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Dale Margolin Cecka

University of Richmond, dcecka@richmond.edu

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Education & Practice

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Ethical Practice within Interdisciplinary Collaborations: The Law School Clinic as an Example *By Portia Cole, Phd*

Social workers are increasingly recognized as beneficial members of interdisciplinary teams in addressing the complex needs of clients who seek legal services. Law school clinics are leading the way by introducing partnership initiatives to engage law and social work students. The relationship between law and social work is certainly not new. As early as 1917, Mary Richmond, a key architect of modern social work, acknowledged the role of legal authorities in formulating parts of her conceptual framework for casework.¹ The very structure from which Mary Richmond drew her theoretical base could trace its roots from the landmark legislation, the Elizabethan Poor Law, which was a declaration of the legal rights of the poor. Similarly, law professor Katherine Kruse notes that “the creation of the juvenile court in the early 20th century was an experiment in ‘law as social work’ and it endeavored to conduct its investigations and the supervision of children in accordance with the principles of social work.”²

There are several benefits to collaborative arrangements between these

two professional groups, including promotion of social support in the work environment, which can in turn reduce stress, as well as empathy training. In spite of these benefits, “these collaborations are often characterized by conflict as professionals negotiate roles, duties, and varying ethical responsibilities.”³ For example, the fact that social workers are mandated reporters of child abuse/neglect, while lawyers are not, is a critical issue.

The National Association of Social Workers (NASW) Code of Ethics outlines a range of ethical responsibilities for professionals working within interdisciplinary collaboratives. For example, Section 2.03 (a) states, “Professional and ethical obligations of the interdisciplinary team as a whole and of its individual members should be clearly established and Section 2.03 (b) states, “Social workers for whom a team decision raised ethical concerns should attempt to resolve the disagreement through appropriate channels. If the disagreement cannot be resolved, social workers should pursue other avenues to address their concerns consistent with client well-being.” Reamer noted, “Ethical decision-making is a

process...social workers should take into consideration all the values, principles, and standards in this Code that are relevant to any situation in which ethical judgment is warranted...decisions and actions should be consistent with the spirit as well as the letter of this Code.”⁴ This article explores pathways by which ethical differences emerge and are addressed within lawyer-social worker interdisciplinary collaborations.

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Dr. Portia Cole is an Asst. Professor at the Virginia Commonwealth School of Social Work. This article is excerpted from Cole, P.L. (2012). You want me to do what? Ethical practice within interdisciplinary collaborations. Journal of Social Work Values and Ethics, 9(1).

Chair's Column

Professor

A. Benjamin Spencer
Washington and Lee
School of Law

Law schools will have to enhance their value in a way that attracts sufficient numbers of quality students to maintain their viability and solvency.

The value proposition of law school is being increasingly questioned today. Projections are that ABA-approved schools will be producing approximately 45,000 graduates for only 25,000 jobs over the next several years. Lawsuits have been filed alleging that law schools have been publishing misleading employment statistics that seduced unwitting students into enrolling in law school. The debt burdens associated with law school are so high—averaging nearly \$125,000 at private institutions and \$75,000 at public law schools—that underemployed and unemployed law school graduates find it extraordinarily difficult to stay afloat. The popular press has caught wind of these developments and lamented them noisily, perhaps contributing to the significant decline in LSAT test-takers and in applications to law school across the country that we have seen this year.

What should law schools do in this environment? For those schools that are heavily tuition-dependent, these developments spell trouble. The decline in applications that schools must face forces a stark choice: Either lower the quality of your entering class to maintain your enrollment numbers, dramatically reduce your class size to maintain quality, or ramp up financial aid to an extent that high quality students can be convinced to migrate to your law school. Each of these choices has costs, with a reduced enrollment or increased financial aid budget having a price tag in the millions. Maintaining enrollment levels while compromising class quality has the undesirable risk of resulting in a decline in the ranking of the law school, which has the effect of making it that much more difficult to recruit quality students and for students to get consideration from prospective employers.

This is a conundrum that takes enormous leadership and creativity. With limited resources, cost cutting will have to be pursued while smaller matriculating classes become the new normal. Unfortunately, there is no real way for law schools to cut their way out of this crisis, as most costs—including faculty salaries—are fixed and cannot be reduced without compromising the ability of the school to function and to retain its talent. Tuition cannot simply be raised, as it has already reached levels that are quite unsustainable, saddling graduates with mortgage-like debts they can ill-afford to repay.

What, then, is the answer? Law schools ultimately will have to enhance their value in a way that attracts sufficient numbers of quality students to maintain their viability and solvency. This means seriously competing on tuition rather than treating students as price-insensitive. This means making substantial short-term investments in increasing entering class quality so that the resulting ranking of the school improves, something that attracts more quality students at less cost longer-term. It means developing a distinctive identity or niche that will differentiate the school from competitors and attract high-caliber students to the school who share that interest.

In the end, there may be schools that will not survive these times in legal education. Those that do will have to develop missions and specializations that not only attract high caliber students, but also attract donated funds from members of the public who share the vision and mission of the school. Taking such steps is likely the best way to remain viable and relevant in legal education for years to come. ✧

Ethical Practice within Interdisciplinary Collaborations...

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History of Ethics and Values in Social Work

Reamer identified distinct periods of development for the social work code of ethics: the morality period; the values period; the ethical theory and decision making period; and the ethical standards and risk management period.⁵ The morality period began in the late nineteenth century when social work began to emerge as a profession. During this period, social work was much more concerned about the morality of the client than about the morality or ethics of the profession or its practitioners. The values period, which began in the early twentieth century, ushered in a focus on social justice concerns. External influences of society such as poverty, disease, and education opportunities were appreciated.⁶ This period is relevant to developments today as many law schools around the country are seeking to fill the legal needs of their communities and to ensure better access to justice for underserved and marginalized populations.

According to law professors Margolin, et al., the legal profession appreciates the need to support underserved families who often face legal issues alone.⁷ The focus of law school clinics is on empowering clients and not on assessing whether the client is worthy or unworthy of receiving assistance. In this way it seems that both professional groups have some commonalities regarding “what ought to be” for marginalized populations.

Social workers operate under broad six ethical principles outlined in the NASW Code of Ethics: service, social justice, dignity and worth of the person, importance of human relationships, integrity, and competence. Inevitably, there will be a “collision”

involving one’s personal values and those values cited in a professions’ Code.⁸ In recent years, cases relating to controversial issues such as abortion, HIV/AIDS transmission, assisted suicide and genetic technologies have prompted social workers to re-evaluate the ways in which they go about tackling ethical dilemmas.

Before attempting to identify, understand, and comment on ethical dilemmas, social workers should examine their personal values. Understanding differences in individual value bases has special relevance as practitioners interact with each other. For example, the social work value of self-determination may come into conflict with the attorney role of advisor. A lawyer’s goal is to win the case for a client, and in order to do so, it is usually necessary and appropriate to give advice to the client. In social work, the goal is not to give advice to clients. At times, clients seek and ask for advice. The ultimate goal is for clients to think and act for themselves.

Anticipation of potential conflicts between personal and professional values among professionals might explain why ethical decision-making models have enjoyed increasing prominence in the literature. Hartsell presents a model that defines three elements—i.e., life, choice, and relationship—and suggests that maximizing each element is the best possible resolution to an ethical dilemma.⁹

Sadly, robust discussions of ethical decision-making model(s) for use by social workers in legal settings is lacking based on this author’s preliminary review of the literature. The dialogue among law and social work professionals that emerges as a result their dissimilar orientations suggests that an ethical decision-making model could assist them. Future research should seek to generate a compendium of case examples compiled by social workers to help assess the validity of this claim.

The Practice of Law and Social Work

According to the American Bar Association’s (ABA) Model Rules of Professional Conduct, a lawyer is a representative of clients, an officer of the legal system and a public citizen having special responsibility for the quality of justice. A lawyer’s varied roles include advisor, advocate, negotiator, intermediary, and evaluator. Lawyers are generally only concerned with legal issues and conditions that directly affect a specific case. In addition, the legal profession commonly reflects an individualistic and non-collaborative view. The lawyer seeks to maintain a role as legal counselor by working with the client’s emotional concerns to provide effective legal representation, and not “working through” them in the therapeutic sense.¹⁰

The social worker’s role is typically defined by the particular model of interdisciplinary practice being employed—social worker as direct service provider (counselor, therapist, social service/case management provider), social worker as expert consultant, or social worker as member of a legal team.¹¹ As a member of the legal team, the social worker should understand that, although the scope of the lawyer’s counseling may be more comprehensive with social worker input, the lawyer’s role is ultimately to represent the client’s stated interest. When entering into collaborative practice, it is the responsibility of both lawyer and social worker to clarify practice models, define role expectations, and identify potential professional responsibility concerns.

The literature sheds light on the underlying processes that may lead to conflict in legal-social work partnerships. According to Taylor “it important to consider how social identities of social work and law students evolve in graduate school and ultimately reflect their organizational work roles.”¹² In her research, St. Joan surveyed law

and social work students and primarily focused on their perceptions of a “collaborative model.”¹³ The social work interns noted how power seemed to be fully in the hands of the legal professionals and that the social work students sometimes felt that the law students and faculty with whom they interacted dismissed their concerns. It was uncertain whether this was due to the law professionals’ focusing their attention on the legal concerns of their clients and leaving social workers to cover their other needs or to there being a perception of how involved each discipline needs to be in the other’s element.

St. Joan further explored how differing opinions regarding collaborative models also compounded this issue. There were two main models of collaboration, the “hand-in-hand” and “side-by-side” models. In the former, social work and law students worked together on most issues, whether they were dealing with more legal aspects of the case or helping their clients with their social work needs. In the latter, social work and law students delegated duties and each worked separately to accomplish what needed to be done. While both collaborative models accomplish the same goals in regards to the client, they have different implications for the collaborative process. Social workers and law students who incorporated the “hand-in-hand” technique shared that they felt more knowledgeable about the needs of their client and also felt more support from their partners. Triangulation was also less likely to occur when lawyers and social workers work hand-in-hand. St Joan used this term to capture instances where a client would complain about the law student to the social work student and then complain about the social work student to the law student.

In terms of “side-by-side,” several law students expressed a preference for working independently, each working separately on separate issues, but want-

ing to come together to talk when needed. One student expressed concern that “if we do everything jointly, we may get group-think” What this means for social worker-lawyer interaction is that social workers may be more inclined to a collaborative model that emphasizes the different fields working more as a team together for most issues, and there being less power disparity in the workplace. Social workers may also lean more toward the “hand-in-hand” collaborative model than the “side-by-side.” On the other hand, lawyers may be more solitary and, if needed, may desire to work “side-by-side.” It is not known which collaborative style might increase the likelihood of ethical tensions; thus, future research should focus on the risk factors associated with each model to fill the gaps in the knowledge base.

An Ethical Decision-Making Model and Resolution of Ethical Tensions

Collaborative relationships do not tend to entertain power balances very well. Hartsell conceptualized an approach to ethical decision-making that attempts to reduce choices to a set that is necessary and sufficient. In its simplest form, this approach has three values: life, choice, and relationship.

The underlying assumption in this model, which is a departure from most models, is the belief that “there is no resolution to a genuine dilemma” Therefore, when an ethical dilemma exists, the best one can do is to maximize all three values. Maximizing means maintaining as much as possible without compromising any of the three values. To maximize life means to support life and processes. To maximize choice means to acknowledge available options and to allow free selection from among them. To maximize relationship means to communicate in ways that promote continued communication.

Case Example

In order to further understand ethical tensions within the context of the Hartsell ethical decision-making model, we examine one case that is likely to be seen in law clinic settings.

Sally

A social work intern is serving as part of an interdisciplinary team at a law clinic of two MSW students and six law students, overseen by a clinic director who is also a lawyer and one faculty social work field instructor. A law student, faculty supervisor, and social work intern meet with Sally, 40 years old, whom the clinic represents in a contested divorce proceeding against her husband, Ted. During the meeting, Sally tells her legal team that Ted, when drinking, sometimes hits his six- and eight-year-old children with his fists. The most recent incident of this violence occurred a month ago, when the family was reunited for a short spell. At present, the children reside with Sally. Visitation and custody are matters for which the clinic is working on Sally’s behalf. Sally believes that the children are safe as long as they are not left unsupervised with her husband. She does not want Social Services to get involved in her life.

The law student who has heard the information cannot reveal it unless Sally consents. By contrast, unless the social work role within the clinic provides some exemption, the social work intern might be obligated to report what has been learned to the state agency authorized to investigate child abuse (although laws will vary from state to state). According to the clinic protocol, if a social work intern identifies a potential obligation to report, the law and social work faculty supervisors must assess the severity of the situation, which could include further investigation with the client’s (Sally) consent. If faculty supervisors have strong evidence that imminent bodily harm is about to occur to Sally’s children,

the legal team will determine the next step and the social worker will assume a consultative or advisory role. If it is deemed that Sally's children are in imminent danger, the law students and law faculty may ultimately decide to report the abuse to Social Services with or without Sally's consent depending on the severity of the circumstances.

Application of Hartsell Model to Case Example

This case points to need for the social worker to come to terms with or resolve internal conflicts regarding the ethical "duty to report." The Hartsell model will be applied to the case example.

In order to maximize the value of "life" for the children, the social worker might advocate that there must be no unsupervised visits. But Sally also has a right to "choice," to determine whether there is a need for supervision or a possible intervention by Social Services.

The ABA Model Rules 1.6(b)(1) states that "the lawyer may disclose to prevent reasonably certain death or substantial bodily harm." The lawyer would need to determine whether the previous abuse makes it "reasonably certain" that Sally's children will be abused or whether the violence constitutes substantial bodily harm. Sally's children are in a vulnerable position and need to be protected. Sally will not always be able to guarantee while the divorce is in progress that visits with Ted will be supervised. Since there is no restraining order in place, the legal team needs to determine if there is risk of "substantial bodily harm" for Sally's children. This author is not aware of an ABA guideline or checklist to identify which sets of circumstances indicate the threat of "substantial bodily harm."

How does legal counseling differ from the counsel of a social worker in this case? The social work intern could make a professional judgment that it is best to betray Sally's wishes regard-

ing intervention from Social Services. If the overarching goal is to keep the children safe, it seems that reporting the abuse might also present a set of consequences, such as court ordered counseling for Ted, not currently in place. No matter what, there is a need to engage in a series of soul-searching conversations about respective roles (social work and law).

In order to maximize the "relationship" value, terms/expectations of the relationship for the client needs to be clarified. Spano and Koenig note that competent practice rests on the realization that relationships between workers and clients, as well as among team members, are the vehicle that creates the possibility to manage difficult dilemmas. Terms and expectations of the social work intern and social work faculty field instructor with respect to the legal team should be clarified. If the social work intern is unable to fulfill the expectations that Sally has for the professional relationship regarding confidentiality, the Hartsell model would lead the social work student to request removal from the case or to decide, in consultation with social work faculty, to negotiate with Sally to find acceptable terms.

Hartsell suggests that this model could be taught to clients such as Sally. If Sally thought about her dilemma in terms of life, choice, and relationship, she may come to a different conclusion. She might decide that she would rather waive her right to confidentiality in order to protect the lives of her children, who may still have a relationship with their father in the form of court ordered visitation after the divorce is finalized.

This exercise helps us to understand Hartsell's assertion that "attempting to resolve a dilemma by prioritizing one value over another is ineffective because although doing so may reduce distress—in effect by changing the intensity with which one holds a belief and thereby reducing the dissonance—

it does not eliminate the dissonance because the two beliefs remain inconsistent...in some cases, the best we can do is to accept that the dilemma is unresolvable." Although the underlying principles in this model—i.e., life, choice, relationship—may not square with a legal plan of action, if members of the legal team are receptive to engaging in this type of discourse, they might conclude that plausible arguments are being made by social work team members. If this process works well, the lawyers will have a better understanding of their role obligations and social workers will feel that their voices have been heard.

Conclusion

Interdisciplinary collaborations between social workers and lawyers are expected to increase as social work skills are recognized as an enhancement to client services. Observers who have addressed the concept of social worker collaboration all agree that the positive impact on client representation clearly outweighs the potential challenges raised by such arrangements.

Most practitioners and educators would agree that ethics are lived and practiced in every moment of social work and law. Swindell and Watson also point out that social work students should be engaged in a pedagogical framework that enables them to see ethics as something that they "are" and not merely a Code to follow.¹⁴ Social work students who intern in the law school setting(s) have an opportunity to experience the benefits of this type of collaboration and develop ethical problem solving skills early on in their careers.

In light of the distinct ethical mandates between the two professions, one potential solution could involve the use of a framework to manage conflicts among social workers' personal world-views, their professional code, and the code of another profession (law). In the short term, the model proposed by

Hartsell would be a logical starting point because it sets the parameters for critical thought processes and provides a rational framework to guide “soul-searching” conversations that take place among team members.

One should also be mindful of the fact that the Code of Ethics of the NASW loosely follows the ABA Model Rules of Professional Conduct but provides less protection for social work professionals regarding malpractice and other liabilities. One potential solution might be for the social work profession to adopt the ABA’s Model Rules of Professional Conduct as a first step. Woodcock notes, “Indeed, why not use what lawyers use to limit their own malpractice exposure...?”¹⁵ But Woodcock acknowledges that there will be times when a social worker should proceed somewhat differently from how a lawyer would proceed in similar circumstances. Furthermore, the legal code might be completely wrong for social workers on a particular issue. In that event, social workers might have to invent their own rule above and beyond what already exists in the NASW Code.

This article provides a blueprint upon which to build. We should explore these issues further to ensure that interdisciplinary collaboration(s) continue to flourish. One way to start is to apply an ethical decision-making model in a law clinic setting. Such a concerted effort among those involved in interdisciplinary education may

increase the probability of professionals’ engaging in sound ethical practice irrespective of complex realities on the ground. ✧

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Beyond the Blame Game

By Jayne W. Barnard

Nobody feels good when they think they have been bamboozled. Nobody wants to learn that they have invested their money in a scheme whose promise was misrepresented to them.

These two statements form the basis for much of my work on the subjects of Ponzi schemes and fraud victimization. Unfortunately, they also have been leaking into the business in which I make my living – the business of educating students for careers in the practice of law.

All legal educators recognize – though we may not love – the influence of *U.S. News and World Report* on the way in which law schools operate – what they build, whom they hire, how they teach. Many of us have also heard over the years rumors about creative accounting in the numbers that underlie the *U.S. News* rankings – numbers submitted to the American Bar Association as part of the annual obligation of every ABA-accredited law school. Could it be true, we wondered, that some schools were fudging their data with respect to job placement? Was it possible, as some of our colleagues whispered, that law schools were hiring their own graduates – or subsidizing local law firms to do so – in order to pad the “9-month out” employment statistics they submitted to the ABA? The answer is “yes.” A recent blogpost from Bernie Burk of Cornell Law School reveals the scope of the practice.¹

A bipartisan duo of Senators – Barbara Boxer, D-California and Charles D. Grassley, R-Iowa, challenged the ABA to get to the bot-

tom of these rumors and to get law schools to provide more accurate data about the employment records of their graduates.² The ABA Section of Legal Education and Admission to the Bar began work on a new rule that would impose penalties – presumably including withdrawal of accreditation – on law schools that deliberately misreport law school consumer information.³

Earlier this academic year, the misreporting rumors began to take on some new dimensions. In November, 2011, the University of Illinois acknowledged that its law school had reported inaccurate admissions data in six of the last 10 years.⁴ It had misreported both the GPA and LSAT scores of its admitted students – figures upon which the *U.S. News* ranking relies.⁵ And in August, 2011, Villanova Law School was censured by the ABA for its “reprehensible conduct” in misreporting similar admission data.⁶

It is shocking to realize that professional educators at at least two schools played a role in deliberately misreporting data critical to students’ decisions about where – or whether – to attend law school. And, as with Ponzi schemes, misconduct by a few often leads to more cops on the beat. Recently, the Law School Admission Council (LSAC) announced its intention to audit the admission data reported by law schools to the ABA.⁷ If this plan goes forward, it will be a long overdue development.

Increased oversight is also in the works for employment data. The

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Jayne W. Barnard is the Cutler Professor of Law, William & Mary Law School.

CONTRIBUTIONS

SECTION ON THE EDUCATION OF LAWYERS

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Council of the ABA Section on Legal Education in March, 2012, preliminarily approved changes in the way in which the ABA will gather post-graduate employment data. Schools would have to report the number of graduates employed in jobs that require bar passage; jobs in which a juris doctor degree is preferred; professional and nonprofessional jobs; and the numbers of graduates pursuing further education and unemployed. For each of those categories, schools would have to report whether those graduates were in full-time or part-time jobs, and whether they were long-term or short-term positions. Finally, the Council recommended that schools report the number and percentage of graduates with jobs that are funded by the law schools themselves. With preliminary approval secured, the Council is soliciting public comments and will hold a public hearing in the future. After the comment period and possible revisions, the Council will again vote on the standard. The standard will not be final until the ABA's House of Delegates votes on the entire package, which will happen no sooner than August.⁸

While we wait for those changes to take effect, an enterprising group of recent law school graduates is doing its part to bring more accurate data to the attention of law school applicants. Law School Transparency, a non-profit organization created in 2009, has created a user-friendly database of employment and salary information about law schools around the country.⁹ It has also created a "Transparency Index" designed to highlight schools that do not provide useful consumer information on their websites.¹⁰

It was inevitable, of course, that angst about employment statistics and possible episodes of consumer fraud would give rise to litigation.¹¹ On March 21, New York Supreme Court Judge Melvin L. Schweitzer dismissed the first of these lawsuits, suggesting that law school applicants should remember *caveat emptor*.¹²

In throwing out the graduates' lawsuit, however, Judge Schweitzer reminded everyone in the profession of the real pain behind the plaintiffs' complaints.

If lawsuits such as this have done nothing else, they have served to focus the attention of all constituents on this current problem facing the legal profession [Schweitzer wrote]. To the extent law schools are turning out too many graduates for the positions available, market forces will begin to correct themselves, hopefully in short order. But that does not itself excuse our collective responsibility to those who have been unfortunate enough to have been caught in the midst of the

maelstrom.¹³

The fact is that, right now, nationwide, there are two jobseekers with passing bar exam scores for every one open job.¹⁴ This sobering statistic, coupled with predictions that the legal employment market is not likely to improve anytime soon,¹⁵ is something everyone in our business – educators and practitioners alike – must face now.

What might that mean? It will certainly mean smaller law school entering classes and more law school courses aimed at career paths other than traditional forms of law practice. It might also mean a greater commitment to preparation for the work world – the kinds of repeated self-assessments and intensive coaching provided by many successful business schools.

It might also mean more product differentiation among law schools – not every school has to produce law review editors *and* top-notch trial lawyers. It will also mean some new efficiencies – more distance learning and fewer small seminars, for example. And it will probably mean contraction not only in the job market but in the law school market overall. What Bill Henderson has observed about the law firm environment is equally true of legal education: the Golden Era is gone.¹⁶ ✧

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2. Significant numbers of law schools—including some of the most prestigious law schools in the nation—are funding significant numbers of temporary "bridge" positions for their graduates. In fact, if the limited sample I was able to obtain is representative, we can say that three-quarters of the top 50 law schools in the United States are paying on average one in ten of their most recent graduates to work for the school or for someone else.
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5. U of Illinois Law School Admits to Six Years of False LSAT/GPA Data, www.abajournal.com, Nov. 7, 2011. Median LSAT scores and median UGPAs represent 22.5% of the formula for ranking at U.S. News & World Report. Methodology: Law School Rankings, at <http://www.usnews.com/education/best-graduate-schools/top-law-schools/articles/2012/03/12/methodology-law-school-rankings>
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William R. Rakes Leadership in Education Award

The Section on the Education of Lawyers in Virginia has established an award to honor William R. Rakes, Esquire, of Gentry Locke Rakes & Moore LLP for his longstanding and dedicated efforts in the field of legal education, both in Virginia and nationally. This award recognizes an individual who has demonstrated exceptional leadership and vision in developing and implementing innovative concepts to improve and enhance the state of legal education, and in enhancing relationships and professionalism among members of the academy, the bench and the bar within the legal profession in Virginia.

The inaugural William R. Rakes Leadership in Education Award was presented to Mr. Rakes in conjunction with the 20th Anniversary Conclave on the Education of Lawyers in Virginia sponsored by the Virginia State Bar's Section on the Education of Lawyers on April 22-23, 2012. The law firm of Gentry Locke Rakes & Moore LLP agreed to underwrite the cost of the award and the reception for Conclave 2012. The firm also has agreed to underwrite the award and a special event to honor future award recipients on an ongoing basis.

The fundamental criteria for the award will be to recognize an individual from the bench, the practicing bar or the academy who has made a significant contribution (1) to improving the state of legal education in Virginia, both in law school and throughout a lawyer's career; and (2) to enhancing communication, cooperation and meaningful collaboration among the three constituencies of the legal profession.

In future years, nominations will be invited annually by the Board of Governors of the Section on the Education of Lawyers, although the award may only be made from time to time at the discretion of the selection committee to be appointed by the Section's Board of Governors. When

a nominee is selected, the award will be presented at a special event, possibly held in conjunction with the Annual Meeting of the Virginia State Bar. The event will include a reception for the honoree and his/her family, friends and colleagues; past award recipients; and special guests designated by the Section and by Gentry Locke Rakes and Moore.

The selection committee will be appointed annually by the board of governors of the Education Section to include five (5) members: at least three members of the Section on the Education of Lawyers, with one each from the bench, the practicing bar and the academy, including the Chair of the Section; and at least one former award winner.

William Rakes

Throughout his career, William Rakes has enthusiastically served the bar, the judiciary and legal education. He has been in private practice with the Roanoke firm of Gentry Locke Rakes & Moore since his admission to the bar in 1963. He served as managing partner of the firm for more than twenty years.

Mr. Rakes has held a range of leadership roles in local, state and national professional organizations. He served as president of the Roanoke Bar Association and of the Virginia State Bar. While preparing to lead the Virginia State Bar, Mr. Rakes developed the idea of the legal education conclave, which led to the first of its kind gathering at Wintergreen in March of 1992. That conclave became the model for conclaves that have been held in a majority of states. The American Bar Association Coordinating Committee on Legal Education, of which Mr. Rakes was a member, adopted the promotion of conclaves as a project and published a "how to" manual based primarily on the Virginia model.

cont'd on next page

Mr. Rakes promoted the idea and value of legal education conclaves through presentations to the National Conference of Bar Presidents, the Conference of Chief Justices, and by attendance and keynote speeches at conclaves held in other states.

He has served on the Board of Governors and in the House of Delegates of the American Bar Association and as chair of the ABA Section of Legal Education and Admissions to the Bar. While chair of the Section, he organized three legal education conclaves. One was held in Naples, Florida in cooperation with the Florida Bar; one was held in Charlottesville, Virginia, co-sponsored by the Virginia State Bar; and a two-day national conclave was held in Chicago, featuring a number of nationally prominent members of the legal academy, practicing bar and judiciary.

Mr. Rakes was a co-founder and president of the Ted Dalton American Inn of Court, and co-founded and is Chairman of the Board of Directors of HomeTown Bank.

He is a fellow in the American College of Trial Lawyers, the American Academy of Appellate Lawyers, the American Bar Foundation, and the Virginia Law Foundation. He was presented with the Frank Rogers Lifetime Achievement Award by the Roanoke Bar Association in 2010. He received his undergraduate (1960) and law (1963) degrees from the University of Virginia.

Known for his interest in the visual arts, Mr. Rakes has served as president of the Art Museum of Western Virginia (now the Taubman) and has established art collections at his law firm and at the Virginia State Bar offices in Richmond. With his wife, Barbara, he has a son, David; a daughter, Margaret; and two grandchildren, Katherine and William.

The VSB Section on the Education of Lawyers in Virginia, which was created and founded by Mr. Rakes, and the law firm of Gentry Locke Rakes & Moore, are pleased to honor Mr. Rakes with the presentation to him of the inaugural William R. Rakes Leadership in Education Award. ✧

20th Anniversary Conclave on the Education of Lawyers in Virginia

On April 22-23, 2012, the Section sponsored a 20th Anniversary Conclave on the Education of Lawyers in Virginia, at The Boar's Head Inn in Charlottesville. The extraordinary gathering, chaired by W. Taylor Reveley III, President of the College of William and Mary, included all of Virginia's Supreme Court justices, numerous federal and state judges, law school deans and professors, and prominent practitioners from across the state, as well as national scholars. The October 2012 issue of the Virginia State Bar's *Virginia Lawyer*, as well as the Fall *Education and Practice* newsletter will be dedicated to the substance and outcomes of the Conclave. During the Conclave, the Section announced the establishment of the William R. Rakes Leadership in Education Award to honor Bill Rakes, and presented the inaugural award to Mr. Rakes at a reception sponsored by his firm, Gentry Locke Rakes and Moore (see article and photo). Conclave 2012 was made possible with financial support from the Virginia Law Foundation.



William R. Rakes, of Gentry Locke Rakes & Moore, addressed the 20th Anniversary Conclave on the Education of Lawyers in Virginia as he received the inaugural William R. Rakes Leadership in Education Award established in his honor. Presenting Rakes with the award were (from left, rear) G. Michael Pace Jr., managing partner of Gentry Locke Rakes & Moore; Section Chair A. Benjamin Spencer, of the Washington and Lee School of Law; and Conclave 2012 Chair W. Taylor Reveley III, president of the College of William and Mary.

Faculty News

Regent

- ◆ Tessa Dysart, a graduate of Harvard Law, has joined Regent Law as Assistant Professor.
- ◆ For several days in early March 2012, Dean Jeffrey Brauch and Associate Professor and Executive Director of the Center for Global Justice, David Velloney, visited and taught at Uganda Christian University (UCU), near the country's capital city of Kampala. Their goal was to explore future partnership opportunities between Regent and the law program at UCU.

University of Richmond

- ◆ Richmond Law welcomes Dr. Chiara Giorgetti and Andrew Spalding to the faculty in the fall of 2012. Dr. Giorgetti joins UR from White & Case LLP in Washington, D.C. Professor Spalding is currently a Visiting Assistant Professor of Law at IIT Chicago-Kent College of Law. Both faculty members will focus on international law.
- ◆ The Richmond Law community is deeply saddened by the sudden death of our colleague John Carroll on March 8. John served as Director of the Intellectual Property and Transactional Law Clinic since 2009.
- ◆ Professor Joel Eisen presented his award-winning article "Residential Renewable Energy: By Whom?" at a Vanderbilt Law School Conference on February 23. The article has been honored by the Environmental Law Institute as one of the top four environmental law articles of 2011.

University of Virginia

- ◆ A. Sprightley Ryan has been named associate professor of law, General Faculty and director of public service at the Law School's Mortimer Caplin Public Service Center. She also teaches Professional Responsibility. Ryan most recently served as inspector general of the Smithsonian Institution. Ryan graduated from University of California at Berkeley School of Law.
- ◆ Deborah Hellman will join the University of Virginia School of Law School in August 2012 as a professor of law. Her scholarship focuses on constitutional law, particularly issues related to discrimination and campaign finance, and on the obligations of professional role, especially in the context of

clinical medical research. Prior to joining the Law School, Hellman was the Jacob France Research Professor of Law at the University of Maryland School of Law. She has a J.D. from Harvard.

- ◆ The Supreme Court on Jan. 11 issued a unanimous opinion in *Hosanna-Tabor Evangelical Lutheran Church and School v. Equal Employment Opportunity Commission*, a major religious liberty case argued by University of Virginia School of Law professor Douglas Laycock. In the opinion written by Chief Justice John Roberts, the justices sided with Laycock's arguments, finding that the First Amendment guarantee of freedom of religion limits the ability of religious institution employees from suing for employment discrimination.

Washington & Lee

- ◆ Nora V. Demleitner of Hofstra Law School was named dean of Washington and Lee University School of Law. She will take the helm at W&L Law in July 2012.
- ◆ Prof. Jill Fraley was named a Fellow at the David Library of the American Revolution and at the Rachel Carson Center in Munich.
- ◆ Prof. Tim Jost's blog posts on developments with the Affordable Care Act captured three spots on Health Affairs 2011 Most Read List.
- ◆ The scholarship of Prof. Erik Luna was cited extensively in a new report issued by the U.S. Sentencing Commission on mandatory minimum penalties.

William & Mary

- ◆ Four new full time faculty members will join William & Mary in the fall of 2012.
- ◆ Meredith Aden will become the new Director of Legal Skills. A graduate of the University of Virginia (J.D.) and George Washington Law School (LL.M), Professor Aden has been the Director of Legal Writing at Mississippi College School of Law since 2007.
- ◆ Jeffrey Bellin earned his J.D. from Stanford Law School. He clerked for Judge Merrick B. Garland of the U.S. Court of Appeals for the DC Circuit, and comes to W&M from Southern Methodist University Dedmond School of Law.
- ◆ Adam Gershowitz, a graduate of the University of

Virginia Law, clerked for Judge Robert B. King of the U.S. Court of Appeals for the 4th Circuit and has previously taught at the University of Houston and South Texas College of Law.

- ◆ Christopher L. Griffin, Jr., comes to William and Mary from Duke University Law School, where he has been a Visiting Assistant Professor since 2010. He received an M.Phil. in economics from the University of Oxford, and graduated from Yale Law School.
- ◆ William & Mary Law School is saddened to announce the passing of Charles Koch, Dudley Warner Woodbridge Professor of Law and a member of the faculty since 1979. Koch was a beloved teacher and prolific writer, having published numerous books, law review articles and publications intended for practitioners. His areas of expertise included administrative law, comparative constitutional systems, the European Union, and federal courts.
- ◆ Class of 2014 Professor of Law Laura Heymann was the 2012 recipient of the Thomas Jefferson Teaching Award, which was conferred during William & Mary's Charter Day celebration. .
- ◆ Professor Timothy Zick testified before Congress on Jan. 24 regarding the "Occupy D.C." movement in McPherson Square. Zick, who has taught at William & Mary since 2008, is an acclaimed expert on free speech in public spaces. His book, *Speech Out of Doors*, was published in 2009 by Cambridge University Press. ✦

News and Events Around the Commonwealth

Regent

- ◆ The Regent University Law Review welcomed keynote speaker Dr. Stanley Carlson-Thies along with a panel of right of conscience legal experts to its annual symposium held over the weekend of Nov. 4-5, 2011 on Regent's campus.
- ◆ The Center for Global Justice, Human Rights, and the Rule of Law held its inaugural symposium on March 29-31, 2012 on the campus of Regent University.
- ◆ Exploring issues of immigration law and reform, guests at Regent Journal of International Law's symposium, "Immigration and the Law: Seeking the Solutions for Enforcement and Reform," enjoyed two panels of national immigration law experts on Feb. 18, 2012.

University of Richmond

- ◆ Richmond Law is pleased to announce its admission to Order of the Coif, an honorary scholastic society, the purpose of which is to encourage excellence in legal education.
- ◆ "Raising the Stakes for Public Interest," an auction and casino night hosted by Phi Alpha Delta and the Student Bar Association on January 27, raised over \$23,000 for summer public interest stipends.
- ◆ The Richmond Journal of Law and Technology presented "Overcoming Obstacles in Electronic Discovery" on February 29.
- ◆ The Richmond Journal of Global Law and Business discussed compulsory licensing of medicine and the Agreement on Trade Related Aspects of Intellectual Property Rights on March 15 during the 24th Annual Emanuel Emroch Lecture: "Patents, Patients, Patience: Why the World Still Awaits a Consensus on Compulsory Medicine."
- ◆ Richmond Law's Robert R. Merhige Jr. Center for Environmental Studies presented "Clearing the Air: Mercury and the Environment" on March 28, discussing the EPA's recent Mercury and Air Toxics Standards.
- ◆ The Richmond Journal of Law and the Public Interest presented "RLUIPA: Religious Freedom or Free Reign of Religious?" on April 16.
- ◆ The National Center for Family Law welcomed Dr. Bill Henderson for a discussion on inclusive education on April 17 and presents the 17th Annual Robert E. Shepherd Jr. Juvenile Law and Education Conference on May 11.

University of Virginia

- ◆ The Supreme Court of Virginia on March 2 handed down a decision that clears the way for Edgar Coker, a young Mineral, Va., man to sue to overturn his conviction for rape in 2007. Coker, whose legal team includes the University of Virginia School of Law's Innocence Project and Child Advocacy clinics, was falsely accused of rape when he was 15. The court's decision clears the way to allow Coker to sue to overturn his conviction and be removed from the state's sex offender registry.
- ◆ A record number of University of Virginia law students volunteered for more than 10,000 hours of pro bono work across the country during the winter break, far surpassing the Law School's previous tallies.
- ◆ Salima Burke, UVA '12, has already invested in a career in public interest lawyering, including donating more than 480 pro bono hours to causes she cares about while attending law school. On March 26, Burke's was named the recipient of the 2012 Oliver White Hill Law Student Pro Bono Award, a statewide honor given by the Virginia State Bar Committee on Access to Legal Services.
- ◆ Bennett Barbour, a Williamsburg man convicted in 1978 of raping a College of William & Mary student, has been excluded from the crime on the basis of DNA evidence, according his legal team at the University of Virginia School of Law's Innocence Project Clinic. The clinic is now working to have the man's conviction vacated.
- ◆ The number of University of Virginia School of Law graduates clerking with judges in a single year has reached 100 — marking the highest total in the school's history. The clerkships for the 2011-12 court year include four with the U.S. Supreme Court, tying Virginia Law for second among law schools nationwide in the number of alumni clerking for sitting Supreme Court
- ◆ On April 6, "The Business of Health Care: A Virginia Law & Business Review Symposium," feature a keynote address by Earl "Duke" Collier.
- ◆ The 2012 Ola B. Smith Lecture, "Federal Sentencing Post-Booker: An Insider's View," with U.S. Judge Raymond A. Jackson, Eastern District of Virginia, took place on April 9, 2012.
- ◆ A panel of speakers including Al Perry, vice president of worldwide content protection and outreach at Paramount Pictures, and Al Brodsky, communications director at Public Knowledge addressed the

topic "What Should We Do About Piracy? The View from Hollywood and Washington, D.C.," on April 11.

- ◆ "A Lecture by Thomas Jefferson Foundation Medal in Law Recipient George Mitchell," was given on April 13, 2012. Mitchell, a former U.S. Senate majority leader known for efforts at brokering peace in Northern Ireland and the Middle East, was awarded the 2012 Thomas Jefferson Foundation Medal in Law as part of the University of Virginia's Founder's Day celebration.
- ◆ The Sokol Colloquium was held on April 19, 2012, focusing on foreign affairs litigation. The colloquium is sponsored each year by the University of Virginia School of Law, the Virginia Journal of International Law, and the J.B. Moore Society of International Law.
- ◆ "14th Henry J. Abraham Distinguished Lecture, Featuring John Dean" was held on April 26, 2012. Dean, White House counsel to President Nixon, spoke on the lessons of Watergate as we approach the 40th anniversary of that landmark event in American politics and law.
- ◆ The Commencement Address will be given by Neal Katyal, former acting solicitor general of the United States, May 20, 2012.
- ◆ UVA will hold the Political Economy and Public Law Symposium on May 30-31, 2012.

Washington & Lee

- ◆ In November 2011, W&L hosted a symposium exploring lending practices in the "fringe" economy, including payday loans, auto title loans, and for-profit college loans. The panel papers are forthcoming in the next issue of the W&L Law Review, and the presentations themselves can be viewed online at W&L Law's Youtube channel, youtube.com/wlulaw.
- ◆ The U.S. Supreme Court amicus brief filed by W&L's Black Lung Legal Clinic in the Affordable Care Act case was featured in the coverage of this historic argument by the National Law Journal in a piece titled "One law, indivisible--or is it?"
- ◆ For the fifth straight year, W&L's Tax Clinic received a federal matching grant from the Internal Revenue Service's Low-Income Taxpayer Clinic program (LITC).

William & Mary

- ◆ On Dec. 13, Judge Nicholas Garaufis of the Eastern District of New York visited campus to give a guest lecture in Professor Scott Dodson's civil procedure class.
- ◆ The law school hosted William & Mary's newly-appointed Chancellor Roberts Gates on Feb. 4th as a guest of the International Law Society. Gates, who served as Director of the Central Intelligence Agency and U.S. Secretary of Defense under Presidents George W. Bush and Barack Obama, answered students' questions and offered insight regarding issues of national security and diplomacy.
- ◆ On March 29, the fifth annual Election Law Symposium took place in the Law School. The program centered on "Money in Judicial Elections" and evaluated the changed political landscape following the Supreme Court's decision in Citizens United. The Symposium hosted current and retired judges, practicing attorneys, and legal journalists to discuss the issues.
- ◆ Retired Supreme Court of Virginia Justice John Charles Thomas will deliver the commencement address at the law school's May 13th graduation ceremony. Thomas, the first African-American to serve on the Commonwealth's highest court, also addressed the class of 2012 during their first week of law school in 2009. ✧

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