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FOCUS

President's Message

Susan Ephron

Fellow Washington Chapter ACC Members:

Greetings and Happy New Year!

I know that we are well into the first quarter of 2010, but now might be a good time to think about the New Year's resolutions you made last month. If you didn't make any, how about committing to attending at least one ACC event this year? Our board is busy planning a full slate of interesting and engaging CLE and networking events for this year. I'm sure you'll be able to find an event that fits your interests and schedule.

Last year finished strong with an engaging Ethics Dinner presentation by Professor John S. Dzienkowski on "Pretexting and Other Legal Issues Facing Corporate Counsel."

We honored our three Diversity Scholarship recipients at the dinner — Jessica Tseng (Seattle University School of Law), Amber Penn-Roco (University of Washington School of Law), and Jennifer Richards (Gonzaga University School of Law). Also in December, Starbucks



and Safeco hosted the chapter's Street Law conference. This was a fantastic experience for students and volunteers alike and we hope to work with Ms. Mushen's classes at Chief Sealth High School again in the spring.

I hope to see you in 2010!

Susan Ephron, WACC Chapter President
Counsel, Safeco Corporate Legal

Ethical Issues in the New Service Paradigm

Susan Hackett, senior vice president and general counsel, Association of Corporate Counsel, Copyright © 2010, Association of Corporate Counsel (ACC)

Many of you know me lately for my work as an evangelist for the ACC Value Challenge — our project to help corporate counsel and firms reconnect the cost of legal services to their value. But before the ACC Value Challenge dominated my agenda, I spent much of my time working on in-house ethics and professionalism issues.

It's no surprise then that I would eventually seek to marry these two tranches of work. And so I bring the couple before you for your consideration in this column: my goal will be to give you a short overview of some of the professional, ethical issues that will confront corporate counsel who are working with firms to reinvent the legal service provision model by employing new fee structures, new staffing options, new knowledge management techniques, new technologies and more.

We don't have the space or time in this column to go in-depth (see below for links to more material), but many of you will first run into new ethical challenges as you seek to restructure fees for service from hourly rates to other options, and then consider the staffing decisions that such fee structures may dictate. Basically, these arrangements seek to shift the risk of cost/profit from clients (who in the past both paid the firm's "guaranteed" profit, and bore the all the risks of the cost) to firms. Firms in the new paradigm will be asked essentially to "put skin in the game," making them responsible for not only their own efficiency and costs, but also for more of the outcome risk, which may make them less objective about the method of providing their services and the advice they provide. Firms will also face new (but not insurmountable) issues in professional liability and the responsibility to come up with "solutions," in cooperation with other service providers who are not lawyers or who may reside outside the

four walls and insurance coverage of the law firm.

Both the use of hourly fees and the use of value-based fee arrangements¹ can present ethical issues. And the ABA's Model Rules of Professional Conduct in the US, and codes of conduct in other jurisdictions such as Canada, Australia and many European jurisdictions, typically purport to detail the ethical considerations in setting and collecting fees, but are usually unhelpful. Indeed, model rule platitudes — such as, "A lawyer shall not make an agreement for, charge, or collect an unreasonable fee or an unreasonable amount for expenses" (ABA Model Rule 1.5 on Fees), are not only of no help, but often serve to support the proliferation of everything but the most ethical practices. Unreasonable to a client may not be unreasonable to a firm or an ethics authority.

So what are the ethical risks behind the implementation of both hourly or value-based fee arrangements?

Hourly billing can create disincentives to efficiency or encourage waste; it is often cited as supporting "make-work" for firm lawyers who need to bill a certain number of hours per cycle, regardless of whether the work warrants the additional time and effort; it does not encourage firms to assign the right (as opposed to the available/unoccupied/need-to-be-trained) talent to the matter or improve the efficiency of staff members who perform repetitive tasks; it removes accountability from both junior and senior lawyers for the outcome (they see themselves as only

1. I don't like to use the words "alternative fees" since I think that all fees are alternatives that should be considered and chosen based on the matter and the client/firm relationship. The use of the term "value-based fees" infers fees that have been structured to provide the best alternative from the choices available based on what the work is worth and other priorities the client may have, such as speediness, priority, budget pressures, whether the work is repetitive, etc.

responsible for engaging in necessary legal analysis or process), and more, all of which are problems under legal ethics guidelines such as the ABA Model Rules.

Likewise, newly negotiated fee arrangements based on value (and not just hours x rates) are often the result of experimentation between clients and firms with fee and staffing formats they've not tried before; thus, firms and clients may set fees for service that may not be based on an understanding of what the cost will actually be, and this could give rise to wildly inaccurate or unrealistic estimates that firms or clients don't want to be held to. Additionally, new staffing structures can create a lack of responsibility or lack of proper oversight for supervisory relationships (both in poorly coordinated lawyer teams and for outsourced non-lawyers working on matters that the firm used to be entirely responsible for on their own); lawyers without management skill sets will become responsible (a competence issue) for management services or for supervising work done by others that they aren't competent to supervise; a decrease in diligence might be suffered in matters governed by a fixed fee, which removes incentives for lawyers to continue working on a matter that requires investment beyond the normal amount the fee was intended to cover; and lawyers in firms could be deemed to lack objectivity and independence in their guidance if their fees are determined based on outcome.

But let's be clear: the challenges associated with value-based fee and staffing arrangements, albeit different than the challenges associated with hourly fees, are no greater in magnitude. Indeed, I would argue that many of the value-based fee structures that clients and firms are experimenting with offer better incentives to better behavior and remove many of the ethical tensions that have

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plagued lawyers who increasingly feel disenchanting with practice, precisely because they see the misalignment of their firms' business models and billing practices with their client's best interests, and their oath to behave according to the highest principles of professionalism. Bottom line: Ethical lawyers make sure that they behave ethically: there are simply new issues to consider and navigate in the process.

ACC is developing a line of resources to help lawyers in both firms and departments understand these new challenges and assure that their re-designed relationships operate both smoothly and to the highest standards of professionalism. Our initial treatise on the topic is now online on the ACC Value Challenge homepage at www.acc.com/valuechallenge. We are also available to travel to chapters and large departments to help them plan ethics workshops that qualify for ethics credits, examine these issues and discuss both best practices and pitfalls to avoid.

Until then, here are a few ideas to consider to ensure that any "value-based" fee and staffing structures you implement are grounded in sound ethical practices:

- Draft agreements that focus the firm on diligent representation regardless of the fee structure — such as fixed fees with "safety valves" or decision trees that plan for variances in how the matter may unfold. Such arrangements should allow for renegotiation or "change orders" when the client objectives change during the course of the representation or allow the firm to assume a new direction when unexpected difficulties arise that could not have been planned for;
- Ensure the fees fairly and adequately compensate the firm's lawyers for the services provided throughout the representation, so as not to provide an incentive to improperly curtail services — the issue is usually not to try to go cheap, but to assure the firm

- that the sustainable profitability that makes the work worth their while yet aligned with client needs;
- Consider up front (and then stick to the agreement) whether firms who put skin in the game and "win" will be able to keep 100 percent or some portion of the windfall; if the firm takes a risk, it should be rewarded so long as the client receives the value it negotiated for.
- Refrain from using a fee arrangement with incentives that could impose a significant material limitation on the lawyers' representation; or if the material limitation is "consent-able," obtain the client's informed consent;
- Base fee prices on data and experience in previous matters, and communicate early and often, enabling clients to make informed decisions regarding representation and to incent the firm to engage in better process and project management and continuous improvement; and
- Explicitly state in the agreement when fees are to be considered earned.

Also, because many law firms' internal cost structures create high-priced fees, some firms can only "stretch" so far; many value-based fee arrangements will make use of legal outsourcing or off-shoring for parts or stages of the work that can be done by non-lawyers. Additionally, many firms are struggling with the appropriate role of their entry-level lawyers or para-professional staff and how they can be trained and contributing. Firms engaging in outsourcing or "pushing the work down" must ensure that the service providers they choose are properly supervised and that they and their work product complies with the requirements of the rules of professional conduct — such supervision can be contracted to the provider (if an outsourcer or contract lawyer company) or made the responsibility of the client's law department or the law firm (when the work is assigned to para-professionals). To successfully make use of legal outsourcing or non-legal staff, lawyers must:

- Ensure the use of properly skilled and well-educated professionals who are trained to the client's needs, and ensure that their work is being monitored and checked upon by licensed lawyers (in the jurisdiction in which the matter takes place);
- Carefully consider when lawyers vs. paralegals vs. business or legal process staffers are the best choice, and make sure that adequate supervision of non-lawyer work is in place;
- Ensure the local legal landscape is adequate to protect the clients' interests or that the contract for services mandates the standards by which you wish their work to be performed (conflicts, professional standards, etc.);
- Assure confidentiality and security through non-disclosure agreements and mandated IT security procedures; and
- Obtain the clients' informed consent regarding any outsourcing plans if there is a risk that clients will believe the firm's lawyers are performing services and not others.

These are but a few of the issues we see arising as the new legal service paradigm shifts the way that clients and firms traditionally related to each other. Do you have suggestions or questions about the ACC Value Challenge and ethics/professionalism issues affecting in-house practice and your client's service? Feel free to contact me at hackett@acc.com, and let me know how ACC can help.

Recent Events

November 5, 2009

CLE Presentation on “Advising the Board: Your Responsibilities as In-House Counsel. Common Issues That Arise in Public and Private Companies.”
Sponsored by: DLA Piper

Stellman Keehnel, Mark Hoffman and Megan Muir of DLA Piper provided an excellent presentation on issues that in-house counsel commonly face when advising the board, such as: current corporate governance issues for public companies, litigation issues and private company topics.



days of classroom lessons as well as the half-day workshop. At the end of the event, the students joined the volunteers for lunch and “career bingo” to mingle and learn more about the corporate legal profession. We received very positive feedback from all involved.

Thank you to everyone who supported this event, and we look forward to seeing you at the next Street Law student workshop.

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December 3, 2009

9:30 AM–1:30 PM
Street Law Conference
Starbucks Headquarters

On December 5, 2009, WACC conducted a Street Law workshop for 72 students from Chief Sealth High School and their teacher, Pam Mushen. Safeco Foundation provided funding for the event, which was held at the Starbucks corporate office. Starbucks general counsel, Paula Boggs, was the guest speaker.

The Street Law program is designed to teach high school students from diverse communities about law, democracy and human rights while encouraging them to pursue a career in the legal profession. This year the focus was on contracts, litigation and employment law (i.e., sexual harassment).



Approximately 25 in-house attorneys and paralegals (most of whom are WACC members) from various Seattle corporations volunteered their time to orchestrate several



Street Law Photos
Copyright © Kimberley Tibbert, 2009



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December 10, 2009

Annual Ethics Dinner at the Colombia Tower Club

Sponsored by: Jackson Lewis

Big thanks go out to Jackson Lewis, our sponsor for the event again this year. Our annual ethics dinner once again drew a large crowd at the Colombia Tower Club. Everyone enjoyed socializing and a fabulous meal at this beautiful location. John Dzienkowski from the University of Texas School of Law provided a fun and engaging ethics presentation using great experiences and hypothetical situations in the area of pre-texting. Thank you to everyone who attended. We will look forward to seeing you again in 2010!

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ACC Member Erik Anderson, Board Member Skip Volkle



WACC Vice President Heather Deranek, John Dzienkowski, WACC President Susan Ephron



ACC Members



View from the Colombia Tower Club



Lisa DeFors, Board Member Al John



L-R - WACC President Susan Ephron, Board Member Brad Toney, UW Scholarship Recipient Amber Penn-Roco, Board Member Johann Thaheld

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January 26, 2010

7:30 – 8:30 AM

“Employee Relations 2.0: How to Craft a Social Media Policy that Works for your Company”

1.0 CLE Credit

Sponsored by: Perkins Coie

Linda Walton and Brian Flock, attorneys in Perkins Coie’s Labor & Employment

Practice, will provide practical step-by-step guidance on how to craft a social media policy that balances the realities of today’s workplace — according to a 2009 CareerBuilder survey, 51 percent of the workers surveyed reported spending time on their social networking pages during the workday — with the need to minimize the risks associated with employee use of social networking sites, both on and off the job. Brian and Linda will address such

important considerations as:

- Pre-drafting activity (including C-Suite consultation);
- How to tailor a social media policy to account for the organization’s culture and how it intends to use social media;
- Key elements that every effective policy should include; and
- Implementation strategies

Washington State Needs Limits To Land Grabs

By Washington Attorney General Rob McKenna

Like so many immigrants to the United States, Henry Kubota sought the American dream: a piece of property; a business; a livelihood. He thought he found it in Seattle, purchasing the Seattle Hotel in 1941.

“Civil liberties and property ownership are the American dream that my family pursued. It was the pot at the end of the rainbow,” says Kubota’s son-in-law, John Fujii. “But our slide down the rainbow hasn’t been without splinters. First, in 1942, the government hauled us to an internment camp. And in 2003, the Seattle Monorail Project sought to condemn more of our land than it needed for a monorail station.”

After losing a series of court cases that went all the way to the state Supreme Court, Fujii finally prevailed in 2005 — but only after voters killed the Monorail Project.

Today the site of the old Seattle Hotel is a triangular parking garage known as “the sinking ship garage.” Fujii hopes to realize his father-in-law’s dream of developing an office building there. But he says that the monorail agency had different plans for his land — and those plans went far beyond building a transportation project. Public records show that prior to the condemnation, the monorail agency considered using a portion of Fujii’s property for a hotel and retail developments.

Fujii and other property owners joined a bipartisan band of legislators and me on January 14, to announce legislation to rein

in the government’s power to seize private property. The announcement comes after more than two years of analysis by my office’s Eminent Domain Task Force, which I convened after a U.S. Supreme Court’s ruling known as the Kelo decision. Kelo upheld government’s authority to condemn private property in the name of economic development.

The authority to confiscate homes and businesses is one of the most intimidating powers granted to government by the people. There must be limits to that power. There should be restrictions on the government’s authority to take your land, only to hand it over to private developers. I support economic development and the free market. But the protection of individual liberties like property rights shouldn’t be infringed.

In *Kelo v. City of New London*, property owners challenged the city of New London, CT, when city leaders sought to condemn 115 privately owned properties and use the land for hotels, shops, office space and other developments. Our task force was organized to ensure that the property of Washingtonians is protected from similar land grabs.

We have authored two sets of companion bills to reform government’s eminent domain laws. One proposal, HB 2425/SB 6200, would prohibit the taking of property



for economic development — for example, to build a mall or a hotel.

“Building roads, hospitals and even monorails — that’s why government needs the power of eminent domain,” said Sen. Mike Carrell (R-Lakewood), the sponsor of SB 6200. “But government shouldn’t be in the business of taking one person’s private property and selling it to

another private party. That’s fundamentally unfair.”

The companion bill, HB 2425, is sponsored by Rep. Jay Rodne (R-North Bend).

HB 2423/SB 6199 would reform the state’s Community Renewal Law to restrict government’s ability to label entire neighborhoods as “blighted” in order to sell them to a private developer. The bill also restricts the use of eminent domain for economic development by limiting projects to specific public uses, such as roads and utilities, and barring projects developed simply to generate tax revenue.

According to the Washington Policy Center, local governments in Washington have applied or attempted to apply the Community Renewal Law to take the property of more than 71,000 Washington residents since 2000.

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“If you’re living in a neighborhood that a city labels as ‘blighted,’ it usually means that you do not have the financial resources to make improvements or even fight the legal system,” said Sen. Rosa Franklin (D-Tacoma).

Sen. Franklin, who is sponsoring SB 6199, added that she hopes the bill will even out the fight between those without financial resources and well-heeled interests. The companion bill, HB 2423, is sponsored by Rep. Larry Springer.

Pat Murakami says in 2006 the city of Seattle considered designating a large part of southeast Seattle for redevelopment under its community renewal authority. Public records show that the city conducted a study, considered the use of a blight des-

ignation and pondered the use of eminent domain.

“Southeast Seattle was under the threat of being declared a blighted ‘Community Renewal Area’ after decades of neglect and underfunding by the city,” Murakami said. “We were told by city officials that they planned to purchase properties from existing property owners and sell them at a discount to private developers. This was distressing to our community, particularly our immigrant population, many of whom had left Communist countries because their property and ownership rights were not protected.”

Murakami and other activists mobilized the community and were able to delay any blight designation.

“Unless it happens to you, it’s tough to fully understand the stress involved in fighting to hold on to your home or business,” said Steve Appel, president of the Washington Farm Bureau. “But people need to recognize that unless the law is changed, this can happen to you — whether you’re a city dweller, a farm owner or anywhere in between.”

I couldn’t agree more. And that’s why we’ve made property rights a major part of our legislative agenda for 2010.

Learn more about Attorney General McKenna’s legislative agenda at www.atg.wa.gov.

Law School Round-Up

In support of our law schools in Washington State, our chapter is proud to present the following events and updates from our local law schools:

Seattle University Law School

Mark Niles named dean at Seattle University School of Law

Mark Niles, an outstanding legal scholar and experienced academic leader, has been appointed dean of Seattle University School of Law, effective July 1.

Niles is currently associate dean for academic affairs and professor at American University, Washington College of Law. He teaches and specializes in civil procedure, administrative law, constitutional law, governmental liability and law and literature.

“Dean Niles stood out among an exceptional group of finalists and a large pool of applicants as the right person to lead the School of Law on its upward trajectory as one of the nation’s premier independent law schools,” said President Stephen Sundborg, S.J. “He shares a commitment to academic excellence, social justice and diversity that are hallmarks of the education provided by Seattle University.”

Dean Niles has published numerous articles and essays on subjects including the Ninth Amendment, federal tort liability, airline security regulation, the first decade of the tenure of Justice Clarence Thomas, and the depiction of law and justice in American popular culture. As associate dean, he has spearheaded significant developments in the first-year curriculum and in academic skills instruction.

Earlier in his career, Dean Niles served as a clerk for the Honorable Francis Murnaghan, Jr., of the U.S. Fourth Circuit Court of Appeals, as an associate at the D.C. firm of Hogan and Hartson, and as a staff attorney in the civil appellate division of the U.S. Department of Justice, where he argued cases in several federal circuit courts. He serves as the reporter for the Maryland Civil Pattern Jury Instructions Committee of the Maryland State Bar Association. He is a graduate of Stanford Law School and Wesleyan University.

“I am honored to have been chosen from among the extremely impressive group of finalists for the position of dean of the Seattle University School of Law,” Niles said. “I could not be more excited about the opportunity to help lead one of the most highly regarded and well-respected

law schools in the nation. I am particularly enthusiastic about working with the exceptional community of faculty, staff and alumni to provide the highest quality educational experience for our students while serving and expanding the commitment to social justice that defines the mission of Seattle University.”

Center for Indian Law offers alternative dispute resolution

The Center for Indian Law and Policy at Seattle University School of Law will include a dispute resolution project designed to address the often-intractable conflicts that arise in Indian law between Indian tribes and non-Indian people, governments and entities. These disputes are special because their cultural, social and historical components often play singularly important roles with roots that extend back many decades. To solve these conflicts effectively requires an ability to understand Indian law, and an awareness and respect for the cultural and inter-generational divides that characterize these disputes.

The Dispute Resolution Project will be led initially by Center director Douglas

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Nash and Michael Mirande. Nash brings to the process 39 years of work as a tribal advocate. Mirande has worked on Indian law issues for private and public non-tribal entities for more than 23 years, and currently teaches Indian Law at Seattle University School of Law as an adjunct faculty member. Nash and Mirande have substantial experience in resolving Indian law issues outside of traditional litigation and mediation, including as opposing counsel in several complex cases in which they were successful in bringing parties on opposite sides together in sustainable, long-term, settlement agreements that provide benefits to both parties far beyond what might be realized through litigation.

The project will draw upon other Center and law school faculty. Students will play an important role in each stage of problem solving, from initial interaction with clients through efforts to institutionalize relationships among the parties ongoing that will serve as a framework for avoiding future conflicts. This will provide cost-effective problem solving and an important source of professional learning and experience as well.

The Dispute Resolution Project is open to tribal and non-tribal governments and entities that are seeking resolution of conflicts whether or not those conflicts are in active litigation. The conflicts can be between tribal and non-tribal parties, or between competing tribes trying to sort out their respective prerogatives. The Center will charge for its services with a competitively based fee schedule.

Class learns about environmental damage and restoration on Idaho field trip

Cliff Villa, an adjunct professor and attorney with the United States Environmental Protection Agency, teaches a course on environmental enforcement. Last fall, he took students on a weekend field trip to view the environmental degradation resulting from more than a century of mining activities in northern Idaho.

“Part of my theme is bringing reality into the classroom and the classroom into reality,” he said. “Given a clear view of the

problem, we then consider the analytical question of, ‘What legal tools can we use to fix this?’” Villa, who became an adjunct in 2006 and received the 2009 Outstanding Adjunct Faculty Award, has organized field trips before. This year, he planned an excursion to Northern Idaho’s Coeur d’Alene Basin, a region of natural beauty marred by massive contamination from historical mining activities. “Many of the worst places, scenes of epidemic child lead poisoning in the 1970s, have recently been cleaned up,” Villa said, “but decades of cleanup efforts remain to restore the Basin to a safe environment.”

Students traveled from one end of the Coeur d’Alene Basin to the other: experiencing the plush Coeur d’Alene Resort on Lake Coeur d’Alene; the Old Cataldo Mission, sacred site to the Coeur d’Alene Tribe; the former site of the Bunker Hill lead smelter, now cleaned up and redeveloped as a golf course; and the old mining districts in canyons of the Bitterroot Mountains, where contaminated creek water still runs a shocking orange. They heard from many local experts, including Earl Liverman, a 1991 law school grad, the EPA’s on-scene coordinator.

Student said seeing first-hand what they discussed in class was invaluable. “It isn’t until you see the abandoned mines, the piles of lead tailings, the fishless streams and front yards made of gravel, that you begin to understand the complexity facing environmental lawyers and clean-up coordinators,” 3L Kelsea Feola said.

3L Richard Andrews echoed Feola’s feeling. “Reading about the scope of the problem in the Coeur d’Alene basin was harrowing enough. But actually seeing the magnitude of the problem in person was enlightening,” Andrews said. “I will never forget the image of a small house, surrounded on three sides by 60-foot high piles of tailings, with a child’s tricycle and toys outside. For those of us working with environmental enforcement, there could not be a much clearer reminder of what is at stake in this work.”

University of Washington

2009 Graduate Lands Job in Obama Administration

In a time when law school graduates are scrambling to find good jobs, 2009 UW School of Law alumnus Dylan Orr was appointed to the Obama Administration one day before receiving news that he had passed the bar exam. Orr started work as the special assistant to Assistant Secretary Kathy Martinez in the Office of Disability Employment Policy in December.

Law Student’s Article Cited by Washington Appeals Court

A law review article written by UW School of Law student Blythe Chandler was recently cited by the Washington Court of Appeals in *State v. Scherner*. “It is actually quite rare for law school faculty to be cited by courts, let alone a student,” said associate dean and law professor Peter Nicolas. “This is a great accomplishment for Blythe and for the law school,” added Nicolas.

In *State of Washington v. Scherner*, appellant Roger Scherner argued that his child molestation convictions were unconstitutional. The Washington Court of Appeals disagreed, upholding the lower court’s conviction of Scherner. The Court cited Chandler’s article, *Balancing Interests Under Washington’s Statute Governing the Admissibility of Extraneous Sex-Offense Evidence* published in the May 2009 issue of the Washington Law Review, in regards to Scherner’s constitutional challenge to a recently-adopted Washington statute concerning the admissibility of evidence in sex offense cases.

Clinical Program Celebrates 30 Years

The Clinical Law Program at the UW School of Law will celebrate its 30th anniversary on February 5 with an all-day continuing legal education course (approved for 6 ethics CLE credits), “Professionalism in Practice: Ethics in Action,” featuring clinic faculty and alumni. The day will end with an awards presentation at 5 PM to clinic founders professor Alan Kirtley, the Hon. C.Z. Smith ‘55 and the Hon. Marsha Pechman, followed by a keynote address by U.S. Attorney Jenny Durkan ‘85 and reception.

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Clinics at the law school offer students credit while they represent real clients or mediate real cases. The program is central to the law school's public service and access to justice efforts. Each year, a variety of clinics offer diverse practice opportunities to law students. Nearly 60 percent of each JD class enrolls in a clinic.

UW Afghan Legal Educators Program Receives State Department Grant

The Afghan Legal Educators Program administered by the Asian Law Center will receive a \$895,000 supplemental grant from the US Department of State to continue the support of Afghan law students and professors studying at the UW School of Law. The Afghan program was originally established with a \$2 million grant from the US State Department to the UW in 2004, and supports the law school to provide post-graduate legal training to faculty members and curriculum development to train the Afghan legal community.

UW Students Excel in National Moot Court Competitions

UW School of Law students Lisa Benedetti, Andrew Gardner, and Justin Andrews won the regional National Moot Court Competition, defeating Seattle University in the final rounds of the competition, which was held at Lewis and Clark Law School in Portland last weekend. They will represent UW at the National Finals, to be held in New York City this winter. UW third-year law student Keaton Hubbert won Best Oralist at the regional competition.

Second-year law students Rob Misulich and Nick Williamson placed second in the regional finals of the 2009 Thomas Tang International Moot Court Competition and advanced to the national competition in Boston. Williamson also received a second-place speaker award. Third-year law student Marissa Olsson and second-year law student Charlotte Sanders took home the first-place award for best brief in the regional rounds of the 2009 Thomas Tang International Moot Court Competition. Second-year law students Sean Nolan and Michael Richard also represented UW in the competition.

UW Law Students Take Climate Justice on the Road

Two UW School of Law students have been circling the globe this past year presenting their work on climate change as it relates to human rights. Third-year law students Jen Marlow and Jeni Krencicki Barcelos presented "Climate, Water, Ethics and Equity: Imagining a Three Degree World" at the First International Undergraduate Conference on Climate, Water, Weather and Society last summer at East China Normal University in Shanghai, China.

In the fall, they were invited to present at Stanford University Law School one day prior to a conference focused on social and environmental justice, "Shaking the Foundations." From California, Marlow and Barcelos traveled to Geneva, Switzerland where they met with the United Nations Human Rights Council and other NGOs and U.N. agencies. Next, they traveled to Bergen, Norway at the request of that city, where they were invited to present ideas and results from a conference they coordinated, *Three Degrees: The Law of Climate Change and Human Rights Conference* last May. The City of Bergen invited Marlow and Barcelos to talk at a conference convened to develop the Bergen Charter of Climate Change and Human Rights.

Marlow and Barcelos are currently teaching fellows for the law school's new Climate Justice Seminar.

To find out more about what's going on at the UW School of Law, find us on Facebook (www.facebook.com/UWSchoolofLaw) or the law school website (www.law.washington.edu).

Gonzaga School of Law Revised Curriculum Proving Successful

Professor Gerry Hess graduated from



law school rich in knowledge but deficient in the skills of the trade.

"When I walked out of law school, I was really good at legal research, analysis and writing, but I

had never interviewed a client, or done any legal document development," recalls Hess, who began practicing law more than 25 years ago.

Like most young lawyers, Hess received his early training on the job, a luxury law firms can no longer afford, says Dean Earl Martin. "The practice of law is becoming more of a business," Martin explains. "Firms attach economic value to on-the-job training and that can get squeezed at the margins when firms cut costs." Today's law firms hope to hire young lawyers who are ready to "hit the ground running," he says.

A pair of studies released in 2007 underscored the need for law students to develop skills immediately applicable to practicing law. The Carnegie Fund published *Educating Lawyers and the Clinical Legal Education Association offered Best Practices*.

Filling the skills gap

"Both looked at what law schools were doing successfully and what was missing," says Hess, who is a noted legal educator and co-director of the Institute for Law Teaching & Learning. "They were good at legal research and reasoning skills but there was another set of skills that wasn't part of every student's experience."

Hess led a nine-member curriculum review committee through a year-long process of redesigning the curriculum to better prepare students to practice law. "We wanted to preserve the strengths of traditional law school education, but add an emphasis on skills and professionalism," recalls Hess. "The new curriculum does all three."

At the heart of the effort is a pair of skills and professionalism labs in the first-year curriculum, explains Martin. "They will challenge students to struggle with professionalism issues while learning both litigation and transactional practice skills." "The skills labs are a critical part of the new curriculum," adds Hess. "They teach skills and professionalism from the first day and carry it through the entire year."

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“Firms” are a key element

The labs, where students are grouped into four- to six-member “firms,” are mandatory for first-year students.

Firms are assigned a series of simulation exercises designed to teach such hard skills as how to conduct a deposition or prepare and present an oral argument. Working in small groups, students also learn the value of collaboration. The labs use as content the substantive law being taught concurrently in a set of doctrinal courses. In the fall, students study civil procedure and torts; in the spring, they study contracts, property and criminal law.

To perform the skills lab exercises, students must master the law behind them. “The oral arguments are especially telling,” Hess says. “(The students’) experience to that point had been being in the classroom and talking about the law, but now they stood in front of a ‘judge’ and made a five-minute argument.

“Across the board, they felt like they had made a first, important step,” he continues. “They had to know the underlying law — which they learned really well — and they had learned to craft an argument. They were learning substantive law, but in a different way than it has been taught before.”

Besides the skills labs and doctrinal course, first year students study legal research and writing — long a mainstay of a Gonzaga legal education — and take an overview course called “Perspectives on the Law.”

Blending the doctrinal and the practical

In the second year of the new curriculum, students continue their study of research and writing, expand their doctrinal education, and take a course titled Professional Responsibility.

The curriculum culminates in the third year, when students will exercise their skills by fulfilling an externship or

participating in the school’s Law Clinic. By the time they are ready to leave Gonzaga, students will be able to “walk out the door confident and prepared to function as a competent lawyer,” says Hess.

“Each change to our curriculum is meant to improve our students’ acquisition of the substantive knowledge and legal skills they will need to be competent advocates, and to inculcate them with the professional values that will make them ethical advisors for their clients,” adds Martin. “Accomplishing these goals will, in turn, help the institution ensure that it is delivering on its mission promise to provide its students with an excellent legal education informed by our humanistic, Jesuit, and Catholic traditions and values.”

Diversity Scholarship Updates!

In 2005 the chapter began awarding the “Washington Chapter of the Association of Corporate Counsel Diversity Scholarship.” Each year, the scholarship is awarded to one individual from each law school with diverse or ethnic background, who demonstrates outstanding academic performance and an interest in corporate and business law. WACC hopes to include updates on each recipient of the Scholarship.

This newsletter, we are proud to update WACC members on the scholarship recipients from University of Washington School of Law:

2007–2008 Amena Jefferson:

In her second year of law school, Amena was selected to represent University of Washington School of Law at the Texas

Young Lawyers Association National Mock Trial and finished as a Regional semi-finalist. Amena was also a finalist in the UW Opening Statement Competition and won the Judge John C. Coughenour Award in Trial Advocacy for Best Oral Advocate. Amena has served as the President of the Black Law Students Association, played an instrumental role in establishing UW’s first Dean’s Advisory Committee on Diversity, as well as UW’s first “Race and the Law” course which will be offered in 2009–2010.

Amena split her second summer at the King County Prosecutor’s Office as a Rule 9 Intern and as a Summer Associate at Stoel Rives LLP. In the first quarter of her third year, she is externing for the Honorable Judge Steven Gonzalez in King County Superior Court. Amena continues to be active in the Black Law Students

Association as the Program Officer. Upon graduation, Amena will be working at the King County Prosecutor’s Office as a Deputy Prosecuting Attorney.

2008–2009 Jasmin Singh:

Currently, Jasmin Singh is in her final year at the University of Washington School of Law. This past year, Jasmin had the opportunity to do her public externship quarter for a leading civil rights organization, Latino Justice PRLDEF, in New York City. She continues to serve as the Treasurer of the Latino Law Student Association and as a mentor to students interested in pursuing law school. Jasmin plans to take the New York Bar Exam and is currently looking for a position in a law firm or any other private entity.

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Chapter Announcements

Membership Corner!

As an ACC member, one of your greatest benefits is consulting with your colleagues around the world for the information you need. If you are a small legal department (five or less), you should join the Small Law Department listserv (SLD). Members ask questions, either directly or anonymously, and request contracts, forms and policies. They receive answers within a few days from others. Topics range from employment termination to distribution agreements. If you are only interested in intellectual property, join that committee. Whatever your specialty, there is a committee. It's free, and saves your client both time and money. Try it by joining the committee and then signing up for the listserv at www.acc.com/committees.

If you are looking for an opportunity to meet more of your colleagues and become more involved in our chapter, please join the Membership Committee. No experience required! Contact Karen Klein, membership committee chair at kklein@silverplanet.com.

Omissions:

The Washington Chapter would like to apologize for its omission in the last newsletter. Skip Volkle has also been added as a board member to our chapter.



Skip is the VP and general counsel of Marine Resource Group. A graduate of the U.S. Coast Guard Academy, Mr. Volkle served for the Coast Guard at sea and ashore before graduating from the College of William & Mary Law School. As Coast Guard legal counsel, he specialized in marine safety, environmental, maritime law enforcement and international affairs, and served as deputy U.S. Representative to the IMO Legal Committee. Before joining MRG, he worked at Maritrans Inc., serving for 15 years as Director of Legal Affairs.

Skip has been great addition to our board. Thanks Skip!

Have a question about the Washington Chapter?

Interested in joining our legal community? Please feel free to contact any one of our board members with any questions. We would be happy to talk with you and encourage you to join. Our chapter is always accepting new members!

Have an idea for our next newsletter? Feel free to contribute! Please email questions or submission requests to heather.deranek@onrequestimages.com.