the prospective buyer and the tenants. The local legal aid program indicated that it would assign an attorney to work with both categories of tenants: those who rented their mobile homes and those who owned their mobile homes and rented the lot on which it sat. By networking with the legal aid program, the Clinic found out that there was a local non-profit organization that administered economic stimulus funds that could be used to provide emergency housing assistance to the tenants who rented their mobile homes in covering relocation costs.

5. *Preparation for Negotiations / Mediation*

As a part of overall strategy development, the students learned that they would need to research possible legal theories to advance on behalf of the tenants who owned their mobile homes in preparation for possible negotiations or mediation. Several possible legal theories were explored. Among the legal questions that they examined were:

a. Whether the sale of the mobile home park which will have a significant impact on households with elderly, disabled and/or minority household members, violates the federal or state fair housing law?

b. Whether mobile home owners who were sold trailers that could not be moved at a point in time when the landlord knew that he intended to sell the land but did not disclose it have a cause of action for common law fraud?

c. Whether the sale of mobile homes under the circumstances described in item "b" constitutes a violation of the state consumer protection act?

d. Whether the mobile home owners who are forced to abandon their trailers when the park closes because their trailers cannot be moved, can be held liable for the cost of disposing of the abandoned mobile homes?

e. Whether mobile home owners who are forced to abandon their trailers when the park closes because they cannot be moved, have a cause of action against the mobile home park owner for conversion?

6. *Developing and Maintaining Consensus Among Tenants*

In addition to contributing to the fact gathering and legal research process, this problem afforded students an opportunity to observe community dynamics and gain insight into the process of consensus building. At the initial organizing stages, a small working group was formed. The purpose of this group was to discuss and decide on strategy for meetings of the Planning and Zoning Commission. The rationale was to keep the size of the group at a manageable level to facilitate discussion and decision making.

However, this working group understood that in order for the community as a whole to feel comfortable with its decision making, there needed to be a way to engage the entire community. To that end, the working group arranged for large group meetings at a local church. An interpreter was always present at these meeting to ensure that the Spanish speaking tenants could fully participate in the meetings. The agenda started with an update on the status of Planning and Zoning Commission hearings. This was followed by a discussion of resources available to assist tenants who rented their mobile homes to find replacement housing and moving assistance. The meeting concluded with an opportunity for tenants to ask questions and identify issues important to them on which more information and guidance was needed.

Conclusion

Aside from the obvious skill building benefits, the students gained some practical insights about the practice of law. They were able to observe firsthand how their skills as lawyers could be applied to benefit an entire community. They observed a community with modest resources in which the members took responsibility for looking out for each other. In gathering information for the social

impact statement, they learned that sometimes there is no form or template provided. The attorney has to create a format of his/her own. The students also learned the importance of carefully preparing and not overstating one's case and of being receptive to assistance from unexpected quarters.

The students were able to observe the long term and short term consequences of their efforts. Both the Planning and Zoning Commission and the City Council in one of the cities in which the mobile home park land was situated voted unanimously not to approve the rezoning proposal. Moreover, one of the unexpected outcomes of this process is that one of the affected cities is considering the adoption of a policy that will require mobile home park owners to file a plan that addresses how they will address the displacement of mobile home park tenants if their park is closed and what level of financial assistance they will provide the residents to relocate.

Last but not least, the students learned that Yogi Berra got it right; it's not over until it's over. Although the rezoning petition has not been granted, the developer intends to go forward with the sale. It is highly likely that he will use the legal tools at his disposal, i.e. increased rents and fees and unlawful detainer actions for any late rents, to slowly empty out the mobile home park with a view to the redevelopment of the land at a later point in time.

* Kathleen A. McKee is an Associate Professor of Law at Regent University School of Law. She received her JD from the Columbus School of Law, Catholic University and her LLM in Labor Law from Georgetown University Law Center. She currently teaches Virginia Civil Procedure and directs Regent's Civil Litigation Clinic.

¹ See Joan Indiana Rigdon, "Cost & Effect financial Outlook Forces Law Firms to Reexamine Billing, Head Counts, and Services," 17, WASHINGTON LAWYER, (April, 2010). In reference to the reaction of clients at big law firms to billing rates during the current recession, Rigdon notes that "These concerns have led to lowered or frozen billing rates, mounting threats to move litigation to lower-cost law firms, and less demand for less experienced lawyers."

² *Id.*, p. 18.

³ See Chris Mondics, *Law Grads headed for public interest work*, THE PHILADELPHIA INQUIRER, August 23, 2009, <http://www.philly.com/inquirer/business/54226697.html> (last visited August 25, 2009)

⁴ See Dean Rod Smolla, *A New Approach to the Traditional Three-year Law School Curriculum*, 1, EDUCATION AND PRACTICE, volume XVII, Number 2 (Fall 2008).

**“Socio-Economics in Teaching,
Scholarship, and Service” ***

*Annual Meeting
Society of Socio-Economists*

Part I: “Socio-Economics in the Academy and the Economy”

Tuesday, January 4, 2011

9:00 a.m. - 5:00 p.m.

*Co-Sponsored by the
Law and Economics Center
Boalt Hall School of Law*

*Additional Participants Welcome !
(See Page 2)*

* * * * *

*Part II: Thursday, January 6, 2011
AALS Section on Socio-Economics
Annual Meeting Program*

Luncheon: 12:00 - 1:30 p.m.- Ticket Required

Annual Meeting Program 2:00 - 5:15 p.m.

In this issue . . .

- 1. Program Overview 1***
- 2. Annual Meeting Program 3***
- 3. Program Description 4 - 5***
- 4. Luncheon Address 1, 2***
- 5. Annual Meeting of SOS 1, 2***
(Society of Socio-Economists)
Tuesday, January, 4, 2011
- 6. Message from the Section Chair . . 5***
- 7. Section Officers 6***
- 8. Socio-Economic References 6***
- 9. Definition of Socio-Economic 6***

**Socio-Economics Luncheon
Thursday 12:00 - 1:30 p.m.
(AALS Luncheon Ticket Required)**

**“Socio-Economics:
Changing the Economic Debate”**

David Cay Johnston

**Columnist - Tax Notes
Best Selling Author
Free Lunch and Perfectly Legal
Distinguished Visiting Scholar
Syracuse University College of Law**

* For more information contact Professor Robert Ashford, Syracuse University, 315-677-4680, rhashford@aol.com

*Annual Meeting
Society of Socio-Economists
Tuesday, January 4, 2011*

“Socio-Economics in the Academy and the Economy”

*Co-Sponsored by the Law and Economics Center
Boalt Hall School of Law*

**Haas School of Business
University of California- Berkeley**

9:00 - 11:45	am	Plenary Sessions
12:00 - 1:15	pm	Luncheon
1:30 - 4:30	pm	Concurrent Sessions
4:30 - 5:30	p.m	Concluding Plenary and Reception

Partial List of Participants

Jena Martin Amerson (West Virginia), Robert Ashford (Syracuse), Shelanda Baker (Wisconsin), Timothy Blessing (Alvernia), Paul Brietzke (Val Pariso), Marvin Brown (University of San Francisco), Regina Burch (Capital), (Richard Buxbaum (California - Berkeley), June Carbone (Missouri - Kansas City), Jesse Choper (California - Berkeley), Robert Cooter (California - Berkeley), andré cummings (West Virginia), Lynn Dallas (San Diego), Fred Foldvary (Santa Clara), Joel Fort (Berkeley), Andrea Freeman (California Western), Jose Gabilondo (Florida International), Dennis Honabach (Dean, Northern Kentucky), Donald Hongisto (Alameda), Michael Malloy (McGeorge), Richard Markovits (Texas), Laura Nader (California - Berkeley), Delos Putz (San Francisco), Steven Ramirez (Loyola - Chicago), and Nicola Sharpe (Illinois),

Additional Presenters/Participants Welcome !

Registration Fee:
By December 10, 2010: \$65
By December 20, 2010: \$90
After December 20, 2010 \$100

For information e-mail << socioeconomics@aol.com >>

**Socio-Economics Luncheon
Thursday, January 6, 12:00 - 1:30 p.m.
(AALS Luncheon Ticket Required)**

***“Socio-Economics: Changing the Economic Debate”
David Cay Johnston***

www.davidcayjohnston.com

David Cay Johnston is a national best-selling author, Pulitzer Prize-winning investigative reporter, frequent commentator on National Public Radio and other media, university lecturer, and a regular columnist for Tax Notes. From 1968 to 2008, Johnston was an investigative reporter for The New York Times and four other major newspapers who earned a widely respected reputation for exposing systemic socio-economic inequity resulting from fraud, mismanagement, and widely practiced business, tax, and economic policy.

The Washington Monthly calls him "one of the country's most important journalists," and the *Portland Oregonian* says his work is the equal of Ida Tarbell, Upton Sinclair and Lincoln Steffens. At *The New York Times*, Johnston received a 2001 Pulitzer Prize for exposing tax loopholes and inequities.

His national best selling books include (1) *Free Lunch*, that exposes massive transfers of wealth from the poor, middle class and affluent to the super rich, and (2) *Perfectly Legal* (winner of the 2004 Investigative Book of the Year Award) that exposes how the tax system benefits the rich at the expense of poor and middle class people. His next book, *The Fine Print*, exposing legalized price gouging, will be out in 2011.

He teaches the tax, property and regulatory law of the ancient world at Syracuse University College of Law and Whitman School of Management.

**Section on Socio-Economics
Annual Meeting Program**

**Thursday, January 6, 2011
San Francisco**

“Socio-Economics in Teaching, Scholarship and Service”

- 12:00 - 1:30 Socio-Economics Luncheon: (AALS Ticket Required)**
David Cay Johnston (Syracuse): Socio-Economics: Changing the Economic Debate
- 2:00 - 2:20 Welcoming Remarks and Program Overview**
Richard Markovits (Texas) - Section Chair
Robert Ashford (Syracuse) - Program Chair
- 2:30 - 3:30 Concurrent Sessions**
- 1. Second-Best Theory and the Analysis of Law-Related Issues Whose Optimal Resolution Would Maximize Economic Efficiency Only Fortuitously**
Jeffrey Harrison (Florida)
Richard Markovits (Texas)
Wendy Wagner (Texas)
 - 2. Class, Socio-Economics, and Critical Analysis**
Robert Ashford (Syracuse)
dre Cummings (West Virginia)
Tayyab Mahmud (Seattle)
Lisa Pruitt (UC Davis)
Steven Ramirez (Loyola - Chicago)
 - 3. Law, Regulation and the Perfect Baby - Part I**
The Evolving Science and the Search for the Perfect Baby
June Carbone - Moderator (Missouri - KC)
Jody Madeira (Indiana Bloomington)
Jamle King (California - Hastings)
Andrew Torrence (Kansas)
 - 4. Innovative Teaching: Law and Socio-Economics in Seminars and Course Modules**
Lynne L. Dallas - Moderator (San Diego)
Margaret F. Brinig (Notre Dame)
Kenneth Dau-Schmidt (Indiana University - Bloomington)
Orly Lobel (San Diego)
Charles R. P. Pouncy (Florida International)
- 3:40 - 4:40 Concurrent Sessions**
- 1. Dean's Forum on Socio-Economics in Teaching, Scholarship and Service**
Dennis Honabach (Northern Kentucky)
Donald Polden (Santa Clara)
Irma Russell (Montana)
Kellye Testy (U. Washington)
 - 2. Socio-Economic Strategies for Economic Recovery**
Robert Ashford (Syracuse)
Steven Ramirez (Loyola - Chicago)
 - 3. Law, Regulation and the Perfect Baby - Part II**
Radhika Rao - Moderator (California - Hastings)
Gaia Bernstein (Seton Hall)
Glenn Cohen (Harvard)
Richard Storrow (CUNY)
 - 4. The Financial Crisis, Corporate Governance and Long-Term Shareholder Value**
David L. Millon - Moderator (Washington and Lee)
Lynne L. Dallas (San Diego School)
Nadelle Grossman (Marquette)
Natalie Mizik (Columbia Business School)
Cheryl Wade (St. John's)
- 4:50 - 5:15 Concluding Plenary on Socio-Economics in Teaching, Scholarship and Service:**
All participants and attendants are invited to participate in an open roundtable,

Thursday, January 6, 2011
Program Description

2:00-2:20 Welcoming Remarks and Program Overview:

After brief introductory remarks, each session leader will provide a brief overview of the session.

2:30 - 3:30 Concurrent Sessions

1. Second-Best Theory and the Analysis of Law-Related Issues Whose Optimal Resolution Would Maximize Economic Efficiency Only Fortuitously

According to The General Theory of Second Best, because in general imperfections are as likely to counteract as to compound each other, one cannot assume that a choice that will reduce the number or magnitude of the imperfections in a system without eliminating all such imperfections will even tend on that account to improve outcomes. Although those economists who pay attention to Second-Best Theory use it exclusively to analyze the economic efficiency of private behaviors or public policies, the theory, its negative conclusion, and its positive corollaries are equally applicable to the evaluation of choices (including law-related choices) whose desirability does not depend exclusively on their economic efficiency. When the latter type of choices are at issue, Second-Best Theory can still provide a service by revealing the need to (1) specify the applicable maximand (goal) or contestable maximands, (2) identify the relevant types of "imperfections"—i.e., types of features of the real world whose individual exemplars would cause sub-optimal outcomes in an otherwise-perfect environment, and (3) examine the way in which multiple exemplars of the same type of imperfection and/or one or more exemplars of two or more types of imperfections interact to cause non-optimal outcomes. Second-Best Theory can also provide a service by revealing the structure and content of the optimal protocol for analyzing the desirability of the relevant choice-options, inter alia the optimal protocol for determining how much data to collect on the determinants of the extent to which outcomes will be non-optimal. This session will explore the implications of Second-Best Theory for the analysis of the following law-related issues whose optimal resolution does not depend exclusively on the resolution's economic efficiency: the analysis of (1) corrective justice, non-corrective distributive justice, distributive desirability from the perspective of various conceptions of the good, (2) the legal appropriateness of judges' rejecting first-best decision protocols (the protocols that would be optimal if perfect conceptual and empirical analyses could be executed costlessly by actual judges) to reflect the fact that the relevant first-best conditions are not fulfilled, (3) election law, (4) the desirability of eliminating individual features of our constitutional governmental structure that constitute

imperfections from a defensible normative perspective, (5) the desirability of "free speech" law that maximizes the quantity and diversity of political speech, and (6) the desirability of the zealous advocacy "norm" for legal representation.

2. Class, Socio-Economics, and Critical Analysis

In recent years, a number of progressive legal scholars have been seeking not only a critical, interdisciplinary analysis of law and economic inequality, but also a constructive alternative to "law and economics." Contributors to this effort often refer to themselves as "Class-Crits," a term that highlights their attention to class as it affects law and justice, though their interests are more expansive and include the interrelations of government and markets as well as subordination in all its forms. In the spring of 2010, the University of Buffalo Law School sponsored a workshop, "Rethinking Economics and Law After the Great Recession," at which legal scholars and economists came together to explore the potential of this initiative. This session considers the approach and goals of the Class-Crits and compares them to those of the AALS Section on Socio-Economics, as reflected in its three-paragraph constitutional definition.

3. Law, Regulation and the Perfect Baby - Part I The Evolving Science and the Search for the Perfect Baby

This panel will consider the coming developments that provide ever more genetic information and do so ever earlier in the reproductive process.

4. Innovative Teaching: Law and Socio-Economics in Seminars and Course Modules

The recent financial crisis demonstrates the importance of law and socio-economics which addresses how real rather than idealized markets work. Various law professors are exploring ways to share knowledge of law and socio-economics with law students. This panel will explore the various ways that law professors are integrating law and socio-economics into their teaching of mainstream course and in specialized seminars. This panel will also consider how advances in technology may assist in this endeavor, particularly through the work of book publishers who are establishing systems that allow professors to pick and choose sections of textbooks for their courses, permitting personalized design of courses. The panel will discuss how with little extra effort and very limited additional reading for their students professors may incorporate law and socio-economic insights into their courses to enrich the education of their students.

(Program description continues)

Thursday, January 6, 2011

Program Description*(continued)***3:40 - 4:40 Concurrent Sessions****1. Dean's Forum on Socio-Economics in Teaching, Scholarship and Service**

Law School deans join in a forum to discuss how socio-economics can enrich teaching, scholarship and service.

2. Socio-Economic Paths to Economic Recovery

The neoclassical economic paradigm attaches little significance to broadening the distribution income, ownership, and opportunity as means to economic recovery. In contrast, many socio-economists believe that strategies that promote broader distribution of income, ownership, and opportunity wealth are essential to sustainable economic recovery. This session explores the how broadening the economic participation of poor and middle class people will promote economic recovery.

3 Law, Regulation and the Perfect Baby - Part II

This panel considers how the developments discussed in the Morning Session (Part I) will affect the future regulatory regimes appropriate to the assisted reproduction, and whether they will affect the balance between medical self-regulation, cultural norms, and direct government oversight.

4. The Financial Crisis, Corporate Governance and Long-Term Shareholder Value

Socio-economists recognize that market inefficiencies may create incentives for market players to cause stock prices to reflect short-term rather than long-term shareholder value. The financial crisis arguably reflects this phenomenon. This panel will explore the causes of short termism and the pressures and incentives of market intermediaries and corporate managers to engage in myopic behavior. The panel will consider empirical work and various reform proposals to limit short termism, including proposals regarding institutional investors and boards of directors, managerial performance incentives, disclosures based on long-term performance measures, and the significance of corporate social responsibility and sustainability to long-term shareholder value.

4:50 - 5:15 Concluding Plenary on Socio-Economics in Teaching, Scholarship and Service

All participants and attendants are invited to participate in an open roundtable. The floor will be open to proposals for future programs and activities of the Section on Socio-Economics.

Message from the Section Chair

I am pleased to have been given the opportunity to serve as the Chair of the AALS Section on Socio-Economics. When pursuing my doctorate in economics, I became aware that, as executed and used, neoclassical economic analysis made a number of dubious assumptions that socio-economics also questions: (1) it is never cost-effective to take account of the fact that individuals are not sovereign maximizers, (2) the distributive impact of a choice has no bearing on its economic efficiency, (3) economic efficiency is a moral value, (4) economically-efficient choices always maximize total utility or the difficulty of making interpersonal comparisons of utility justifies assuming that the marginal utility of money is the same for everyone, (5) all norms other than utilitarian norms are incoherent, (6) economically-efficient choices are always morally desirable, (7) any choice that reduces the Pareto-imperfectness of the economy increases economic efficiency, (8) the efforts of legal scholars to discover legal concepts and decisionmaking processes that respond usefully to imperfect information, transaction costs, and decisionmaker imperfections are futile, and (9) legislators and administrators inevitably make economically-inefficient choices that are in their self-interest while judges (for some reason) maximize economic efficiency. Although many contemporary economists no longer make all these mistakes (witness the growth of the economics of information and behavioral economics), socio-economics offers an important systemic alternative by simultaneously recognizing that neoclassical economics can make a useful contribution to policy and legal analyses but that its contribution would be enormously enhanced if economic analyses were based on realistic human and institutional assumptions, enriched by other schools of economics thought and disciplines and integrated into a comprehensive analysis that also takes account of moral norms.

Consistent with this socio-economic tradition, this year's AALS Annual Meeting Program on January 6, and the earlier January 4 program of the Society of Socio-Economists, co-sponsored by the Boalt Hall Law and Economics Center, offer a rich array of topics and wide spectrum of perspectives. I hope you will attend both programs and encourage others to do so.

– **Richard Markovits**
J.D., Ph.D. Economics
University of Texas
School of Law

What Is Socio-Economics?

Socio-economics begins with the assumption that economics is not a self-contained system, but is embedded in society, polity, culture, and nature. Drawing upon economics, sociology, political science, psychology, anthropology, biology and other social and natural sciences, philosophy, history, law, management, and other disciplines, socio-economics regards competitive behavior as a subset of human behavior within a societal and natural context that both enables and constrains competition and cooperation. Rather than assume that the individual pursuit of self-interest automatically or generally tends toward an optimal allocation of resources, socio-economics assumes that societal sources of order are necessary for people and markets to function efficiently. Rather than assume that people act only rationally, or that they pursue only self-interest, socio-economics seeks to advance a more encompassing interdisciplinary understanding of economic behavior open to the assumption that individual choices are shaped not only by notions of rationality but also by emotions, social bonds, beliefs, expectations, and a sense of morality.

Socio-economics is both a positive and a normative science. It is dedicated to the empirical, reality testing approach to knowledge. It respects both inductive and deductive reasoning. But it also openly recognizes the policy relevance of teaching and research and seeks to be self-aware of its normative implications rather than maintaining the mantle of an exclusively positive science. Although it sees questions of value inextricably connected with individual and group economic choices, socio-economics does not entail a commitment to any one paradigm or ideological position, but is open to a range of thinking that treats economic behavior as involving the whole person and all facets of society within a continually evolving natural context.

Unique among interdisciplinary approaches, however, socio-economics recognizes the pervasive and powerful influence of the neoclassical paradigm on twentieth century thought. Recognizing that people first adopt paradigms of thought and then perform their inductive, deductive, and empirical analyses, socio-economists seek to examine the assumptions of the neoclassical paradigm, develop a rigorous understanding of its limitations, improve upon its application, and develop alternative, perhaps complementary, approaches that are predictive, exemplary, and morally sound. With modest amendment, this description of socio-economics was the substance of the petition signed by more than one hundred twenty law professors from over fifty AALS member schools, to establish the AALS Section on Socio-Economics. It serves as the constitution of the Section. (For a fuller description of socio-economics, see http://papers.ssrn.com/sol3/papers.cfm?abstract_id=882751)

Web Site for all Programs (1996-2010)
< www.journaloflawandsocioeconomics.com >

Introductory Socio-Economic References

1. Paul Stern, "The Socio-Economic Perspective and Its Institutional Prospects," *The Journal of Socio-Economics*, Volume 22, No. 1, 1993, pp. 1-11.
2. Richard Coughlin, "Whose Morality? Which Community? What Interests? Socio-Economic and Communitarian Perspectives," *The Journal of Socio-Economics*, Volume 25, 1996, pp. 135-55.
3. Robert Ashford, "Socio-Economics: What Is Its Place in Law Teaching?" *Wisconsin Law Review*, Volume 1997, p. 611-623.
4. Jeffrey L. Harrison, "Law and Socio-Economics," Volume 49, *Journal of Legal Education*, 224 (1999).
5. Richard E. Hattwick, "The Future Paradigm for Socio-Economics: A Call for Papers," Volume 28, *The Journal of Socio-Economics*, 1999, pp. 511-532.
6. Robert A. Solo, *The Philosophy of Science, and Economics* (1991) and *Economic Organizations and Social Systems* (2000).
7. Steve Keen, *Debunking Economics - The Naked Emperor of the Social Sciences* (2001).
8. Socio-Economics and Corporate Law Symposium: The New Corporate Social Responsibility, 76 *Tulane Law Rev.* 1187 (2002).
9. Symposium: Teaching Law and Socio-Economics 41 *San Diego Law Review* 1 (2004).
10. Lynne Dallas, *Law and Public Policy: A Socio-Economic Approach* (2004).
11. Robert Ashford, "Socio-Economics" *Encyclopedia of Law & Society*, 2007, pp. 1405-1407.

Join Today!

Section on Socio-Economics

Tel: 202-296-8851

Fax: 202-296-8869

net: www.AALS.org

Chair: Richard Markovits
(Texas - J.D., Ph.D. Economics)

Chair-Elect: Irma Russell
(Dean and Professor - Montana)

Program Chair: Robert Ashford (Syracuse)

Opinions expressed herein are not necessarily those of the Section and do not necessarily represent the position of the AALS.