

AALS PROFESSIONAL RESPONSIBILITY SECTION NEWSLETTER



This newsletter is a forum for the exchange of information and ideas. The opinions expressed here do not represent the position of the Professional Responsibility Section of the Association of American Law Schools.



MESSAGE FROM THE CHAIR

MAKING CONNECTIONS—IN PERSON AND VIRTUALLY

By Laurel S. Terry

(Penn State Dickinson School of Law)

I am pleased to report that the Section's "announcements" listserv and its "discussion" listserv are up and running. Section members have used the discussion listserv to announce upcoming conferences, to publicize the [PR teaching survey results](#) (see page 15), and to circulate calls for papers. To receive these messages, make sure that you have opted into the section's "discussion" listserv. (Instructions are on the [homepage](#) at <https://connect.aals.org/p/co/in/gid=145>.)

This listserv is a very easy way to reach out to the academic professional responsibility community. **We encourage you to use this new resource!** Provided you are a member of the Section, all you have to do is send an email message to sectpr@lists.aals.org.

While virtual connections are useful, face-time is also important. This is why we have scheduled a Section dinner in New Orleans during the AALS Annual Meeting. We hope that if you are on the fence about whether to attend the Annual Meeting, the chance to get together with old friends and make new friends will tip the balance. We have reserved space at the Palace Café Restaurant for Friday, January 9th, at 7:30pm. (This will give you time to attend at least half of the Annual Meeting Reception, before walking over to the restaurant.) We've gotten good reviews about the contemporary Creole cuisine (the restaurant is owned by one of the members of the Brennan restaurant family), but mostly we are looking forward to a chance to visit with our colleagues. We also hope that you will consider bringing along a friend or colleague who teaches in the PR field, even if it is not their main area of scholarly research. We will need to have most of the RSVPs ahead of time; logistical details appear on page 3 of this newsletter. (And if you are still on the fence about whether to go

INSIDE THIS ISSUE

MESSAGE FROM THE CHAIR	1
SECTION ANNOUNCEMENTS	2
PROFESSIONAL OPPORTUNITIES	6
BOOKS OF INTEREST	9
NEWS FROM SCHOOLS	10
SECTION MEMBER NEWS	12
COURSE SURVEY	15

to New Orleans, don't forget that you can buy a [Southwest Airlines](#) ticket to New Orleans and receive full credit if you change your mind and don't go. Flying Southwest is much more civilized than it used to be since passengers line up according to the number on their boarding pass and you can get your boarding pass ahead of time.)

Although I suspect that dinner will be a highlight of the Annual Meeting for me, it's obviously not the main purpose of the meeting. I am quite excited about our Section's program, and I hope that you will be also. Our program is scheduled for 10:30am on Friday, January 9th and is entitled *The Transformative Effect of International Initiatives on Lawyer Practice and Regulation: A Case Study Focusing on the FATF & its 2008 Lawyer Guidance*. The FATF is a 30-country intergovernmental organization that includes the U.S. The FATF has had a dramatic effect on lawyer confidentiality rules elsewhere in the world and has contributed to the adoption of "gatekeeper" rules that require lawyers to disclose certain confidential client information. While the U.S. legal profession has – so far - resisted the whistleblower aspects of the FATF's recommendations, we are likely to see changes in lawyer practices as a result of an October 2008 document known as the *FATF Lawyer Guidance*. In one fashion or another, the U.S. is likely to implement the "know your client" and record-keeping principles found in the FATF's October 2008 Lawyer Guidance. These principles apply to a broad swath of lawyers, including those who help create, manage, buy, or sell corporations, lawyers involved in real estate work, and lawyers involved in trusts and estate work. Our panelists include two of the handful of lawyers who negotiated directly with FATF officials over the 2008 Lawyer Guidance. These lawyers (one U.S. and one Scottish) will share their insights about the negotiation process and results.

They will be joined by PR, white-collar crime, and international law academics who will offer their reflections on the FATF developments. We hope you will be interested in joining us to hear about some of the new influences on lawyer regulation.

In sum, my message for this newsletter is simple but important - I hope the AALS Professional Responsibility Section can serve an important role in helping all of us make - and keep - connections with our colleagues. Virtual contact can SUPPLEMENT and even ENHANCE our sense of community, but it cannot REPLACE the sense of community that is created by effective, live dialogue. So use the AALS PR discussion listserv (sectpr@lists.aals.org) and join us for dinner in New Orleans!

AALS PROFESSIONAL RESPONSIBILITY SECTION ANNOUNCEMENTS

THANK YOU TO FRED ZACHARIAS FOR *RECENT SCHOLARSHIP* COLUMN

After many years of great service to the Section and to the newsletter, **Fred Zacharias**, Herzog Research Professor of Law at the University of San Diego School of Law, will be leaving his role as our *Recent Scholarship* columnist. Professor Zacharias has been a pleasure to work with, prompt, dependable, thorough, and genuinely gracious, and he will be sorely missed.

NEW EDITOR AND COLUMNIST SOUGHT FOR NEWSLETTER

In addition to Professor **Zacharias** stepping down, **Randy Lee** will be stepping down as editor of the Newsletter after the Fall 2009 edition. Anyone interested in taking over as either newsletter editor or

Recent Scholarship columnist, please contact Section Chair **Laurel Terry** at 717/240-5262 or at lterry@psu.edu.

RSVP AND JOIN US FOR DINNER IN NEW ORLEANS, FRIDAY, JANUARY 8th

Please join members of the AALS Section of Professional Responsibility in New Orleans for dinner at the Palace Café on Friday, January 8th. See <http://www.palacecafe.com/>. The Palace Café serves contemporary Creole cuisine and is owned and operated by Dickie Brennan, of the famed New Orleans restaurant family. This restaurant has been recommended by locals as well as guidebooks, and it is in walking distance from the Hilton, which is the AALS Conference Hotel.

The Cost and Menu: The cost of dinner will be \$56, including tax and tip (but no alcohol). Since our group easily could be larger than 12 people, the restaurant required us to preselect the menu. We accepted their recommendation to start with their “signature” appetizer of CRABMEAT CHEESECAKE (baked in a pecan crust with a wild mushroom sauté and Creole Meunière sauce), followed by the WERLEIN SALAD. At the restaurant, you will have a choice of three entrees: GRILLED GULF FISH (Fresh fillet of Gulf fish, grilled over an open flame, served with sour cream, new potato mash, and steamed seasonal vegetables finished with a preserved lemon butter) OR CHAR GRILLED RIBEYE (*Creole seasoned ribeye served with a broiled tomato, roasted mushrooms, and a bourbon peppercorn cream*) OR the VEGETARIAN SPECIAL OF THE DAY (*this is often a pasta primavera*). For dessert, we accepted their recommendation of their signature WHITE CHOCOLATE BREADPUDDING. You can order alcohol, but you will need to pay cash since they limit the number of credit cards they accept.

How to RSVP/Logistics: As I discovered last spring, it is quite difficult to reserve a restaurant for a group larger than 12, especially if one is unsure of the final count and is unwilling to guarantee a \$1500 (or up) minimum charge so this is how reservations will work:

1) **Please send an email RSVP to Laurel Terry (LTerry@psu.edu) if you are interested in attending this dinner.**

2) You can cancel anytime up until Dec. 28, 2009, but **if you haven’t cancelled by Dec. 28, 2009, I will consider your email to be a guarantee to me that you will pay for the \$56 dinner.** I will have to give the Palace Café a final “count” approximately one week before the dinner ***and I will be using my personal credit card to guarantee this reservation.***

3) You can either pay \$56 cash at the restaurant, or give me a check and I will put your bill on my credit card. You won’t be able to use your own credit card.

4) We will have the ability to add a very few extra folks to our reservation at the last minute, but I plan to make an announcement at our program on Friday morning (and hopefully encourage some of our more junior colleagues to attend) so if you’d like to join us, I urge you to RSVP ahead of time.

**A THANK YOU TO TED SCHNEYER
AND A WELCOME TO BARBARA
GILLERS FOR ABA ETHICS
COMMITTEE SLOT**

Professor **Ted Schneyer**, University of Arizona Law School, has stepped down from his position as the Section’s liaison to the ABA Standing Committee on Ethics and Professional Responsibility. Thanks to Ted for his two years of service to the Section in this capacity. Professor **Barbara Gillers**, NYU Law School (and a Fordham adjunct)

will be writing regular reports for the AALS PR newsletter on the Committee's activities.

NOMINATIONS SOUGHT FOR AALS PROFESSIONAL RESPONSIBILITY EXECUTIVE COMMITTEE

If you are interested in serving on the AALS Professional Responsibility Executive Committee, please send an email by October 31, 2009 to Peter Joy (Washington University, St. Louis), who is Chair of the Section's Nominations Committee [Joy@wulaw.wustl.edu]. Please include a brief statement about your interests and background. The Nominations Committee will make a recommendation to the Executive Committee, and the Executive Committee, in turn, will recommend a slate of candidates to be voted on at the 2010 AALS Annual Meeting. In the past, the Nominations Committee has sought a particularly broad cross-section of members to have the greatest representation possible on the Executive Committee, taking into account a mix of faculty from private and state schools, geographic mix, gender, and race/national origin mix. In addition the Nominations Committee tries to include newer faculty as well as those well-established so even if you are relatively new to the field, if you are interested in getting more involved, please consider submitting your name to Peter Joy.

PAUL PATON SELECTED FROM THE CALL FOR PAPERS TO JOIN THE AALS PR SECTION ANNUAL MEETING PROGRAM; HONORABLE MENTION TO LOUISE HILL

The AALS Section of Professional Responsibility issued a "Call for Papers" to select the final speaker for the Section's Annual Meeting program entitled *The Transformative Effect of International Initiatives on Lawyer Practice and Regulation: A Case Study Focusing on the*

FATF & its 2008 Lawyer Guidance. Professor **Paul Paton**, McGeorge Law School, has been selected as a speaker for this panel. Professor **Louise Hill**, Widener University School of Law, received an Honorable Mention citation for her submission. Both professors have been invited to submit their papers to the ABA Center for Professional Responsibility's Journal of the Legal Profession, which has agreed to publish the papers from the Section's AALS Annual Meeting program.

The first part of the AALS program will feature U.S. lawyer Kevin Shepherd and U.K. lawyer Colin Tyre, who were two of the handful of lawyers who negotiated directly with the 30-country FATF on behalf of the world's legal professions. They will explain the background and history of the FATF's *October 2008 Risk Based Guidance for Legal Professionals*. By adopting this document (along with the FATF's 40+9 recommendations), the FATF governments (including the U.S.) have agreed that legal professionals in their jurisdictions who are engaged in corporate, real estate, or trust work will use appropriate "know your client" (KYC) principles. Mr. Tyre and Mr. Shepherd will briefly address "KYC" implementation for legal professionals in other countries, including Canada, Australia, and the U.K.

The second part of the program will feature reflections by academics from various fields, including Professor **Tom Morgan**, George Washington School of Law, who is a leading legal ethics and antitrust expert, Professor **Ellen Podgor** Stetson Law School, who is a white collar crime expert and the author of the white collar crime blog, and Professor **James Gathii**, Albany Law School, whose area of expertise includes international commercial (and comparative) law, trade law, and good governance principles. Professor **Paton** will complete this group of commentators, all of

whom approach the issue from different perspectives. Section Chair **Laurel Terry** will moderate the program. We hope you will be able to join us for what should be an interesting and enlightening program.

AALS ANNUAL MEETING & WORKSHOP ON PRO BONO

This year's AALS Annual Meeting will be in New Orleans from January 6th through January 10th, 2010. An early bird registration rate of \$425 runs through November 18th. After that, the rate goes up to \$475. We look forward to seeing everyone at our Section program on Friday, Jan. 8, 2010, from 10:30-12:15pm. The program is on *the Transformative Effect of International Initiatives on Lawyer Practice and Regulation: A Case Study Focusing on the FATF & its 2008 Lawyer Guidance*. Our Section Business Meeting will follow that session, and we'll hold our Section Dinner Friday night (see details in the Section Dinner article on page 3). Section members may also be interested in the AALS Annual Meeting Workshop on Pro Bono and Public Service on Thursday, January 7, 2010 from 8:45am—5:00pm. Thanks to our Executive Committee for planning a busy and exciting Annual Meeting for our Section!

WOULD YOU LIKE A MENTOR?

The AALS Professional Responsibility Section has created a mentoring system to assist law faculty who are interested in finding a mentor. Mentors are available for law faculty who would like assistance from more experienced teachers in curricular development or the teaching of Professional Responsibility. Mentors are also available to faculty who are interested in producing scholarship in the areas of Professional Responsibility or the Legal Profession.

If you would like a mentor, please contact Leslie Levin
(leslie.levin@law.uconn.edu)

SECTION WEBPAGE

Our Section has put together a very helpful webpage, packed with resources including information for new PR professors, casebook summaries (*note to missing authors*: your entries are still welcome!), old newsletters, lists of upcoming conferences of interest to PR professors, calls for papers, and links to online conference materials. If you have not yet accessed this website, please check it out. The link is here (you'll need your AALS user name and password):
<https://connect.aals.org/p/co/in/gid=145>.

If you have been on our website, please continue checking back as we are constantly improving it. In addition to improving graphics, we look forward to adding a list of specialty ethics courses and books, a database of AV resources, and subject specific ethics hypos that could be made available to professors teaching other courses. Thank you to everyone who has worked so hard on the webpage!

PROFESSIONAL OPPORTUNITIES

NOMINATIONS FOR THE MICHAEL FRANCK PROFESSIONAL RESPONSIBILITY AWARD

Nominations will be accepted through December 11, 2009 for the ABA's annual Michael Franck Professional Responsibility Award. This award recognizes individuals whose career commitments in areas such as legal ethics, disciplinary enforcement, and lawyer professionalism demonstrate the best accomplishments of lawyers. Although a nominee's significant contributions to the

work of the organized bar merit strong consideration by the selection committee, noteworthy scholarly contributions made in academic settings, creative judicial or legislative initiatives undertaken to advance the professionalism of lawyers, and other related accomplishments will also be given consideration. Recent law professors who have received this award include **Mary Daly, Geoffrey Hazard, Deborah Rhode, Andrew Kaufman, Monroe Freedman, and Fr. Robert Drinan.**

For additional information on the nomination process for the 2010 Michael Franck Professional Responsibility Award, go to <http://www.abanet.org/cpr/nosearch/franck.html>.

LAWYERS, POLITICS, MORAL COUNSELING & REM

Fordham Law School has created a free dvd resource for law school classes and CLE programs entitled *Red State/Blue State: Lawyers, Politics & Moral Counseling*. The DVD is a cinematic conversation about the state of the legal profession inspired by the scholarship of **Russell Pearce**, Fordham's Edward & Marilyn Bellet Chair In Legal Ethics, Morality and Religion and co-director of the Louis Stein Center for Law & Ethics. In addition to offering a fresh viewpoint to the debate about the role of morality in the practice of law, the dvd features the music of REM and the insights of Doug Ammar, Erwin Chemerinsky, Heather Mac Donald, William Simon, Robin Barnes, Lawrence Fox, John McGinnis, Deborah Rhode, David Wilkins, and Kenneth Starr. The film and teacher's guide are available online at law.fordham.edu/redstatebluestate.

FREE ABA CPR MEMBERSHIP FOR NEW PR PROFESSORS

We'd like to get to know you! The ABA Center for Professional Responsibility is offering a free one-year membership (\$100 value) to ABA members who are new to teaching professional responsibility (adjunct or regular). Learn about the Center and its many resources including online "members-only" access to an ABA formal ethics opinion library, articles and papers; a subscription to *The Professional Lawyer* magazine and its annual *Journal*; revised editions of the *ABA Model Rules of Professional Conduct*; e-mail notices of news and policy developments; and discounts to our CLE events and publications. If you've taught professional responsibility for less than two years, are an ABA member, and would like to enjoy a complimentary one-year membership in the Center, send a request including your teaching history and ABA membership information to cpr@abanet.org.

2009 ABA CoLAP CONFERENCE

Next year's National Conference for Lawyer Assistance programs will be October 5-8, 2010 in Indianapolis. For more information, Contact Janice Jones at the ABA (312/988-5787 or janicejones@staff.abanet.org) or visit the website www.abanet.org/legalservices/colap. This year's conference was October 6-9, 2009 at the Arizona Grand Resort in Phoenix, Arizona and was a rousing success.

CONTROVERSIAL CASES, ZEALOUS ADVOCACY, AND THE PUBLIC GOOD CONFERENCE

The **University of Georgia School of Law** is hosting the 10th Annual Legal Ethics & Professionalism Symposium, titled *Drawing the Ethical Line: Controversial*

Cases, Zealous Advocacy, and the Public Good. This day-long event will take place on Friday, Oct. 16, from 8:30 a.m. to 4:15 p.m. in Classroom A of Hirsch Hall on UGA's North Campus.

The symposium will examine the difficult ethical issues encountered by attorneys in defending and prosecuting controversial or high-profile cases. In addition to addresses by former U.S. Attorney General W. Ramsey Clark and former U.S. Attorney for the District of New Mexico David C. Iglesias, there will be three panel discussions featuring an array of notable practitioners and academics.

Registration for the symposium is limited. Those interested in attending should contact Jill Coveny Birch at (706) 542-5190 or jbirch@uga.edu. This year, the Law School also hosted a conference on *Advancing Social Justice*, featuring Mary Bauer, Director of the Southern poverty Law Center's Immigrant Justice Project.

ECONOMIC DOWNTURN AND THE LEGAL PROFESSION CONFERENCE

On October 16, 2009, **Fordham Law School** will host *Colloquium on the Economic Downturn and the Legal Profession*. The principal presenters include: Tony Alfieri, Scott Cummings, Marc Galanter, Bill Henderson, Lisa Lerman, Carol Needham, Paul Paton, Mitt Regan, Deborah Rhode, Tanina Rostain, Norm Spaulding, Eli Wald and David Wilkins. For additional information, go to <http://law.fordham.edu/louis-stein-center-for-law-and-ethics/1962.htm>

POWER, POLITICS AND PUBLIC SERVICE CONFERENCE

Hofstra Law School's 2009 Legal Ethics Conference is scheduled for October 18-20th and is entitled *Power, Politics, and Public Service: The Legal Ethics of Lawyers in Government*. The conference will focus on the most important regulatory and cultural reforms regarding the legal ethics of lawyers in government. Conference speakers include Professors **Bennett Capers, Kathleen Clark, Angela Davis, Monroe Freedman, Bruce Green, Peter joy, Fred Klein, Kevin McMunigal, Jamin Raskin** and **Ellen Yaroshefsky** along with Jeffrey Toobin, Robert Mundheim, Cyrus Vance, Jr., the Honorable D. Brooks Smith, and the Honorable Mark Wolf. For additional information on the conference, go to

http://law.hofstra.edu/NewsAndEvents/Conferences/confer_Power-Politics-and-Public-Service.html

FAITH AND ETHICAL LEADERSHIP IN LEGAL EDUCATION PROGRAM

Fordham Law School's Institute on Religion, Law & Lawyer's Work will be hosting *Addressing the Economic Crisis: The Role of Faith and Ethical Leadership in Legal Education* from 6:00-7:45 on November 4, 2009 at the Fordham Law School. Two non-transitional CLE ethics credits are available for the program, which is part of the Institute's 2009-2010 Religious Values and the Practice of Law Speaker Series. This year's series will explore the extent to which the fiscal crisis is an invitation to shift gears, and specifically how religious values might help us to rethink our approach to legal education and legal practice. Featured speakers include Henry Shea, Senior Distinguished Fellow, Holloran Center for Ethical Leadership in the Professions, University St. Thomas, School of Law (MN); Ian Weinstein, Professor of

Law and Director of Clinical Education, Fordham Law School; and Institute Director Amy Uelmen. For additional information, please go to <http://law.fordham.edu/lawreligion>, email lawreligion@law.fordham.edu, or phone 212.636.7699

INNOVATIVE METHODS FOR TEACHING LEGAL ETHICS WORKSHOP

The Fall 2009 workshop of the National Institute for Teaching Ethics and Professionalism (NIFTEP) will take place on Friday, November 6 - Sunday, November 8 at the Red Top Mountain Lodge, located 40 miles northwest of Atlanta.

NIFTEP was founded in 2005 as a consortium of five nationally-recognized university centers on ethics and professionalism. It conducts national workshops that bring together leading academics and practitioners involved in promoting the teaching of ethics and professionalism. Attendance at these highly participatory events is limited to invited speakers and to those selected to be NIFTEP Fellows. Fellowships are typically granted either to full-time law professors who teach legal ethics or to practitioners actively involved in ethics CLE education and professionalism programs. However, any person committed to promoting ethics and professionalism may apply. Fellows are reimbursed for their travel expenses and there is no charge for the workshop. Previous workshop programs are available on the NIFTEP website.

For additional information, please contact Clark D. Cunningham, Director National Institute for Teaching Ethics & Professionalism (NIFTEP), or W. Lee Burge, Professor of Law and Ethics, at

Georgia State University College of Law
P.O. Box 4037
Atlanta, GA 30302-4037
Phone: (404) 413-9168

LAW FIRM EVOLUTION CONFERENCE

On March 22-23, 2010, **Georgetown Law Center** will hold *Law Firm Evolution: Brave New World Or Business As Usual?* For additional information, please go to <http://www.law.georgetown.edu/LegalProfession/documents/GeorgetownCenterfortheStudyoftheLegalProfessionsymposium2010callpapers.pdf>

ABA NATIONAL PROFESSIONAL RESPONSIBILITY CONFERENCE

Next summer's ABA National Conference on Professional Responsibility will be in Seattle, Washington June 2-5, 2010.

INTERNATIONAL LEGAL ETHICS CONFERENCE IV

Deborah Rhode and Dena Evans of the Stanford's Center on the Legal Profession invite you to save the date for the fourth *International Legal Ethics Conference*, July 15-17, 2010, at Stanford University in Palo Alto, California. For more information or to join the Center's email list, contact legalprofession@law.stanford.edu or go to <http://www.law.stanford.edu/program/center/clp/>

ADDITIONAL CONFERENCES AND OPPORTUNITIES

The AALS PR Webpage includes a list of upcoming Professional Responsibility-related academic conferences. This list is available in the folder entitled "[Resources](#):"

[Upcoming PR-Related Conferences](#) ", which is found at: <https://connect.aals.org/p/do/si/topic=1021>. If you have an upcoming PR related conference you would like included on the list, please pass this information on to Section Chair Laurel Terry at lterry@psu.edu Also, if you send Laurel an email announcement of your conference, she will forward it to the AALS PR Section "discussion listserv."

ONGOING

For links to ABA ethics teleconferences and other ethics programs, see <http://www.abanet.org/cpr/events/home.html>

For links to the Association of Professional Responsibility Lawyers (APRL) meetings, see, <http://www.aprl.net/programs.htm>

The Law Firms Working Group, <http://firms.law.indiana.edu/about/index.shtml>

BOOKS OF INTEREST

Leslie W. Abramson, Frost Brown Todd Professor of Law at the University of Louisville Law School, has just published *Acing Professional Responsibility*, a book which can help students identify and resolve the range of legal issues presented in an exam question.

Daniel Capra, Reed Professor of Law at Fordham Law School, and **Russell Pearce**, Fordham's Edward & Marilyn Bellet Chair in Legal Ethics, Morality, and Religion, have a new casebook coming out, *Professional Responsibility: A Contemporary Approach*, complete with online teacher's manual and interactive casebook. The title combines print and online materials to make legal ethics more relevant to students. The title also includes cutting edge audio and visual content.

Robert Cochran, Louis D. Brandeis Professor at Pepperdine Law School, and **Thomas Shaffer**, Robert E. & Marion D. Short Professor Emeritus at Notre Dame Law School, have released the second edition of their book, *Lawyers, Clients, and Moral Responsibility*. The book, which can serve as a useful supplement in Professional Responsibility courses, explores the place of moral and social values in the law office.

The eighth edition of *Regulation of Lawyers* by **Stephen Gillers**, Emily Kempin Professor at the New York University School of Law, has recently been released. Some highlights of the new edition are inclusion of changes in the new ABA Code of Judicial Conduct and of issues surrounding electronic stored information, new coverage of prosecutorial ethics, expanded treatment of duties with regard to real evidence and of ethical issues arising from the inadvertent disclosure of privileged information, and an introductory essay on theories and ideology behind legal ethics. Professor Gillers also has recently published *Regulation of the Legal Profession: the Essentials*, which offers big-picture perspective on professional responsibility.

Deborah Kenn, Professor and Director of the Community Development Clinic at Syracuse College of Law, has just published *Lawyering from the Heart*, which features interviews with twenty-two talented law school graduates who stayed true to their dreams of using their education for the benefit of society. Informative, motivating, and inspiring, Professor Kenn's book reflects the satisfaction to be found in living one's values and following one's passion.

Margaret Raymond, Professor of Law at the University of Iowa, has a new casebook out, *The Law and Ethics of Law Practice*. The book is particularly sensitive to the needs of students who will enter small-firm or solo practice and features problems at the

end of each chapter taken from current cases and news stories.

James J. Rigos has a new 2009-10 Edition of his highly-touted *Multistate Professional Responsibility Exam (MPRE) Review*. A CD with a full course audio lecture is included with the book, and the popular "Make Your Own Exam" and "Magic Memory Outlines" from the first edition remain an important component. This book is replete with practice MPRE questions along with full answer explanations and provides a thorough foundation for the substantive law needed to pass the MPRE.

Ronald Rotunda, Chapman Law School Professor, and **John S. Dzienkowski**, Dean John F. Sutton, Jr. Chair in Lawyering and the Legal Process, have completed the 2009-10 edition of their text *Professional Responsibility: A Student's Guide*.

Donald Tobin, Professor, Senior Fellow, and Associate Dean at Ohio State's Moritz Law School, **Richard Lavoie**, Associate Professor at the University of Akron School of Law, and Richard Trogolo have just published *Problems in Tax Ethics*, which can serve as a text in a specialized ethics course for students interested in serving as tax lawyers or as a supplement in a Professional Responsibility or Federal Income Tax class.

NEWS FROM SCHOOLS

On October 8 and 9, 2009, the Joseph G. Miller and William C. Becker Institute for Professional Responsibility at the **University of Akron Law School** presented its inaugural symposium *Lawyers Without Borders and Practicing Law in the Electronic Age*. The conference was highly successful as it sought to respond to the recognition that the practice of law today is increasingly more global in scope and high-tech. Both the technological and the multi-

jurisdictional nature of practice, whether national or international, raise a variety of professional responsibility issues and challenges for lawyers, judges and teachers. This symposium addressed those issues with a host of the leading ethics experts from the bar and the academy, including David S. Caudill, Sarah M.R. Cravens, Nathan M. Crystal, John S. Dzienkowski, Stephen Gillers, Arthur F. Greenbaum, Judith McMorro, James E. Moliterno, Carol Needham, Paul Paton, Andrew Perlman, J.L. Pottenger, Jr., Margaret Raymond, John P. Sahl, Carole Silver, and Laurel Terry.

For additional details from the conference, visit:

www.uakron.edu/law/millerbecker/index.php

The international law firm of Skadden, Arps and the **University of Alabama School of Law** announced September 22, 2009 that Gordon Bonnyman, Jr., Executive Director of the Tennessee Justice Center, has been awarded the 2009 Morris Dees Justice Award. The award will be presented in New York on November 12, 2009. Bonnyman has spent his entire career representing low-income clients, the elderly, prisoners, disabled persons, and the uninsured. He has been the lead counsel in more than a dozen class action lawsuits, many of which have served as models for legal services organizations throughout the United States

The Louis Stein Center for Law and Ethics at **Fordham Law School** organized a symposium entitled *The Lawyer's Role in a Contemporary Democracy*, which was cosponsored by Stanford Law School's Keck Center on Legal Ethics and the Legal Profession and the Fordham Law Review and aided by the David Berg Foundation. Proceedings from this symposium are available at 77 Fordham L. Rev. 1229 (2009). Fordham's Forum on Law, Culture & Society is also sponsoring a film series the

week of October 16-22. The series has already been featured in the ABA Journal.

Pepperdine Law School's Herbert and Elinor Nootbaar Institute on Law, Religion, and Ethics will host noted author and scholar Os Guinness on Wednesday, Oct. 21, from 12:30 to 1:30 p.m. Guinness will speak on *Survival of the Fastest – Living Sanely in the Crazy of Modern Fast-Life*.

The Maurer School of Law at Indiana University in Bloomington has announced the opening of the Center on the Global Legal Profession. The Center will facilitate communication and collaboration among attorneys worldwide while enhancing the school's Legal Professions curriculum.

Marquette Law School reports that more than 40% of their graduating students now qualify for membership in the law school's Pro Bono Society by performing 50 hours or more of voluntary legal service by graduation. Marquette law students recently also donated almost one ton of law textbooks to African law schools.

The **University of Maryland School of Law** has begun its Leadership, Ethics, and Democracy Initiative (Lead Initiative) in partnership with the Fetzer Institute. Under the directorship of **Professor Michael Millemann**, LEAD will "help law students harness the idealism that they bring to law school and to discover ways in which they can sustain and build on their idealism in their legal careers." LEAD projects will have many dimensions including international practice; post-Katrina recovery work; play-writing; and the development of new forms of classroom and clinical work, research, and public service.

The New York University School of Law has announced the opening of the Straus Institute for the Advanced Study of Law and Justice. The Straus Institute is

under the direction of **Professor Joseph Weiler**, Joseph Straus Professor of Law, and offers generous fellowships to top scholars from diverse fields in an effort to create an intellectual and multidisciplinary haven for the consideration of law and justice.

Pace Law School recently hosted a meeting of law school student services professionals to discuss issues related to alcohol and drug abuse and to mental health for law students. Representatives from twelve law schools attended in person or participated via videoconference.

University of the Pacific McGeorge School of Law is hosting its fifth annual National Ethics Trial Competition March 18-20, 2010. The competition selects sixteen schools to compete each year based on demonstrated excellence in the training of law students in ethical trial practice. For additional information, please contact Professor Thomas Leach at 916/739-7002 or at netc@pacific.edu.

Pennsylvania's deans of students met for a retreat for the third consecutive year over the summer. In addition to discussing issues of common interest, the deans met with representatives of the Character and Fitness Committee of the Pennsylvania Board of Bar Examiners, Pennsylvania Lawyers Concerned for Lawyers, and Justice Michael Eakin of the Pennsylvania Supreme Court.

Pepperdine Law School's Herbert and Elinor Nootbaar Institute on Law, Religion, and Ethics will host noted author and scholar Os Guinness on Wednesday, Oct. 21, from 12:30 to 1:30 p.m. Guinness will speak on *Survival of the Fastest – Living Sanely in the Crazy of Modern Fast-Life*.

The Holloran Center for Ethical Leadership in the Professions at the **University of Saint Thomas Minneapolis**

has been invited to join the National Institute for Excellence in Teaching Professionalism, a consortium of law school ethics and professional centers including Fordham, Georgia State, Mercer, South Carolina and Stanford starting in the 2009-10 academic year. Last year the Center offered more than 50 ethics-related presentations, including 20 outside Minnesota and two national webinars, to more than 6,000 people.

On September 11, 2009, **UCLA School of Law** held *Law and the Possibility of Justice in the 21st Century: A Conference in Honor of Richard Abel*.

SECTION MEMBER NEWS

Richard Abel, the Michael J. Connell Professor at UCLA Law School, and **Kathleen Clark**, Professor at Washington University Law School in Saint Louis, both delivered talks during American University's 2008-09 Washington College of Law Distinguished Faculty Speaker Series. Section member **Mary Clark** of the Washington College of Law was the commentator for Professor Abel's program.

New York University School of Law Professor **Anthony Amsterdam** received the Frederick Douglas Human Rights Award from the Southern Center for Human Rights for having shown "brilliance and tenacity in the defense of human rights."

Professor **Carol Rice Andrews**, University of Alabama School of Law, spoke on personal and professional Responsibility at the annual retreat of the Women's Section of the Alabama State Bar Association.

Debra Lyn Bassett, Judge Frank M. Johnson, Jr., Scholar & Professor at the University of Alabama School of Law, recently spoke at the National Foundation for Judicial Excellence and has also updated BarBri's professional responsibility practice

exams to comply with the latest standards issued by the National Conference of Bar Examiners.

Lonnie T. Brown Jr. has been promoted to Full Professor at the University of Georgia School of Law. Professor Brown just completed a year working in the University's Office of the Provost as a UGA Administrative Fellow.

Teresa Stanton Collett, Professor of Law at the University of St. Thomas—Minneapolis School of Law, has been named Director of the UST ProLife Advocacy Center.

Peggy Cooper Davis, John S.R. Shad Professor of Lawyering and Ethics at New York University School of Law, has been named one of the three most influential people in legal education by the *National Jurist*. The designation was given to people who "have influenced legal education in a way that continues to benefit current and future law students."

Daisy Hurst Floyd, Dean of Mercer University's Walter F. George School of Law since 2004, will step down as dean at the end of this academic year to become University Professor of Law and Ethical Formation.

Bruce Green's experiences as a Columbia Law School student figure prominently in *Harry Potter and the Lawyer's Curse*, a CLE currently being presented (by someone other than Bruce) throughout Pennsylvania. Bruce's experiences help to illustrate the value of mentors, heroes, and community in the ethical practice of law.

Matthew I. Hall has joined the University of Georgia School of Law and will be teaching Legal Profession, and **Carol Morgan** has joined the faculty to help develop the school's Business Law and Ethics Program.

Susan Pace Hamill, Professor at the University of Alabama School of Law, is running for the Alabama State Legislature.

Neil Hamilton, Director of the Holloran Center for Ethical Leadership in the Professions at the University of Saint Thomas Minneapolis School of Law received that University's John Ireland Presidential Award for Excellence as a Teacher and Scholar.

Erica J. Hashimoto recently was awarded tenure at the University of Georgia School of Law.

John Hasnas, Visiting Associate Professor of Law at Duke Law School, presented this year's Tabor Institute on Legal Ethics Lectures at Valparaiso Law School. Professor Hasnas presented a bench and bar lecture entitled *Between Scylla and Charybdis: Ethical Dilemmas of corporate Counsel in the World of the Holder Memorandum* and a lecture for the public entitled *Of Sirens, Shepherds, and Lawyers: Imagery and the Attorney's Ethical Obligation*

Steven Hobbs, Tom Bevill Chairholder of Law at the University of Alabama, is president of the Board of Directors of the Alabama Blues Project and attending drafting meetings for the MPRE.

Lawrence Lessig, formerly a professor at Stanford Law School, has been appointed Director of Harvard's Edmund J. Safra Foundation Center for Ethics.

Samuel J. Levine, Professor at Pepperdine Law School, and his family have been blessed with a new baby girl, Shira Leah! Pepperdine has also named Sam a Rick J. Caruso Research Fellow for this academic year.

Martha Minow, the Jeremiah Smith, Jr. Professor of Law at Harvard Law School,

has been appointed the school's twelfth dean. Dean Minow joined the Harvard faculty in 1981 and in 2005 received the school's Sacks-Freund Award for teaching excellence. She has authored numerous books and more than 200 articles. Among her many other noteworthy accomplishments, Dean Minnow taught the current Section newsletter editor's Professional Responsibility course and once served as a celebrity judge on a panel selecting the best ice cream in Cambridge, Massachusetts.

Professor **Fred Moss** of Southern Methodist University's Dedman Law School received the 2008 Robert E. Oliphant Award in recognition of his long-time service to the National Institute for Trial Advocacy (NITA), not only as a teacher and program director, but also for his leadership on NITA's Public Program Advisory Committee.

Jerry Organ, Associate Dean at the University of Saint Thomas Minneapolis School of Law, is joining that University's Holloran Center for Ethical Leadership in the Professions as the Center's Associate Director, and **Professor Lyman Johnson**, the Jean LeJeune Distinguished Chair in Law at St. Thomas, is becoming a Center Fellow.

Glenn Harlan Reynolds, the Beauchamp Brogan Distinguished Professor of Law at the University of Tennessee, delivered this year's *Distinguished Scholar in Residence Lecture* at Hofstra University School of Law. Professor Reynolds's talk was entitled *Small Is the New Big: Technology and the Practice of Law (and Everything Else)*.

Chapman Law School Professor **Ronald Rotunda** has filed a brief in *Aperton v. A.T. Massey Coal Co., Inc.*, a judicial ethics case before the United States Supreme Court. Professor Rotunda also has appeared on

numerous radio and television programs, including Fox News, to discuss the case.

Michael Scaperlanda, the Gene and Elaine Edwards Family Chair in Law at the University of Oklahoma Law School, is using part of his sabbatical to make the 33-day pilgrimage walk from St. Jean Pied de Port, France across northern Spain to Santiago de Compostela in Galicia. The *Camino de Santiago*, as this journey is called, is a walk of nearly 500 miles and follows the footsteps of Saint Francis. It is a walk pilgrims have been making for over a thousand years. Those interested in following Professor Scaperlanda's progress can find his postings at http://mirrorofjustice.blogs.com/mirrorofjustice/scaperlanda_mike/

In addressing why he is making the trek, Professor Scaperlanda writes:

In our book (co-authored with his wife María de Lourdes Ruiz Scaperlanda who previously walked the Camino de Santiago), *The Journey: A Guide for the Modern Pilgrim*, María says:

When we make a conscious decision to live in the present moment by embracing each day, each person we meet, each situation in front of us, we are like Mary in her "Fiat," saying "yes" to the graces that God has for us today and every day. In the words of St. Ignatius, we step out with trust that "everything has the potential of calling forth in us a more loving response..." It is this distinctive choice that makes us pilgrims in our everyday lives.

I can only speak for myself, but fear, the desire to set and control my own agenda, time pressures, etc. keep me from living a life of total freedom as described above by my wife with a little help from St. Ignatius. A pilgrimage, like a retreat, is an opportunity for me to intentionally step outside normal everyday life to practice this

type of openness to the graces in my life that so often go unrecognized. After reentering normal everyday life, I hope some of the lessons from the road will be retained.

Elizabeth R. Schiltz, Professor at the University of Saint Thomas Minneapolis School of Law, spoke on *Dueling Vocations: Managing the Tensions Between Our Private and Public Callings* at a program sponsored by Fordham Law School's Institute on Religion, Law & Lawyer's Work.

Susan Stabile, Professor at the University of Saint Thomas Minneapolis School of Law, offered thirteen spiritual retreats and four other spiritual programs for both the St. Thomas and wider communities last year.

Ted Schneyer, Professor at the University of Arizona Law School Ted will be serving on the ABA's new *Commission on Ethics 20/20*.

Beth Thorburg, Professor at Southern Methodist University's Dedman School of Law, has won the 2008-09 Eisenberg Prize, given by the American Academy of Appellate Lawyers, for her article, *The Curious Appellate Judge, Ethical Limits on Independent Research*.

Amy Uelmen, Director of the Institute on Religion, Law & Lawyer's Work at Fordham Law School, and Co-Director **Russell Pearce** participated in the Focolare's third International Jewish-Christian Symposium in Israel earlier this year. Professor Uelmen also spoke at Catholic University's Columbus School of Law conference on *Realizing Religious Mission in Legal Education*. On November 12-13, Professor Uelmen will also be participating with Section members **Sam Levine**, Professor of Law at Pepperdine, and Saint Thomas Minneapolis Professor **Robert Vischer** at Seton Hall's conference on *Religious Legal Theory: the State of the Field*.

Fred Zacharias, Herzog Research Professor of Law at the University of San Diego School of Law, has been named the inaugural holder of the USD School of Law Donald Weckstein Summer Research Professorship.

NEA SURVEY OF PROFESSIONAL RESPONSIBILITY COURSES AT AMERICAN LAW SCHOOL IN 2009

Andrew M. Perlman^{*}
Margaret Raymond^{**}
Laurel S. Terry^{***}

In an effort to learn more about how professional responsibility is taught at American law schools, we developed an online survey at www.surveymonkey.com, which was directed at professional responsibility teachers nationwide. We received 105 responses from at least 77 different law schools over a three week period in May and June 2009. This article summarizes our findings.

I. Demographics of Survey Respondents

Question 1 asked respondents how they heard about the survey. The largest proportion of respondents (62.5%) heard about it from the Association of American Law Schools Professional Responsibility section listserv, which is sent to more than 600 people who are members of the AALS

Section of Professional Responsibility. The second most significant source was the legalethics listserv, which is maintained at Washburn University School of Law and consists of full-time academics and adjuncts who teach professional responsibility as well as lawyers who practice in the area. 36.5% of the respondents learned about the survey through that list. Others learned about the survey through the AALS newsletter (8.7%), which was sent to the AALS PR listserv, the Legal Ethics Forum blog (11.5%), which is available on the Internet, or from someone they knew (1.9%). (Respondents were able to indicate that they heard about the survey from multiple sources.)

Question 2 asked respondents about their law school faculty status. The overwhelming majority of the respondents were members of the tenure track doctrinal faculty at their law schools (79.1%). 14.3% indicated that they were residential clinical faculty, rather than doctrinal tenure track faculty. Only a small percentage of respondents (6.6%) were adjunct faculty. The question inspired ten “other” responses, which included administrators, individuals with combined portfolios, legal writing faculty, and emeritus faculty. Question 3 asked how frequently the respondents teach professional responsibility. Most (66.3%) taught the course at least once each academic year; a significant minority (11.5%) teach the course every semester. Others taught the course less frequently. 4.8% of the respondents used to teach the course but no longer do, while 5.8% do not teach the course but are interested in the subject matter. In sum, the vast majority of respondents regularly teach professional responsibility.

Question 12 asked respondents to identify where they teach. 92 out of 105 respondents answered this question, with 77 different schools identified. (Fifteen schools had two respondents, and no school had more than

^{*} Professor, Suffolk University Law School, aperlman@suffolk.edu.

^{**} Professor, University of Iowa College of Law, margaret-raymond@uiowa.edu.

^{***} Harvey A. Feldman Distinguished Faculty Scholar and Professor of Law, Penn State Dickinson School of Law, lst3@dsl.psu.edu.

two respondents.) Because 13 respondents did not answer this question, it is likely that the survey was completed by professors from at least 80 different law schools (i.e., approximately 40% of all accredited law schools).¹ Accordingly, the respondents not only appear to teach professional responsibility regularly, but they come from a wide range of law schools.

II. The Scope and Timing of Professional Responsibility Offerings at American Law Schools

Question 4 asked respondents how many credits students receive for taking the professional responsibility course at their school. The majority (57.7%) were three-credit courses; 22.1% indicated that the course was two credits, while a significant number (20.2%) indicated that the number of credits varied by professor. Accordingly, a majority of schools in the survey offer a three-credit professional responsibility course.

Question 5 asked respondents to identify the year of law school when students take professional responsibility. The vast majority of schools (78.9%) permit students to take the class at any time after the first year of law school, with some of these schools (approximately 6% of all responding schools) offering students an opportunity to satisfy the requirement in a first year elective course during the second semester of law school. Most of the remaining schools (15.8%) require students to take the class in the second year of law school. One responding school requires professional responsibility to be taken in the first year of law school, and three schools in the survey (3%) require the course to be taken in the final year of law school.

¹ Because we could not identify the school affiliations for all respondents, some of the questions (such as the number of credits offered at each school) may reflect duplicate responses from the same school.

Question 6 asked respondents whether their schools offer an advanced class in professional responsibility. A majority (52.0%) indicated that their schools do not offer such a class; 42.2% said that their schools do offer such a course; and the remainder were unsure. Among schools that do have an advanced class, the course titles that were offered varied considerably, including malpractice, philosophical treatments of legal ethics, and courses focusing on specific practice areas, such as corporate law and criminal law.

III. Method of Student Assessment

Question 8 asked respondents: “Which of the following factors contribute to a student’s grade in your class? (check all that apply).” Responses were as follows: Three respondents (3%) indicated that they give some pass/fail assignments during the course. Three respondents (3%) indicated that students’ grades are determined, at least in part, through quizzes that are offered throughout the semester.

Clinicians were much more likely to identify simulations as a component of the grade and to assign a written project, and clinicians were less likely to administer an essay exam or a multiple choice exam. The low number of responses from clinicians (12) limits the reliability of these findings:

IV. The Substance of Professional Responsibility Courses

Question 7 asked whether a respondent’s law school required professors to teach certain topics in their professional responsibility classes. A substantial majority of respondents (91.3%) indicated that their schools do not impose any such requirements. Approximately 6% indicated that their schools do impose some requirements, with one school in California requiring coverage of the California ethics rules and two other responding schools

indicating that they are asked to comply with the accreditation standards.

Question 9 asked respondents which book they currently assign to their students. Respondents had twenty-five options and an opportunity to write in the names of books that had been excluded from the list. There were two notable findings. First, professional responsibility teachers use a wide range of books. Only one book was identified by more than 10% of respondents (that book was identified by 30.9% of respondents). Six books were identified by between 5% and 10% of respondents, and seven books were identified by between 1% and 4% of respondents. The second remarkable finding was how many professors (13%) use their own materials, making self-prepared materials the second most common answer. (The responding clinicians were especially likely to use their own materials, with 33% (4 out of 12) so noting.)

Question 10 asked respondents which books they had used in the past. Respondents were offered the same list of books as in question 9. Although two books were identified by more than 30% of respondents, there was once again a wide range of answers.

Question 11 explored the coverage of the typical professional responsibility class by asking how much time respondents spend on a wide range of topics. The responses appear below.

There are at least two noteworthy findings. First, the topics that appear to receive the most coverage (i.e., more than half of respondents devote more than two hours of class time to these subjects) are: conflicts of interest (99% devote more than two hours of class time); the duty of confidentiality (93.8%); duty to the court (truthfulness) (60%); attorney client privilege and work product doctrine (53.6%); decision making authority in the attorney-client relationship

(51%); and obligations to entity clients (49.5%). A second noteworthy finding is that only 47.9% of professors offer any coverage of judicial ethics.

Clinicians emphasize similar material, but there was at least one notable difference. In what might be a surprise to some people given the perceived practical leanings of clinicians, clinicians who responded to the survey spend more time on theoretical issues than non-clinicians. Two-thirds of the clinicians spend two or more class hours on that topic, whereas only 46.4% of respondents overall spent that much time on theoretical/philosophical issues. Again, these findings are less reliable given the relatively small sample size of clinician respondents.

V. Advice for New Teachers

Finally, we asked for advice for new professional responsibility teachers: "One of the reasons that we are accumulating this information is to provide it to people who are teaching professional responsibility for the first time. Tell us below what you wish you had known when you first started teaching professional responsibility. Also indicate how the AALS PR section can help people (whether new teachers or long-time teachers) who teach professional responsibility. Thanks!"

We received a variety of useful responses, with many respondents emphasizing the use of problems and simulations in class and the value of seeking out external resources, including attending conferences, locating exam banks, and using web sites and listservs to stay up to date on the law. Several respondents also mentioned students' resistance or passivity to ethics instruction. Here are all of the comments (unedited) that we received.

Conclusion

We hope this information is useful both to individual instructors planning to teach in the Professional Responsibility area and to law schools contemplating curricular changes or initiatives relating to professional responsibility. We appreciate very much the prompt and thorough responses from our colleagues in the field, which among other things suggest that there are several vehicles for obtaining useful survey data from this group. We may decide to replicate this survey in a few years, so if you have any suggestions about how to improve the survey, including suggestion for alternative questions, please feel free to contact us.

Section Chair: **Laurel S. Terry**, Dickinson School of Law, the Penn State University, 150 South College Street, Carlisle, PA 17013, 717-240-5262, Email: lterry@psu.edu.

Editor: **Randy Lee**, Widener University, 3800 Vartan Way, P.O. Box 69382, Harrisburg, PA 17106-9382, 717-541-3940, Email: glee@widener.edu.

Production Designer: **Keith A. Heard**, Widener University, 3800 Vartan Way, P.O. Box 69382, Harrisburg, PA 17106-9382, 717-541-3947, Email: kaheard@widener.edu.