

PROFESSIONAL RESPONSIBILITY SECTION SUMMER 2006 NEWSLETTER

Section Chair: Carol A. Needham, Saint Louis University, 3700 Lindell Boulevard, St. Louis, MO 63108, e-mail needhamc@slu.edu.

Editor: G. Randy Lee, Widener University, 3800 Vartan Way, P.O. Box 69382, Harrisburg, PA 17106-9382, 717-541-3940, e-mail GLee@widener.edu.

Production Designer: Paula M. Heider, Widener University, 3800 Vartan Way, P.O. Box 69382, Harrisburg, PA 17106-9382, 717-541-3949, e-mail pmheider@widener.edu.

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MESSAGE FROM THE CHAIR By Carol A. Needham (Saint Louis)

Many members of our Section have been involved in programs designed to reinforce the application of professional responsibility principles for students and new attorneys beyond what they have experienced in law school classes. Some law schools convene programs for first year students to get small groups talking about issues like role differentiated ethics, acting with integrity, avoiding plagiarism. Others invite distinguished practitioners to spark discussion with third year students regarding what actions a lawyer can take when facing various problematic situations. What hypos have you found useful in these settings?

Have you put together a program using excerpts from books like Ethical Dilemmas in the Practice of Law by John Dzienkowski and Amon Burton (Thompson/West 2006), Red Flags: A Lawyer's Handbook on Legal

Ethics by Lawrence Fox and Susan Martyn (ALI-ABA 2005) or Lawyers Crossing Lines by James Kelley (Carolina Academic Press 2001)? What has been your experience with Bar panels designed to encourage professionalism? Have you found video materials such as Russ Pierce's Bruce Springsteen DVD, Stephen Gillers' film clips, or the materials produced in association with the Keck Foundation to be more effective than print? I am particularly interested in hearing your thoughts about the elements that have made your programs a worthwhile experience for the attendees. If you are interested in talking with other members of the section about programs you have been involved with or sharing ideas about programs you are planning, send a

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message to newsletter editor Randy Lee at Glee@Widener.edu. Information received by March 1, 2007 will be included in the Spring Section newsletter. In addition, come to this year's Annual Meeting, and don't miss that opportunity to share what has worked for you in your efforts to encourage the bar.



SECTION ANNOUNCEMENTS

ANNUAL MEETING PROGRAMS

We are hoping for another great turnout of Section members at this year's AALS Annual Meeting in Washington. Again this year the Professional Responsibility Section will be offering a full slate of programs at the AALS Annual Meeting. The solo program sponsored by our Section will be "Navigating Treacherous Waters: Initiating an Investigation Going up the Ladder and Reporting Out" (dealing with protecting lawyers' independent professional judgment) Friday, January 5, from 10:30-12:15. Our Section business meeting and our annual lunch bunch gatherings (see below) will follow. In addition to that program we are also co-sponsoring four additional programs:

– "High Risk/High Stakes Student Problems: New Approaches Inside and Outside the Classroom for Addressing Substance Abuse, Gambling, and Other Self-destructive Student Behaviors" with the Section on Student Services (part of the expanded program "Expanding Our Knowledge to serve the Student

Community"), Wednesday, January 3, from 9:20-10:45.

– "Legal Ethics CLE in the Law School Setting" with the Section on CLE, Thursday, January 4, from 4:00-5:45;

– "Prosecution and Racial Justice" with the Sections on Criminal Justice and Minority Groups, Saturday, January 6, from 9:00-10:45;

– "Policing Lawyer Ethics in Class Action Litigation" with the Section on Civil Procedure, Saturday, January 6, from 9:00-10:45;

– Section members may also be interested in "Balance in Legal Education: One Year Later," Friday, January 5, from 3:30-5:15.

Furthermore, the AALS Committee on Sections and Annual Meeting was pleased with the first year of Section poster presentations at the AALS Annual Meeting and will be displaying posters again this year. The Professional Responsibility Section has been the leading section in this program, we actually have three years of great poster displays under our belts, and our Section is again this year sponsoring Section members and their posters. Make sure you check out our Section's posters displayed at the Annual Meeting.

We look forward to seeing everyone in Washington!



RETURN OF THE OUT TO LUNCH BUNCH

In addition to the Section's formal programs, Executive Committee member Irma Russell is also organizing a return of

the wildly successful *out to lunch bunch* from last year. Again this year, Executive Committee members will lead (rather than *host*) small groups of interested section members out to lunch following one of our section programs at our annual meeting. Please let Irma know at the University of Tulsa College of Law (irma-russell@utulsa.edu) if you'd like to help with the program.

No need to make a reservation for this event. You will be invited at the conclusion of the Section's program to join in the lunch bunch. Irma will provide directions and maps and restaurant reviews of nearby restaurants. Thanks to Irma's efforts, last year this was both a qualitative and quantitative success, and we hope to have an even bigger and better time this year.



E. SMYTHE GAMBRELL PROFESSIONALISM AWARDS

Nominations are now being accepted for the Seventeenth Annual E. Smythe Gambrell Professionalism Awards, recognizing projects that enhance professionalism among lawyers. Bar associations, law schools, law firms and other not-for-profit law related organizations are eligible for the awards.

In conjunction with the ABA effort to better serve solo and small firm practitioners, the Standing Committee on Professionalism would like to remind potential applicants that programs designed to provide guidance to lawyers with practice management and skills issues are eligible for Gambrell Awards. These programs are particularly helpful to the solo practitioners (and small firm lawyers) who often find themselves the subject of complaints to disciplinary agencies, but who need practice assistance

rather than discipline. Such programs allow lawyers to address the issues that have caused or may cause contact with the agencies, so that they can better serve their clients and avoid the discipline process in the future.

The ABA Standing Committee on Professionalism, a component of the ABA Center for Professional Responsibility, will present up to three awards of \$3,500 each during the 2007 ABA Annual Meeting in San Francisco, California. Award criteria include overall quality, replicability, likelihood of continuation, innovation, success, substantive strength in the area of professionalism, scope and other distinguishing features of the applicant programs.

The award is named for E. Smythe Gambrell, who served simultaneously as president of the ABA and the American Bar Foundation from 1955 to 1956. Gambrell founded the Legal Aid Society in Atlanta, where he practiced law from 1922 until his death in 1986.

The deadline for entries is March 30, 2007. Entry forms, guidelines and information about previous award recipients are available online at www.abanet.org/cpr/gambrell.html. Questions regarding the awards should be directed to Kathleen Maher (312) 988-5307, e-mail: maherk@staff.abanet.org.

NEWSLETTER ANNOUNCEMENTS

Look for the Fall Newsletter by mid-November. Deadline for announcements in October 31. If you are speaking at an Annual Meeting session other than one for our Section, please let Randy Lee (GLee@widener.edu) know so he can include the information in the Fall

Newsletter and invite fellow Section members to attend.

MEMBER ANNOUNCEMENTS



UPCOMING PROGRAMS

Catholicism and the Court: The Relevance of Faith Traditions to Jurisprudence: On Friday, November 10, 2006, the University of Saint Thomas-Minneapolis Law Journal will host a symposium, in part, to consider whether religion should play a role in judicial decision making. The Honorable Diarmuid O'Scannlain of the United States Court of Appeals for the Ninth Circuit will be speaking.

Ethics and the Representation of Families: The UMKC Law Review invites articles for inclusion in its 2007-08 symposium issue on Ethics and the Representation of Families. This symposium issue will focus on selected ethical issues in the representation of families (including representation in estate planning, divorce, custody, abuse & neglect and juvenile cases). There are a number of signs that attorneys are not doing very well in rising to the challenges of practice in the unique world of representing families. Complaints to disciplinary agencies, malpractice rates, and a public increasingly looking to other professionals to assist them in adjusting family relationships are all signs of a profession that could do a better job serving its clients. Guidance for ethical practice in these critical and challenging fields of law is thin. The rules of professional conduct regulating attorneys conceive of legal practice in a balanced

adversarial or corporate setting. Family representation is rarely central in debates over professional regulation standards. It is no wonder that the most prominent examples of "supplemental ethics codes" are developed in fields relating to family law practice. This symposium issue will address some of the most difficult ethical dilemmas in representing families in an effort to provide guidance for practitioners and policy makers in developing ethical standards.

Publication inquiries are welcome and may be directed to the faculty symposium sponsor **Professor Barbara Glesner Fines** at glesnerb@umkc.edu or 816.235.2380. Final manuscripts must be submitted by December 15, 2006.

Articles should be submitted to

Barbara Glesner Fines
Ruby M. Hulen Professor of Law
UMKC School of Law
500 E. 52nd Street
Kansas City, MO 64110
(816) 235-2380
(816) 235-5276 FAX
glesnerb@umkc.edu

Legal Malpractice and Professional Responsibility: The *St. Mary's Law Journal* is pleased to announce its Sixth Annual Symposium on Legal Malpractice and Professional Responsibility, which will be held on Friday, February 23, 2007, in San Antonio, Texas. In conjunction with the Symposium, the *St. Mary's Law Journal* will dedicate one of its quarterly issues to the topic of Legal Malpractice and Professional Responsibility. The *St. Mary's Law Journal* is currently ranked third in a nationwide survey of law journals most frequently cited by state and federal courts, and has ranked in the top ten for several years. During the

most recent seven-year survey period, SMLJ was cited by approximately 30 different state supreme courts and several federal courts. The law journal is particularly interested in publishing articles that address issues relevant to legal malpractice, disqualification, and disciplinary litigation.

If you are interested in submitting an article for publication, please contact Rachel McGregor, Symposium Editor, at rmcgregor@stmarytx.edu.

Amy Uelman, director of Fordham Law School's Institute on Religion, Law and Lawyer's Work, just held its first program in the series *Faithful Citizenship*, which explores the legal, ethical, and cultural implications of bringing Catholic values and social teachings into public life. The program was entitled *When Conscience Clashes with State Law and Policy: The Distinctions Between the Roles of Lawyers and Judges* and featured talks by Robert K. Vischer of the University of St. Thomas Minneapolis and Bruce Green of Fordham. For information on the upcoming programs in this series, email lawreligion@law.fordham.edu.

Washington University School of Law in Saint Louis is sponsoring a year long series of presentations on *Access to Justice: The Social Responsibility of Lawyers*. Upcoming speakers include Richard Epstein, Rep. Richard Gephardt, Linda Greenhouse, and Sherrilyn Ifill. For more information on the series, contact Elizabeth Niehaus, Clinical Programs Coordinator at ekniehaus@wulaw.wustl.edu.



BLOGGING

Andrew Perlman at Suffolk Law School and a group of Professional Responsibility Section colleagues invite you to check out their blog at legalethicsforum.com. In addition, they are always looking for interesting legal ethics related posts. If people want to share their recent scholarship or have anything else about which they'd like to post, they can feel free to contact Andrew at aperlman@suffolk.edu.

Alan Childress and Jeffrey M. Lipshaw of Tulane University Law School, along with Mike Frisch, are also starting up a blog this fall on the more general subject of the legal profession (not just professional responsibility). They plan to dig into the issues that touch on an academic view of the profession, including law firm economics, ethics, the profession's view of the academy, and the globalization of the profession.

CAREER AND PERSONAL HIGHLIGHTS

✓ Section Committee Member **Irma Russell** has moved. Irma recently joined the faculty at the University of Tulsa College of Law as NELPI <<http://www.nelpi.org>> Professor and Director of The National Energy-Environment Law & Policy Institute. The appointment reflects Irma's *other life* in addition to professional responsibility. In addition to being a member of both the ABA Standing Committee on Ethics and Professional Responsibility, the Professionalism Committee of the ABA Section on Legal Education, and the CPR Publications

Committee, Irma is active in environmental law. She currently chairs the ABA Committee on Global Oil & Gas of the ABA Section of Environment, Energy and Resources. Irma's recent publications include a book, *Issues of Legal Ethics in the Practice of Environmental Law*, available from ABA Publications.

✓ University of Hawaii Professor **Randall Roth** and Federal District Court Judge Samuel King co-authored a book, "Broken Trust: Greed, Mismanagement & Political Manipulation at America's Largest Charitable Trust." It has topped the local bestseller list for nonfiction for the past six months. Professional Responsibility professors can get a review copy by sending a mailing address to Randall (rroth@hawaii.edu <<mailto:Rothrroth@hawaii.edu>>).

✓ **Ronald D. Rotunda** University Professor and Professor of Law at George Mason University School of Law has two articles recently available:

The Propriety of a Judge's Failure to Recuse When Being Considered for Another Position, 19 *Georgetown Journal of Legal Ethics* 1187 (2006); and

Judicial Ethics, the Appearance of Impropriety, and the Proposed New ABA Judicial Code (The Howard Lichtenstein Lecture in Legal Ethics), __ *Hofstra Law Review* __ (2006) (forthcoming).

✓ Great news from Professor **Marjorie Silver**, Professor of Law at Touro Law Center! As Marjorie reports, "I am immensely proud to announce, in the order of importance, that my first grandchild, David Morgan Michael Silver, was born to

my son and daughter-in-law on June 26, 2006!" Marjorie also just recently put the manuscript in the mail for her forthcoming book: *The Affective Assistance of Counsel: Practicing Law as a Healing Profession* (Carolina Academic Press), due out by the end of the year, in time for Spring semester classes.

✓ **Gregory C. Sisk**, Professor of Law at the University of St. Thomas School of Law in Minneapolis, has a new book published by ALI-ABA, *Litigation with the Federal Government*. In addition to teaching Professional responsibility, Gregory also teaches a course on litigation with the federal government, which he designed himself.

✓ Professor **Benjamin C. Zipursky** of Fordham Law School just assumed the James H. Quinn '49 Chair in Legal Ethics at Fordham.

✓ **Russell G. Pearce** of Fordham has a new movie to his credit as well as a new title. Russ just released the DVD to accompany his article *Revitalizing the Lawyer-Poet: What Lawyers Can learn from Rock and Roll*, 14 *Widener L.J.* 907 (2005). Steve Berenson on the Legal Ethics Forum blog described the DVD as "an innovative way, accessible, and fun way of bringing the important issues Pearce addresses to law students and lawyers." If you don't have a copy of this DVD or the accompanying teacher's guide, contact lawyersrock@law.fordham.edu. In addition, Russ was just named the Edward and Marilyn Bellet Chair in Legal Ethics, Morality and Religion at Fordham Law School.

✓ **Mary L. Clark** was recently appointed to the tenure track faculty at American

University's Washington College of Law. In addition to teaching Legal Ethics, Mary will be teaching Property and a seminar on Women's Legal History and the History of Women in the Legal Profession.

✓ The Legal Writing Professors blog recently recommended that its readers get a copy of the **Widener Law Journal's** symposium *The Lawyer as Poet Advocate: Bruce Springsteen and the American Lawyer* "for some thought-provoking and plain fun reading. With recommendations like that, it's no surprise that more than a year after Widener-Harrisburg hosted this event, the aftershocks of legal education's first conference dedicated to the work of Bruce Springsteen continue to roll through the legal community. In addition to Russ Pearce's recently released DVD (see above), conference organizer Randy Lee has been on the road doing twelve ethics CLEs on Springsteen since the conference including stops in Chicago, New York, Philadelphia, and Pittsburgh, and the Pennsylvania Bar Institute has Randy's talk available for lawyer viewing on its website. Meanwhile, fellow conference participant Federal Magistrate Judge John Facciola was invited to speak along with New Jersey Superior Court Judge Marlene Lynch Ford at Penn State's National Springsteen Conference held near Springsteen's home in Monmouth County, New Jersey. Bill Doyle's article for the program, *Rats and Wounds in Bruce Springsteen's Jungleland*, 14 *Widener L.J.* 731 (2005), is being used in a school program in Brockton, Massachusetts, and King's College distributed Fox News Commentator Bernard Grimm's article, *Connecting with the Boss: Listening as a Person and Becoming the Lawyer I Ought to Be*, 14 *Widener L.J.* 935 (2005), to guests at its reception honoring Bernie as the school's Outstanding Alum for 2006. Finally, Frank Stefanko, Springsteen's photographer and

friend and a huge help with the conference, is releasing a new book in late October featuring photographs of another of his friends Patty Smith.

Widener still has complimentary copies of the symposium journal available so if you wants to take the Legal Writing Professors Section up on their suggestion to take a look, contact Randy Lee at glee@widener.edu

✓ **Michael Scaperlanda**, associate dean and Gene and Elaine Edwards Family Chair at University of Oklahoma Law center, spent a busy summer, which included his son's wedding and preparations for his youngest daughter's departure for college. In between all the excitement, Michael and **Teresa Collett**, University of St. Thomas-Minneapolis School of Law, finished work on their book for Catholic University Press, *Recovering Self-Evident Truths: Catholic Perspectives on American Law*, due out next spring.