



## AALS Section on Professional Responsibility

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SPRING 2018 NEWSLETTER

## Chair's Message



### Margaret C. Tarkington, Chair

Indiana University  
Robert H. McKinney School of Law

#### Our Responsibility to Ethical Government and Leadership

It is truly an important time to be a scholar and teacher of lawyers' ethics. The activities and morality of lawyers are at the forefront of national attention and debate. The ethics of government officials and their personal lawyers, of lawyers employed by the government, and lawyers heading government agencies and investigations are facing national scrutiny and attention. Since 2017,

lawyers such as James Comey, Michael Cohen, Rudy Giuliani, Sally Yates, Robert Mueller, Jeff Sessions, and Preet Bharara have taken center stage in the national news. Citizens and the media question the legitimacy and integrity of our government and its processes—and also are inquiring into lawyers' duties to their clients, to the rule of law, to justice, and to the integrity of our overall government. As teachers and scholars of legal ethics, what is our role and responsibility in such a climate?

Certainly, scholarship and dialogue is one place to start. And so our 2019 Program at the AALS Annual Meeting will address such issues. The topic is *The Ethics of Lawyers in Government*, and we are pleased to have **Richard Painter, Kathleen Clark, and Dana Remus** on our panel. We will also be selecting two additional panelists from a call for papers. Complete information regarding the call can be found below. Our section will be holding its program on **Thursday, January 3, from 10:30 am to 12:15 pm**. I would like to thank our program committee, **Leslie Levin, Veronica**

**Root, and Sande Buhai** for their excellent efforts.

Another significant aspect of our roles as professors of legal ethics is to teach our students about these issues and their obligations to their clients as well as to the overall system of justice. We can use many of the issues of the day to illustrate to our students their obligations of confidentiality, honesty, candor, and justice. It is important that our students—along with our citizenry—do not lose sight of the fact that there *are* facts. Not everything one disagrees with can be dismissed as “fake news.” There are limits to what a lawyer can ethically present or dispute as factual or as within the bounds of the law. And our students must know this—especially students that enter government service and who thus are permitted to strike hard blows, but are absolutely prohibited from striking foul ones. Government lawyers—from the lowest level prosecutor on up—serve as gatekeepers protecting the integrity of our system of government and its processes. Each of us may not be able to do much about lawyers currently in government service. Yet

we each have the opportunity to shape the professional consciences of the law students we teach and who will soon be joining those ranks.

This year our section is also co-sponsoring the program of the new Section on Leadership, which will be addressing the related topic, *Leadership in Challenging Times*. Their program will be held on Saturday, January 5, at 8:30 am. We will also be holding a works in progress session for *New Voices in Professional Responsibility* on Thursday, January 3, at 3:30 pm. We will select the works in progress from a separate call for papers (details below). Papers can be on any professional responsibility topic from professors with seven years or less of full-time teaching experience. We will need senior scholars in our field to offer commentary on the papers selected for the works in progress session. ***If you are such a senior scholar and are willing to serve as a commentator and/or with the selection of works in progress to be presented, please contact me at [mtarking@iupui.edu](mailto:mtarking@iupui.edu).***

On a different subject, I also wanted to take a moment to reflect on the outstanding contributions of two giants in our field who have passed away since we met in January: **Geoffrey Hazard** and **Ronald Rotunda**. They will be greatly missed, but their contributions to the field will continue to make an impact and form a basis for the work for others. I would like to pay a short tribute to each of them at our section breakfast at the Annual Meeting.

This year we are trying something new with our traditional section get-together at the Annual Meeting. We will be having a section breakfast hosted at the conference proper on Thursday morning (the same day as our program). Those who wish to attend the breakfast need to RSVP

and pay for the breakfast as part of their registration for the AALS Annual Meeting. Further, we need at least 15 people to register and RSVP for the breakfast by the early bird registration deadline or the breakfast will automatically be cancelled. We will remind you again closer to the date, but please register for the breakfast if you wish to attend.

Finally, I wanted to extend my gratitude to **Nicole Iannarone** for her excellent work in preparing this newsletter. This edition includes intriguing substantive columns from **Eli Wald** and **Neil Hamilton**. If you would like to contribute to the Fall newsletter, please feel free to reach out to Nicole or to me. Further, I would like to thank **Pamela Brannon** for putting together the *Recent Scholarship* column.

If any of you would like to serve in this section, please reach out to me or to the appropriate committee chair as listed below. It is a pleasure to work in this field with all of you.

-Margaret

catapulted to the national stage. The ethics of government officials and their personal lawyers, of lawyers employed by the government, and lawyers heading government agencies and investigations are facing national scrutiny and attention.

High-ranking government attorneys, including Sally Yates, James Comey, and Preet Bharara, have been removed from office, leaving academics, the media, and the public to question the wisdom of the President's decision to remove them.

The press and citizenry are engaged in a robust debate regarding the legitimacy and integrity of our system of government and its processes. In such a climate, it is critical for legal academics to examine the role and ethical obligations of lawyers in government service.

What ethical responsibilities do lawyers have--and what concrete actions can they take--if and when lawyers find themselves working for a governmental employer who is engaged in potentially unethical, unconstitutional, or illegal activity?

What can lawyers do—both in and out of government employment—to preserve and improve the legitimacy and integrity of our system of government?

#### Submission Information and Publication:

Papers should be submitted to the section chair, Margaret Tarkington, via email at [mtarking@iupui.edu](mailto:mtarking@iupui.edu), no later than **September 1, 2018**, with the subject line: PR Section Call for Papers.

Two papers will be selected from the Call for Papers to be presented at the section program along with other panelists, including Richard Painter, Kathleen Clark, and Dana Remus. Selected papers will be published in a forthcoming edition of *The Indiana Law Review*.

## 2019 AALS Annual Meeting Section Call for Papers

*The Ethics of Lawyers in Government*  
Thursday, January 3, 2019  
New Orleans, LA

The AALS Professional Responsibility Section is pleased to announce a Call for Papers for the Section's program at the AALS 2019 Annual Meeting in New Orleans, Louisiana, on Thursday morning, January 3, from 10:30 am to 12:15 p.m.

#### Program Description:

Within the United States today, the role of the government lawyer has

## 2019 AALS Annual Meeting Section Works in Progress Call for Papers

### New Voices in Professional Responsibility—Works in Progress Session

AALS Annual Meeting, New Orleans, LA  
Thursday, January 3, 3:30-4:45 pm

The Professional Responsibility Section is pleased to host a works in progress session during the 2019 Annual Program. Papers selected will be presented at the session along with commentary from a scholar in the field. Papers can be on any professional responsibility topic from professors with seven years or less of full-time teaching experience.

Submitted drafts should be near completion with the expectation that they will be submitted for publication during the spring law review submission cycle. Papers should be submitted to **Melissa Mortazavi**, via email at [Melissa.mortazavi@ou.edu](mailto:Melissa.mortazavi@ou.edu), no later than September 1, 2018, with the subject line: PR Works in Progress.

### Fred C. Zacharias Memorial Prize for Scholarship in Professional Responsibility

Submissions and nominations of articles are being accepted for the ninth annual Fred C. Zacharias Memorial Prize for Scholarship in Professional Responsibility.

To honor Fred's memory, the committee will select from among articles in the field of Professional Responsibility with a publication date of 2018. The prize will be awarded at the 2019 AALS Annual Meeting in New Orleans. Please send submissions and nominations to Professor Samuel Levine at Touro Law Center: [slevine@tourolaw.edu](mailto:slevine@tourolaw.edu). The deadline for submissions and nominations is September 1, 2018.

## Items of Interest: Conferences and Calls for Proposals

### ILEC 2018 Melbourne Call for Proposals

[Lightly edited from [this Legal Ethics Forum post](#)]

Proposals for presenting a paper or panel at the International Legal Ethics Conference VIII, Legal Ethics in the Asian Century, are due July 31, 2018.

Presenters are encouraged to submit papers within one of the following streams: Technology, Legal Ethics and Society; Interdisciplinary and Empirical Approaches to Legal Ethics; Philosophy and Legal Ethics; Regulation of the Profession(s); Ethics and Legal Education; Globalisation and Legal Ethics; and Legal Ethics and Access to Justice. The program will be held on December 6-8, 2018 in Melbourne.

Proposals for a paper should include a title and abstract of between 100 and 300 words. Please also include your name, institutional affiliation (if any) and up to six keywords describing your topic. Alternatively, a proposal for a Panel involving discussion or other formats will be considered. If you are proposing a panel, please state the title of the panel, with a brief description, together with the names of the panelists presenting. Where possible, we would encourage panel proposals to be submitted with the full set of abstracts appended.

Proposals should either indicate the stream in which the paper or panel is to be presented or clearly identify an alternative theme within which the proposal sits. We will seek to accommodate alternative themes where viable.

In order to accommodate as large and diverse a group of presenters as possible, participants are requested to submit no more than two proposals. Proposals should be submitted by email

to [law-lprn@unimelb.edu.au](mailto:law-lprn@unimelb.edu.au) with the subject heading "ILEC8 paper proposal" by July 31, 2018.

### Fordham Law School Stein Center for Law and Ethics: Conference Announcement

On Friday, October 12, 2018, Fordham Law School's Stein Center for Law and Ethics will host a colloquium on "The Varied Roles, Regulation and Professional Responsibilities of Lawyers in Government Lawyering in the Regulatory State." Participants will write and discuss papers examining the role of lawyers who will represent the government and serve in government, how they are regulated, and their professional responsibilities in the 21<sup>st</sup> century. The papers will be published in a spring 2019 issue of the Fordham Law Review. For more information, please contact the Stein Center at [steincenter@fordham.edu](mailto:steincenter@fordham.edu).

### PROGRAM ON OBJECTIVE METHODS FOR ASSESSING THE EFFECTIVENESS OF PROFESSIONAL RESPONSIBILITY PROGRAMS AT 2018 CPR CONFERENCE

[Clark D. Cunningham](#), W. Lee Burge Chair in Law & Ethics at the Georgia State University College of Law and Director of the National Institute for Teaching Ethics & Professionalism ([NIFTEP](#)), is organizing a session on "Objective Methods for Assessing the Effectiveness of Professional Responsibility Programs" for the second day of the [44th ABA National Conference on Professional Responsibility](#), being held in Louisville May 31-June 1: [www.americanbar.org/groups/professional\\_responsibility/events\\_cle/44thnatl\\_conf/44conf\\_homepage.html](http://www.americanbar.org/groups/professional_responsibility/events_cle/44thnatl_conf/44conf_homepage.html)

Over the past 40 years social scientists at the [Center for the Study of Ethical Development](#) ("the Center") have developed a series of multiple choice and essay tests which have been applied

in many settings of professional education, including medical schools, dental schools and at West Point, to evaluate the development of four interrelated capacities the Center defines as essential to professional conduct: moral awareness, mature reasoning, ethical commitment, and implementation skills.

The session explores the potential applicability of these assessment methods to professional responsibility in the law. Cunningham will provide an overview of the theories that underlie the Center's work based on many years of collaboration with Dr. [Muriel Bebeau](#), co-founding director of the Center.

John Berry, Division Director of the Florida Bar, will draw on his expertise on remediation programs for disciplined lawyers to discuss whether a program that used the Center's tools for a remediation program for disciplined dentists could have applicability to the legal profession.

Lt. Col. (ret.) Benjamin Grimes, a West Point graduate who is currently Deputy Director of the DOJ's Professional Responsibility Advisory Office, will explore ways social science research on the effectiveness of officer training at the US Military Academy and during active service could be applied to professional development both before and after the JD.

The session will be moderated by Jayne Reardon, Executive Director, Illinois Supreme Court Commission on Professionalism, who chairs the ABA Standing Committee on Professionalism.

### **NIFTEP WORKSHOP IN MELBOURNE PRECEDING 8<sup>TH</sup> INTERNATIONAL LEGAL ETHICS CONFERENCE.**

The [National Institute for Teaching Ethics & Professionalism](#) ([www.niftep.org](http://www.niftep.org)) will be organizing a small pre-conference workshop on

teaching legal ethics immediately preceding the [8<sup>th</sup> International Legal Ethics Conference](#) being hosted by the University of Melbourne (Australia) in December 2018: <https://law.unimelb.edu.au/ilec2018>.

NIFTEP hosted similar workshops preceding the 5<sup>th</sup> and 6<sup>th</sup> ILEC conferences: [NIFTEP Summer 2012](#) and [NIFTEP Summer 2014](#): [www.niftep.org/workshops/summer-2012-workshop](http://www.niftep.org/workshops/summer-2012-workshop) and [www.niftep.org/workshops/summer-2014-workshop](http://www.niftep.org/workshops/summer-2014-workshop).

Participants will be selected through an on-line application process. Invitations to apply will be sent to conferees with accepted conference proposals and other ILEC conference registrants and to persons on the NIFTEP email list.

To be placed on an electronic mailing list to receive notice of when the application the workshop is available email NIFTEP Deputy Director Tiffany Roberts at [tjroberts@gsu.edu](mailto:tjroberts@gsu.edu) with "NIFTEP MAILING LIST" in the subject line.

### **CONTRIBUTE SUBSTANTIVE COLUMNS, ITEMS OF INTEREST, CONFERENCES, SCHOLARSHIP, AND ANNOUNCEMENTS**

We are interested in columns on substantive professional responsibility issues and teaching ideas for the spring newsletter. We will also accept items of interest, conference announcements, recaps of concluded conferences, recent scholarship and other announcements.

Interested? Contact Nicole Iannarone at [niannarone@gsu.edu](mailto:niannarone@gsu.edu) or Cynthia Hawkins at [chawkins@law.stetson.edu](mailto:chawkins@law.stetson.edu) before September 30, 2018.

## **News from the University of Akron's Miller Becker Center for Professional Responsibility**

Professor W. Bradley Wendel of Cornell Law School delivered the Sixth Distinguished Lecture in Professional Responsibility at the University of Akron's Miller Becker Center for Professional Responsibility on April 20, 2018. The title of the Lecture was "Paying the Piper But Not Calling the Tune: Litigation Financing and Professional Independence."

## **ABA National Conference on Professional Responsibility**

The 44<sup>th</sup> ABA National Conference on Professional Responsibility will be held from May 30, 2018-June 1, 2018 in Louisville, KY. For more information and to register, click [here](#).

### **ABA Michael Franck Professional Responsibility Award**

Professor Bruce Green, Fordham University School of Law, is the recipient of the 2018 American Bar Association's Michael Franck Professional Responsibility Award, which will be given on May 31 during the National Conference on Professional Responsibility.



## A Thought Experiment about the Academic “Billable” Hour



By Eli Wald  
Charles W. Delaney Jr. Professor of  
Law  
University of Denver  
Sturm College of Law

In a forthcoming essay I offer a thought experiment imagining a world in which law professors tracked their work hours.<sup>1</sup> It identifies some of the diagnostic attributes of the academic “billable” hour, explores the potential destructive dark side of timekeeping, and examines the nature of the relationship between the diagnostic and destructive qualities of recording academic time. Next, it introduces some of the political implications of recording academic time, and explores some of the normative discussions timekeeping might help inform. The essay, part of a *Marquette Law Review* symposium

on the ethics of legal scholarship is available here [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3169547](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3169547). Below is a short teaser/excerpt/summary.

We know little about what law professors do and how they spend their time. While we know law professors’ teaching loads, we do not know how many hours they spend preparing for classes, interacting with students, or developing and grading assignments, let alone how they spend their time pursuing all of these activities. Similarly, while we know quite a bit about how much law professors publish and about the quality and impact of their scholarship, we do not know how they identify topics for inquiry, research, write, and publish. Finally, while we know a fair amount about law professors’ service commitments, such as their committee assignments, we do not know how much time and how they spend their time on service activities. In short, we know very little about law professors’ work habits.

What we do not know matters. Timekeeping by law professors can generate useful diagnostic insights that may inform and improve legal academia. If all law professors were to record their time, keeping track of both how much time they spend on various tasks as well as of what they actually do when performing aspects of their job, we would be able to generate benchmarks and best practices,

which may inform individual decision-making by faculty members regarding how to allocate their time, as well as institutional decision-making by law schools about how to train and mentor junior colleagues and about the allocation of their human capital resources.

Poor training and mentoring, an increasingly well-documented phenomenon in the practice of law, has been a familiar theme in legal academia in part because law schools have little in the way of accumulated knowledge to impart on newcomers to the practice of academic law. Timekeeping resulting in robust insights about what law professors do and how they do it well would constitute the very body of knowledge law schools could use to train and mentor junior faculty members, providing guidance into the core practices of teaching, scholarship, and service.

Within and across law schools, aggregated findings regarding scholarship, teaching, and service hours may generate valuable institutional data. For example, do men and women faculty members shoulder equal burdens of service and teaching in terms of hours spent at work? Do they invest equally in their scholarship? In a world in which law professors were to record their time, law schools would be able to answer these questions and use the information—along with existing data about quality, quantity, and

<sup>1</sup> Eli Wald, *A Thought Experiment about the Academic “Billable” Hour or Law Professors’ Work*

*Habits*, 101 MARQUETTE L. REV. (forthcoming 2018).

impact of scholarship, teaching, and service—to make informed decisions about the allocation of resources in legal academia. If it turns out, for example, that women faculty disproportionately perform emotional labor at law schools, managing the displayed feelings and emotions of students, faculty, and staff inherent in the stressful environment of law schools, the institutions could either pay for this labor or spread it more equally among all law professors.

Imagining legal academia informed by the insights of law professors' timekeeping, however, should not exaggerate its benefits. While the diagnostic virtues of timekeeping—learning about law professors' work habits, generating best practices and benchmarks, establishing a body of knowledge for purposes of training and mentoring, and revealing patterns of work allocation among faculty members—would be significant, they ought not distract us or belittle the inherent importance of quality, productivity, impact, talent, and skill. Developing solid work habits is important and likely to improve law professors' scholarship, teaching, and service, yet it is no substitute and no guarantee of quality, productivity, and impact. Put differently, adhering to effective work habits is a necessary but insufficient condition for being a good law professor. In addition to putting in effort measured in terms of hours worked, one has to be a quality, productive, and impactful law

professor. What we do not know about law professors' work habits ought to supplement but not replace what we do know about the quality, quantity, and impact of law professors' teaching, scholarship, and service.

Timekeeping, however, also has a dark destructive side, as it may undercut the intellectual and contemplative culture of legal academia and may help create disincentives for thinking, unintentionally triggering and contributing to a process of replacing standards of quality and professional excellence with managerial reporting of hours. After all, as the saying goes, we manage what we can measure. Indeed, the two sides of timekeeping, the diagnostic and destructive, may be inherently intertwined such that the very act of keeping academic time may undercut the core mission and objectives of legal academia.

Consider Annelise Riles' law professor amateur.<sup>2</sup> Riles begins her account by observing that the American legal academy is amateuristic, home to law professors who "d[o] not read . . . d[o] not take an interest in the details, [who] seem[] more engaged by acts of self-promotion than by the furthering of knowledge about the law."<sup>3</sup> Yet, rather than critique the law professor amateur,<sup>4</sup> Riles celebrates her: "[T]he law professor's ability to pontificate on just about anything without

knowing much about the subject—a trait admired by students and vilified by academics in other fields—corresponds to a practical legal skill of lawyering."<sup>5</sup> Moreover, "what law professors do, when they behave amateuristically, is actually at the core of practical legal expertise."<sup>6</sup> Riles concludes that "[l]egal amateurism as practiced by legal academics is not a second-class version of philosophy or political science or economics in this view, but a virtuoso performance of professionalism,"<sup>7</sup> a pedagogical game of aesthetic performance designed to help law students, judges, and policy makers master the skill of moving quickly from problem to problem and advising clients based on relative little knowledge of the particulars.

Is professor Riles right that law professors "d[o] not read" and "d[o] not take an interest in the details"? Are U.S. law professors professional amateurs? We do not know because we do not know what law professors actually do. Yet, if law professors were to record their time, we might find out. But, cautions Riles, the very act of keeping time might undercut and ruin law professors' amateurism. "What legal amateurism achieves," she writes, "is something at once miraculous and entirely mundane—it is simply a pause, a space to think."<sup>8</sup> Furthermore, "what lawyers or legal scholars really are doing is creating 'open moments' for their client, or students, or interlocutors

2. Annelise Riles, *Legal Amateurism*, in *SEARCHING FOR CONTEMPORARY LEGAL THOUGHT* 499, 499–516 (Justin Desautels-Stein & Christopher Tomlins eds., 2017).

3. *Id.* at 499.

4. *Id.* at 511.

5. *Id.* at 505.

6. *Id.*

7. *Id.* at 505–06.

8. *Id.* at 513.

to think.”<sup>9</sup> This *is* the essence, according to Riles, of legal academia. Timekeeping threatens thinking and ushers in a managerial culture that looks suspiciously at “open moments.” The very diagnostic virtues and force of timekeeping—allowing us to find out whether law professors are professional amateurs—carries with it a dark side of time management that undercuts thinking and time pauses. Trying to document and study what law professors do may end up destroying the best of what law professors do.

Is academic timekeeping a paradox? Will trying to reap its diagnostic virtues likely unleash destructive forces that will ruin legal academia as we know it? Perhaps not, given the different time horizons of the diagnostic and destructive qualities of timekeeping. Generating diagnostic insights does not require making time recording a permanent feature of legal academia. While developing best practices and benchmarks, building a knowledgebase for training and mentoring, and documenting work habit patterns across legal academia does entail a comprehensive exercise of timekeeping, the diagnostic insights can be generated by a time-limited grand experiment, say over a year’s time. In contrast, the destructive forces of timekeeping, undermining the intellectual and contemplative culture of legal academia and undercutting spaces to think, are likely to take time, years, to play out. One can

imagine successfully navigating the diagnostic and destructive sides of academic timekeeping by simply casting it as a one-time, year-long experiment.

Moreover, lawyers’ experience with the billable hour suggests some valuable lessons in terms of thinking about academic timekeeping. Unlike law practice, legal education need not and should not feature an inherent tie between recorded time and compensation. Distinguishing the diagnostic from the punitive by mandating academic timekeeping while liberating law professors from any compensation consequences attached to recorded time, may help address some of the concerns regarding the dark side of timekeeping. Thus, a time-limited, mandatory national experiment with academic timekeeping based on universal agreed upon time categories, supported by an apparatus of ethical timekeeping, and divorced from compensation consequences may avail legal academia of the diagnostic virtues of timekeeping while keeping its the destructive qualities at bay.

Admittedly, recording time may provide enemies of the academia with powerful ammunition. It may, for example, be used by critics to demand increased teaching loads and restrict investment in research. Yet continued ignorance about what law professors do may be too high a price to pay for a false sense of security. Moreover, robust

knowledge about law professors’ work habits may inform normative discussions about what law professors should be doing, an important contribution given mounting criticisms of law schools and legal education.

## Helping Students Connect the Dots Among Professional Responsibility, Competency-based Education, and a Commitment to Continuous Professional Development



By Neil Hamilton ©  
Holloran Professor of Law and  
Director of the Holloran Center for  
Ethical Leadership in the  
Professions  
University of St. Thomas  
School of Law

My experience is that few law students, on their own, can connect the dots among:

9. *Id.*

1. Rule 1.1's general requirement of providing "competent representation to a client";

3. the data available on the full array of competencies that clients and legal employers want (e.g. what it means to be competent in today's practice); and

4. personal ownership of the student's own continuous professional development toward excellence at all the needed competencies using both the formal curriculum and all the other non-curricular experiences of law school.

An increasing number of law schools (at least 30 as of May 2017) are recognizing that students need more help to connect these dots, and are offering a required professional development curriculum in the 1L year.<sup>1</sup>

Since the Professional Responsibility course will engage students in a discussion of Rule 1.1's general requirement of competence and the Preamble's exhortation to strive to attain the highest level of skill, the course offers another excellent opportunity to help students connect the dots among the four elements above. For example, in a discussion of what is competence and what are the skills which the

2. the Preamble's exhortation to "strive to attain the highest level of skill" (also emphasized by the student should strive to attain, the professor could show students the best current data on the full range of competencies that legal employers and clients want. For example, ROADMAP: THE LAW STUDENT'S GUIDE TO MEANINGFUL EMPLOYMENT (2018) provides a summary of all these data at pages 17-33 and 193-207.<sup>2</sup>

To take another example, Professional Responsibility is an excellent course for the student to be introduced to and reminded of the foundational importance of a commitment to continuous professional development. The 2014 changes in the ABA accreditation standards require law schools to implement competency-based education (CBE) where each school must state learning outcomes that articulate the competencies needed to be a member of the legal profession as well as formative and summative assessments to foster and measure student development toward the learning outcomes.<sup>3</sup>

Note that competency-based education requires a shift of responsibility for driving the educational process from the teacher to the learner. Learners in

faculty at least for the cognitive skills and some practical skills like research and writing and oral advocacy); a competency-based system must be "active agents co-guiding both the curricular experiences and assessment activities."<sup>4</sup> What does it mean for a student to be an active agent in her own learning and assessment? "Learners must learn to be self-directed in seeking assessment and feedback."<sup>5</sup> Learners should ideally: 1) be both introduced to the overall competency-based education curriculum at the beginning and engaged in dialogue about the overall program on an ongoing basis; 2) actively seek out assessment and feedback on an ongoing basis; 3) perform regular self-evaluations together with feedback from external sources; 4) direct and perform some of their own assessments such as seeking out direct observation of the learner by an experienced professional and creating portfolios of evidence regarding specific competencies; and 5) develop personal learning plans that students revisit and revise at least twice a year.<sup>6</sup>

The reader should also reflect on whether he or she believes law graduates are entering an era where more rapid technology and market changes will place even greater demands on lawyers to

<sup>1</sup> See Jerome Organ, *First-year Courses/Programs Focused on Professional Development and Professional Identity Formation: Many Flowers are Blooming*, PD QUART. (August, 2017) at p. 24.

<sup>2</sup> For a brief summary of some of these data, see Neil Hamilton, *Internalizing a Fiduciary Mindset to Put the Client First*, 24 PROF. LAWYER (no. 3, 2017) at pages 4-7.

<sup>3</sup> ABA Accreditation Standards 302 and 314.

<sup>4</sup> ERIC HOLMBOE et al, THE MILESTONES GUIDEBOOK 15 (2016).

<sup>5</sup> Id. at 16

<sup>6</sup> Id.



continually develop themselves in response to the changes.<sup>7</sup> In this future, each lawyer must internalize a drive to be a lifelong learner and networker.

The major legal employers have developed or are developing competency models that show benchmark stages of development. Students in Professional Responsibility should see examples of these models to help them understand how competency is achieved in stages. For an example of a stage development model on the competency of Initiative/Ownership/Commitment to Professional Development using five stages (Novice Student, Advanced Beginner Student, Intermediate Student, Student at Graduation, and Student at Stretch Goals Beyond Graduation Requirements), see Neil Hamilton, *Leadership of Self: Each Student Taking Ownership Over Continuous Professional Development/Self-Directed Learning*, 58 SANTA CLARA L.REV. \_\_ (Forthcoming 2018) available at <http://ssrn.com/abstract=3176084>.

Professional Responsibility should be one important point in the curriculum where students are reminded of the critical importance that they stop being a passive as a student and grow toward later stages of ownership over their own professional development as legal employers and clients expect them to do.

## Recent Scholarship



By Pamela C. Brannon  
Georgia State University  
College of Law

The Recent Scholarship Column includes publication announcements sent to the Newsletter Editor or included in CLIP from Nov. 11, 2017 to Apr. 27, 2018.

### BOOKS

THE ABA CYBERSECURITY HANDBOOK: A RESOURCE FOR ATTORNEYS, LAW FIRMS, AND BUSINESS PROFESSIONALS (2d ed., Jill D. Rhodes & Robert S. Litt, eds. 2017).

LEAH CHRISTENSEN, THE WEEKEND MPRE: COMPLETE PREPARATION FOR THE MPRE IN ONLY A WEEKEND'S TIME (2d ed. 2018).

LEAH CHRISTENSEN & BROOKS HOLLAND, LEARNING PROFESSIONAL RESPONSIBILITY (2d ed. 2018). COMPENDIUM OF PROFESSIONAL RESPONSIBILITY RULES & STANDARDS, 2017 EDITION (Tracy L. Kepler, ed. 2017).

STEPHEN GILLERS, REGULATION OF LAWYERS: PROBLEMS OF LAW & ETHICS (11th ed. 2017).

STEPHEN GILLERS, ROY D. SIMON, & ANDREW M. PERLMAN, REGULATION OF LAWYERS: STATUTES AND STANDARDS, 2018 (2017).

PAUL T. HAYDEN & DOUGLAS G. NEJAIME, ETHICAL LAWYERING: LEGAL AND PROFESSIONAL RESPONSIBILITIES IN THE PRACTICE OF LAW (4th ed. 2018).

HERBERT KRITZER & NELL VIDMAR, WHEN LAWYERS SCREW UP: IMPROVING ACCESS TO JUSTICE FOR LEGAL MALPRACTICE VICTIMS (2018).

LISA G. LERMAN & PHILIP G. SCHRAG, ETHICAL PROBLEMS IN THE PRACTICE OF LAW (4th ed. 2018).

PATRICK EMERY LONGAN, QUESTIONS & ANSWERS: PROFESSIONAL RESPONSIBILITY (4th ed., Carolina Academic Press, 2017).

SUSAN R. MARTYN, LAWRENCE J. FOX, & W. BRADLEY WENDEL, THE LAW GOVERNING LAWYERS: MODEL RULES, STANDARDS, STATUTES, AND STATE LAWYER RULES OF PROFESSIONAL CONDUCT, 2018-2019 EDITION (2018).

SUSAN R. MARTYN & LAWRENCE J. FOX, TRAVERSING THE ETHICAL MINEFIELD: PROBLEMS, LAW, AND PROFESSIONAL RESPONSIBILITY (4th ed. 2017).

MODEL RULES OF PROFESSIONAL CONDUCT, 2018 EDITION (2018).

<sup>7</sup> NEIL HAMILTON, ROADMAP: THE LAW STUDENT'S GUIDE TO MEANINGFUL EMPLOYMENT 6-9 (2018).

**THOMAS D. MORGAN**, GILBERT LAW SUMMARY ON LEGAL ETHICS (9th ed. 2017).

**THOMAS D. MORGAN, RONALD D. ROTUNDA, & JOHN S. DZIENKOWSKI**, PROFESSIONAL RESPONSIBILITY: PROBLEMS AND MATERIALS (13th ed. 2018).

**THOMAS D. MORGAN & RONALD D. ROTUNDA**, SELECTED STANDARDS ON PROFESSIONAL RESPONSIBILITY INCLUDING CALIFORNIA AND NEW YORK RULES (2018).

**RONALD D. ROTUNDA**, LEGAL ETHICS IN A NUTSHELL (5th ed. 2018).

**JOHN P. SAHL, R. MICHAEL CASSIDY, BENJAMIN P. COOPER, & MARGARET C. TARKINGTON**, PROFESSIONAL RESPONSIBILITY IN FOCUS (2017).

**PAULA SCHAEFER & ALEX B. LONG**, DEVELOPING PROFESSIONAL SKILLS: PROFESSIONAL RESPONSIBILITY (2018).

**MORTIMER D. SCHWARTZ, RICHARD C. WYDICK, REX R. PERSCHBACHER, & DEBRA LYN BASSETT**, PROBLEMS IN LEGAL ETHICS (12th ed. 2018).

**RICHARD C. WYDICK, REX R. PERSCHBACHER, & DEBRA LYN BASSETT**, CALIFORNIA LEGAL ETHICS (10th ed. 2018).

#### BOOK CHAPTERS

**Sahl, John P.**, *A 2018 Update: What Every Entertainment Lawyer Needs to Know – How to Avoid Being the Target of a Legal Malpractice Claim or Disciplinary Action*, 1 COUNSELING CLIENTS IN THE ENTERTAINMENT INDUSTRY 497 (2018).

#### PUBLISHED CONFERENCES

The Fragile Fortress: Judicial Independence in the 21st Century, 47 U. MEM. L. REV. 999-1273 (2017). Introduction by **Pablo J. Davis**.

Articles by **Nicholas R. Bednar**, Hon. **Timothy J. Corrigan**, **John DiPippa**, Hon. **Bernice B. Donald**, Hon. **Sterling Johnson, Jr.**, **Eric T. Kasper**, **Barbara Marchevsky**, Hon. **Zarela Villanueva Monge**, Hon. **Michael B. Mukasey**, student **Caroline Phelps**, Hon. **R. David Proctor**, **Justin Walker**, & **Patrick Walsh**. Panelists **Hon. Timothy J. Corrigan**, **Hon. Sterling Johnson, Jr.**, **Eric T. Kasper**, **Hon. Zarela Villanueva Monge**, **Hon. Michael B. Mukasey**, **Hon. R. David Proctor**, **Justin Walker**, & **Patrick Walsh**. Moderators **Alena Allen** & **John Newman**.

The Lawyer's Leadership Role: A Tour of Legal Ethics, 50 CREIGHTON L. REV. 757-817 (2017). Articles by **Mark R. Gray**, **Arnold J. Johnson**, & **John McKay**.

Mediation Ethics: A CAMP Courthouse Colloquy, United States Court of Appeals for the Second Circuit, 19 CARDOZO J. CONFLICT RESOL. 55-77 (2017). Introduction by **Chief Judge Robert Katzmann**. Conversants **John Feerick** & **Kathleen Scanlon**.

New Directions in Corporate Compliance, 69 RUTGERS U.L. REV. 419-562 (2017). Introduction by **Arthur B. Laby**. Articles by **Joseph E. Murphy**, **Greg Urban**, & **John H. Walsh**.

Twenty-Five Years Since MacCrate's Four Professional Values and Ten Years Since *Educating Lawyers* and *Best Practices*: The Next Steps of a Professional Formation Social Movement Symposium, 14 U. ST. THOMAS L.J. (forthcoming 2018). Foreword by **Neil Hamilton**. Articles by **Louis D. Billionis**, **Susan L. Brooks**, **Danny DeWalt**, **Bryant G. Garth**, **Barbara Glesner Fines**, **Neil Hamilton**, **Eric Holmboe** & **Robert**

**Englander**; **Larry O. Natt Gantt, II**, & **Benjamin V. Madison, III**; **Jerome M. Organ**; **Paula Schaefer**; & **William M. Sullivan**.

#### PUBLICATION ANNOUNCEMENTS

**Abide, Abby**, Comment, "An Inquiry Reasonable Under the Circumstances": Applying Rule 11 to Local Counsel, 85 MISS. L.J. 1649-1690 (2017).

**Alfieri, Anthony V.**, *Things Fall Apart: Hard Choices in Public Interest Law*, 31 GEO. J. LEGAL ETHICS (forthcoming 2018).

**Anderson, Zach**, Note, *Whose Sanction Is It Anyway? A Look at the Circuit Split Over Applying § 1927 Sanctions to Law Firms*, 42 J. LEGAL PROF. 85-96 (2017).

**Berger, Todd A.**, *Professional Responsibility of the Criminal Defense Lawyer Redux: The New Three Hardest Questions*, 7 ST. MARY'S J. LEGAL MALPRACTICE & ETHICS 96-158 (2017).

**Blackman, Josh**, *Reply: A Pause for State Courts Considering Model Rule 8.4(g), the First Amendment and "Conduct Related to the Practice of Law"*, 30 GEO. J. LEGAL ETHICS 241-265 (2017).

**Blankley, Kristen M.**, *Is a Mediator Like a Bus? How Legal Ethics May Inform the Question of Case Discrimination by Mediators*, 52 GONZ. L. REV. 327-371 (2016-2017).

**Bliss, John**, *Divided Selves: Professional Role Distancing Among Law Students and New Lawyers in a Period of Market Crisis*, 42 LAW & SOC. INQUIRY 855-897 (2017).

**Boyd, Bobbi Jo**, *Do It In the Sunshine: A Comparative Analysis of Rulemaking Procedures and Transparency Practices of Lawyer-*

*Licensing Entities*, 70 ARK. L. REV. 609-659 (2017).

**Browde, Pippa**, *A Consumer Protection Rationale for Regulation of Tax Return Preparers*, 101 MARQ. L. REV. 527-571 (2017).

**Caldwell, Harry Mitchell**, *Everybody Talks About Prosecutorial Conduct but Nobody Does Anything About It: A 25-Year Survey of Prosecutorial Misconduct and a Viable Solution*, 2017 U. ILL. L. REV. 1455-1486.

**Campigotto, Maria, & Brian E. Hilburn**, *Petitioning for Protection: Without Repeal or Reform of Article 17A, Can Practitioners Maintain Ethical Guardianship Practices While Simultaneously Protecting the Rights of Persons With Intellectual Disabilities?*, 43 FORDHAM URB. L.J. 869-913 (2016).

**Carle, Susan D.**, *The Settlement Problem in Public Interest Law*, 29 STAN. L. & POL'Y REV. 1-56 (2018).

**Casto, William R.**, *Advising Presidents: Private Advice v. Public Advocacy*, 43 OHIO N.U. L. REV. 405-425 (2017).

**Caudill, David S.**, *"Dirty" Experts: Ethical Challenges Concerning, and a Comparative Perspective on, the Use of Consulting Experts*, ST. MARY'S J. LEGAL MALPRACTICE & ETHICS (forthcoming 2018).

**Chopp, Debra**, Student Article, *Addressing Cultural Bias in the Legal Profession*, 41 N.Y.U. REV. L. & SOC. CHANGE 367-406 (2017).

**Cobb, Haley**, Note, *Proactive Lawyering: Good Rules Make for Good Law*, 42 J. LEGAL PROF. 97-110 (2017).

**Cohen, Adam R.**, Note, *Asset Forfeiture and Attorneys' Fees: The*

*Zero-Sum Game*, 86 FORDHAM L. REV. 163-188 (2016).

**Conroy, Anne E.**, Note, *Reevaluating Attorney-Client Privilege in the Age of Hackers*, 82 BROOK. L. REV. 1817-1847 (2017).

**Creamer, Robert A.**, *Ethics Rules Uniformity: The Vision Thing*, 24 PROF. RESP., no. 3, 2017, at 3.

**Curtis, Debra Moss**, *"No Shots, No School, No Kidding": The Legal Profession Needs a Vaccine to Ensure Professionalism*, 28 U. FLA. J.L. & PUB. POL. 1-33 (2017).

**Doty, Thomas**, *Information Security, Confidentiality, and Cyber Ethics for Law Entities*, 44 N. KY. L. REV. 1-12 (2017).

**Edwards, Benjamin P.**, *The Professional Prospectus: A Call for Effective Professional Disclosure*, 74 WASH. & LEE L. REV. 1457-1515 (2017).

**Eldred, Tigran W.**, *Insights From Psychology: Teaching Behavioral Legal Ethics as a Core Element of Professional Responsibility*, 2016 MICH. ST. L. REV. 757-815.

**Erbes, John, & Rebecca J. O'Neill**, *Assessment of Professional Values in Experiential Education in Law: Becoming Who We Are Through Practice*, 62 N.Y.L. SCH. L. REV. 103-129 (2017-2018).

**Exon, Susan Nauss**, *Ethics and Online Dispute Resolution: From Evolution to Revolution*, 32 OHIO ST. J. ON DISP. RESOL. 609-664 (2017).

**Fearing, Lydia**, Comment, *Better Briefs*, 8 ST. MARY'S J. LEGAL MALPRACTICE & ETHICS 192-222 (2017).

**Flora, Colin E.**, *It's a Trap! The Ethical Dark Side of Requests for*

*Admission*, 8 ST. MARY'S J. LEGAL MALPRACTICE & ETHICS 2-57 (2017).

**Franklin, Brad Eric**, Comment, *Qui Bono? Unemployed Attorneys, Unrepresented Plaintiffs, and the Ban on Barratry in Texas*, 58 S. TEX. L. REV. 417-445 (2017).

**Frisch, Michael S.**, *Father Drinan's Legacy*, 30 GEO. J. LEGAL ETHICS. i-v (2017).

**Gershman, Bennett**, *Constitutionalizing Ethics*, 38 PACE L. REV. 40-56 (2017).

**Giesel, Grace M.**, *Control of the Attorney-Client Privilege After Mergers and Other Transformational Transactions: Should Control of the Privilege Be Alienable by Contract?*, 48 SETON HALL L. REV. 309-352 (2018).

**Gillers, Stephen**, *A Rule to Forbid Bias and Harassment in Law Practice: A Guide for State Courts Considering Model Rule 8.4(g)*, 30 GEO. J. LEGAL ETHICS 195-240 (2017).

**Green, Bruce A.**, *Prosecutorial Ethics in Retrospect*, 30 GEO. J. LEGAL ETHICS 461-483 (2017).

**Griffin, Lissa, & Ellen Yaroshesky**, *Ministers of Justice and Mass Incarceration*, 30 GEO. J. LEGAL ETHICS 301-335 (2017).

**Gross, John P.**, *Case Refusal: A Right for the Public Defender But Not a Remedy for the Defendant*, 95 WASH. U.L. REV. 253-268 (2017).

**Haley, Daniel**, Comment, *Conflicts of Interest for Former Law Firm Clerks Turned Lawyers*, 7 ST. MARY'S J. LEGAL MALPRACTICE & ETHICS 376-412 (2017).

**Hall, Amber**, Note, *Using Legal Ethics to Improve Implicit Bias in*

*Prosecutorial Discretion*, 42 J. LEGAL PROF. 111-125 (2017).

**Halprin, Peter, & Stephen Wah**, *Ethics in International Arbitration*, 2018 J. DISP. RESOL. 87-108.

**Hamilton, Neil**, *Internalizing a Fiduciary Mindset to Put the Client First*, 24 PROF. LAW., no. 3, 2017, at 8.

**Heyman, Susan B.**, *Corporate Privilege and an Individual's Right to Defend*, 85 GEO. WASH. L. REV. 1112-1162 (2017).

**Hoeflich, M.H.**, *Ethics and the "Root of All Evil" in Nineteenth Century American Law Practice*, 7 ST. MARY'S J. LEGAL MALPRACTICE & ETHICS 160-183 (2017).

**Holtz, Gregory T.**, *Understanding the Ethics of Empowerment: An Elder Law Lawyer's Challenge or Obligation?*, 38 N. ILL. U. L. REV. 81-133 (2017).

**Huang, Peter H.**, *Can Practicing Mindfulness Improve Lawyer Decision-Making, Ethics, and Leadership?*, 55 HOUS. L. REV. 63-154 (2017).

**Irwin, Joshua**, Note, *Good TV Makes Bad Justice: How the Rules of Professional Conduct Can Protect Fair Trial Rights*, 102 IOWA L. REV. 2325-2356 (2017).

**Johnson, Vincent R.**, *The Limited Duties of Lawyers to Protect the Funds and Property of Nonclients*, 8 ST. MARY'S J. LEGAL MALPRACTICE & ETHICS 58-88 (2017).

**Jordan, Elinor R.**, *Point, Click, Green Card: Can Technology Close the Gap in Immigrant Access to Justice?*, 31 GEO. IMMIGR. L.J. 287-346 (2017).

**Jorgensen, Jay T.**, *The Foreign Corrupt Practices Act Turns 40 – "Reflections on Walmart's Enhanced*

*Ethics & Compliance Program*," 5 TEX. A&M L. REV. 237-252 (2017).

**Juneja, Aditi**, Note, *A Holistic Framework to Aid Responsible Plea-Bargaining by Prosecutors*, 11 N.Y.U. J.L. & LIBERTY 600-630 (2017).

**Kastenberg, Joshua**, *The Right to an Independent Judiciary and the Avoidance of Constitutional Conflict: The Burger Court's Flawed Reasoning in Chandler v. Judicial Council of the Tenth Circuit and its Unfortunate Legacy*, 8 ST. MARY'S J. LEGAL MALPRACTICE & ETHICS 90-157 (2017).

**Kim, Myeonki**, *When and Why Suspects Fail to Recognize the Adversary Role of an Interrogator in America: The Problem and Solution*, 52 GONZ. L. REV. 507-539 (2016-2017).

**Kloppenborg, Lisa A.**, & student **Wesley H. Dodd**, *Justice for All: A Role for ADR Educators*, 32 OHIO ST. J. ON DISP. RESOL. 664-693 (2017).

**Kurita, Hon. M. Sue**, *Electronic Social Media: Friend or Foe for Judges*, 7 ST. MARY'S J. LEGAL MALPRACTICE & ETHICS 184-236 (2017).

**Lewinbuk, Katerina P.**, *Keep Suing All the Lawyers: Recent Developments in Claims Against Lawyers for Aiding & Abetting a Client's Breach of Fiduciary Duty*, 8 ST. MARY'S J. LEGAL MALPRACTICE & ETHICS 158-179 (2017).

**Lidge, Ernest F., III**, *Wrongfully Discharged In-House Counsel: A Proposal to Give the Employer a Veto Over Reinstatement While Giving the Terminated Lawyer Front Pay*, 52 WAKE FOREST L. REV. 649-693 (2017).

**Longan, Patrick Emery**, *Legal Ethics*, 69 MERCER L. REV. 157-204 (2017).

**Luban, David, & W. Bradley Wendel**, *Philosophical Legal Ethics: An Affectionate History*, 30 GEO. J. LEGAL ETHICS 337-364 (2017).

**Lusk, Lindsey Ruta**, Note, *The Poison of Propensity: How Character and Fitness Sacrifices the "Others" in the Name of "Protection"*, 2018 U. ILL. L. REV. 345-395.

**Madison, Benjamin V., III**, *Professional Identity and Professionalism*, 24 PROF. LAW., no. 3, 2017, at 16.

**Mantel, Jessica**, *Refusing to Treat Noncompliant Patients is Bad Medicine*, 39 CARDOZO L. REV. 127-197 (2017).

**Marbes, Melinda A.**, *Reforming Recusal Rules: Reassessing the Presumption of Judicial Impartiality in Light of the Realities of Judging and Changing the Substance of Disqualification Standards to Eliminate Cognitive Errors*, 7 ST. MARY'S J. LEGAL MALPRACTICE & ETHICS 238-303 (2017).

**Margiotta, Vincent J.**, Note, *Affirming Firm Sanctions: The Authority to Sanction Law Firms Under 28 U.S.C. § 1927*, 86 FORDHAM L. REV. 265-297 (2017).

**McMorrow, Judith A., Sida Liu, & Benjamin van Rooij**, *Lawyer Discipline in an Authoritarian Regime: Empirical Insights from Zhejiang Province, China*, 30 GEO. J. LEGAL ETHICS 267-300 (2017).

**Menkel-Meadow, Carrie**, *The Evolving Complexity of Dispute Resolution Ethics*, 30 GEO. J. LEGAL ETHICS 415-430 (2017).

**Minkoff, Ronald C.**, *Ball of Confusion: Practicing Law From Your Second Home in Another State*, 24 PROF. LAW., no. 3, 2017, at 21.



- Murphy, Joseph E.**, *Policies in Conflict: Undermining Corporate Self-Policing*, 69 RUTGERS U.L. REV. 421-494 (2017).
- Neary, Nell**, Comment, *Last Man Standing: Kansas's Failure to Recognize the Common Interest Doctrine*, 65 U. KAN. L. REV. 795-833 (2017).
- Note, *Proving Breach of Former-Client Confidentiality*, 131 HARV. L. REV. 582-603 (2017).
- Nunez, Catherine**, Comment, *Artificial Intelligence and Legal Ethics: Whether AI Lawyers Can Make Ethical Decisions*, 20 TUL. J. TECH. & INTELL. PROP. 189-204 (2017).
- Parella, Kishanthi**, *Reputational Regulation*, 67 DUKE L.J. 907-979 (2018).
- Perlin, Michael L., & Naomi M. Weinstein**, *Said I, 'But You Have No Choice': Why a Lawyer Must Ethically Honor a Client's Decision About Mental Health Treatment Even If It Is Not What S/He Would Have Chosen*, 15 CARDOZO PUB. L. POL'Y & ETHICS J. 73-116 (2016-2017).
- Pileri, Joseph**, *Uncharted Waters? Legal Ethics and the Benefit Corporation*, 8 ST. MARY'S J. LEGAL MALPRACTICE & ETHICS 180-190 (2017).
- Pinder, Kamina Aliya**, *Do As I Teach Not As I Do: For Whom Are Law School Trustees?*, 55 U. LOUISVILLE L. REV. 323-354 (2017).
- Pinkston, Jarred**, *The Case for Arbitral Institutions to Play a Role in Mitigating Unethical Conduct by Party Counsel in International Arbitration*, 32 CONN. J. INT'L L. 177-215 (2017).
- Presmanes, Gregory T.**, & student **Phillip C. Kuck**, *Ethical Negotiations: How Far Is Too Far?*, 52 TORT TRIAL & INS. PRAC. L.J. 903-920 (2017).
- Puiszis, Steven M.**, *Prevention and Response: A Two-Pronged Approach to Cyber Security and Incident Response Planning*, 24 PROF. LAW., no. 3, 2017, at 25.
- Reardon, Jayne R.**, *Alternative Business Structures: Good for the Public, Good for the Lawyers*, 7 ST. MARY'S J. LEGAL MALPRACTICE & ETHICS 304-353 (2017).
- Regan, Mitt**, *Legal Ethics and the Situated Lawyer*, 30 GEO. J. LEGAL ETHICS 415-430 (2017).
- Remus, Dana, & Frank Levy**, *Can Robots Be Lawyers? Computers, Lawyers, and the Practice of Law*, 30 GEO. J. LEGAL ETHICS 501-558 (2017).
- Remus, Dana A.**, *Reconstructing Professionalism*, 51 GA. L. REV. 807-877 (2017).
- Rhode, Deborah L., & Scott L. Cummings**, *Access to Justice: Looking Back, Thinking Ahead*, 30 GEO. J. LEGAL ETHICS 485-500 (2017).
- Rodriguez, Ronald**, *The Ambulance Chasing Epidemic in Texas*, 7 ST. MARY'S J. LEGAL MALPRACTICE & ETHICS 354-374 (2017).
- Ross, Michael S., & Peter J. Biging**, *Defending the Indefensible: Navigating the Strategic and Ethical Landscape of Defending Clients Who Have Engaged in Indefensible Conduct*, 52 TORT TRIAL & PRAC. L.J. 873-901 (2017).
- Rostain, Tanina**, *Robots Versus Lawyers: A User-Centered Approach*, 30 GEO. J. LEGAL ETHICS 559-574 (2017).
- Sadykhoy, Emil**, Comment, *Nonlawyer Equity Ownership of Law Practices: A Free Market Approach to Increasing Access to Courts*, 55 HOUS. L. REV. 225-263 (2017).
- Sahl, Jack**, *10 Ways to Avoid Malpractice and Disciplinary Actions*, OHIO LAW., July/Aug. 2017, at 16.
- Sahl, John P.**, *The "Rainmaker Film" – A Window to View Lawyers and Professional Responsibility*, 48 MEM. ST. L. REV. (forthcoming 2018).
- Sahl, John P.**, *A Toolbox of Tips for Avoiding Malpractice and Disciplinary Actions*, 32 THE OHIO LAWYER 16 (2017).
- Saito, Hiroharu**, *Do Professional Ethics Make Negotiators Unethical? An Empirical Study With Scenarios of Divorce Settlement*, 22 HARV. NEGOT. L. REV. 325-373 (2017).
- Saleema Snow, Vanita**, *The Untold Story of the Justice Gap: Integrating Poverty Law into the Law School Curriculum*, 37 PACE L. REV. 642-699 (2017).
- Sarma, Bidish**, *Using Deterrence Theory to Promote Prosecutorial Accountability*, 21 LEWIS & CLARK L. REV. 573-633 (2017).
- Saver, Richard S.**, *Deciphering the Sunshine Act: Transparency Regulation and Financial Conflicts in Health Care*, 43 AM. J.L. & MED. 303-343 (2017).
- Serafine, John F.**, *WWZZZ: Zombie Debt, the Zlaket Rules, and Regulation Z*, 25 GEO. J. ON POVERTY L. & POL'Y 1-34 (2017).
- Shill, Gregory H.**, *The Golden Leash and the Fiduciary Duty of Loyalty*, 64 UCLA L. REV. 1246-1300 (2017).
- Simkus, Annie**, Note, *Preventing Data Breaches at Law Firms: Adapting Proactive, Management-Based Regulation to Law-Firm*

*Technology*, 59 ARIZ. L. REV. 1111-1138 (2017).

**Simon, William H.**, *Attorney-Client Confidentiality: A Critical Analysis*, 30 GEO. J. LEGAL ETHICS 447-460 (2017).

**Southworth, Ann**, *Our Fragmented Profession*, 30 GEO. J. LEGAL ETHICS 431-446 (2017).

**Swisher, Keith**, *Surveying Justice*, 46 HOFSTRA L. REV. 275-292 (2017).

**Talbert, William**, Comment, *The Brady Rule: A Watchdog Without Teeth*, 86 UMKC L. REV. 237-258 (2017).

**Terry, Laurel S.**, *The Impact of Global Developments on U.S. Legal Ethics During the Past Thirty Years*, 30 GEO. J. LEGAL ETHICS 365-387 (2017).

**Thompson, Anthony C.**, *Retooling and Coordinating the Approach to Prosecutorial Misconduct*, 69 RUTGERS U. L. REV. 623-690 (2017).

**Trotter, Emma**, Note, *Patron Data Privacy Protection at Public Libraries: The Ethical Model Big Data Lacks*, 73 N.Y.U. ANN. SURV. AM. L. 73-108 (2017).

**Van den Ven, Laurens Hubert**, *The "Arbitration Hold" in International Arbitration: Holding On to What We've Got?*, 29 AM. REV. INT'L ARB. 253-272 (2017).

**Wang, Cecilia**, *Stop That Revolving Door: Analysis of the Appropriate Application of the "Cooling-Off" Period Beyond Senior Government Employees*, 15 CARDOZO PUB. L. POL'Y & ETHICS J. 297-317 (2017).

**Weiner, Robert N.**, *"Nothing to See Here": Model Rule of Professional Conduct 8.4(g) and the First Amendment*, 41 HARV. J.L. & PUB. POL'Y 125-137 (2018).

**Wendel, W. Bradley**, *Government Lawyers in the Trump Administration*, 69 HASTINGS L.J. 275-352 (2017).

**Wertlieb, Neil J.**, *Ethics Issues in the Use of Expert Witnesses*, 24 PROF. LAW., no. 3, 2017, at 35.

**Wright, M. Logan**, Student Article, *Order to Plurality: Imposing a Hierarchy for Ethics Rules in International Arbitration*, 28 AM. REV. INT'L ARB. 273-289 (2017).

**Wright, Robert T.**, introduction by **Brooks Holland**, *2017 Clarke Prize in Legal Ethics. Ethical and Legal Risks as Counsel in Bliss Marijuana Market*, 52 GONZ. L. REV. 603-620 (2016-2017).

**Zeidman, Steven**, *Eradicating Assembly-Line Justice: An Opportunity Lost by the Revised American Bar Association Criminal Justice Standards*, 46 HOFSTRA L. REV. 293-328 (2017).

#### PRESENTATIONS

**Sahl, John P.**, Presentation to the Association of National Advertisers: A Discussion of Selected Professional Responsibility Issues (Nov. 3, 2017).

**Sahl, John P.**, 3d ABA UPL Law School: Law Adjacent Services and the Practice of Law (Oct. 26, 2017).

**Sahl, John P.**, Presentation to Scanlon Inn of Court: Protecting Client Information – Technology, ABA Formal Opinion 477R, and the European Union General Data Protection Regulation (Apr. 18, 2018).

**Wendel, W. Bradley**, Sixth Distinguished Lecture in Professional Responsibility, University of Akron Miller Becker Center for Professional Responsibility: Paying the Piper But Not Calling the Tune: Litigation

Financing and Professional Independence (Apr. 20, 2018).

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