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LAWYER



Spring 2007

 UNIVERSITY OF
NOTRE DAME
The Law School

AB INITIO



Spring 2007 at the Law School

Dear Reader,

I hope that as you read this, spring is making its much-anticipated arrival known! The winter in South Bend has been especially harsh, with lots of snow falling long after we were all ready to abandon our snow blowers and shovels.

This issue is dedicated to all of the wonderful people who carry the tradition of a Notre Dame legal education into the world. It strives to offer several definitions of the “different kind” of lawyers who emerge from the Law School: people who practice their profession with the highest of ethical standards, people who are aware of the responsibility they carry as members of the legal community.

Surely, Notre Dame is known for the strength of its alumni community. In 2006, the Law School Office of External Relations inaugurated a program of alumni receptions, working closely with the University Alumni Association’s Office of Professional Programs. Cleveland, Ohio hosted the first reception and Pittsburgh, Pennsylvania hosted the second one. I was happy to meet so many enthusiastic alumni and am very grateful to Justice Patricia Gaughan, Justice William Backman, Ray Marvar, and John Vuono for their help in making both events such a success.

But the Law School’s alumni are known for more than their legal expertise; our alumni are known for their service to their professions and to their communities. It is this service that this issue of the *Lawyer* celebrates by telling the stories of several of these alumni in their own words. Their dedication to the various projects about which they write underscores the passion they feel in working to make the world a better place for all. To make it clear that this dedication to service begins before practice, this issue also presents stories of students who are already working for the cause of justice.

This is my final issue of the *Lawyer*. I thoroughly enjoyed my work with the Law School and will treasure the relationships I formed during my tenure. I am happy to have learned the definition of a “different kind of lawyer” firsthand.

Best,

Carol

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FROM THE DEAN

As this issue of *The Lawyer* reaches you, spring is upon us with all its promise of new life and new beginnings. We watch our graduating students enter the profession. We welcome alumni back to campus for reunion as they seek to renew commitments made when they began their own careers. We prepare for ground-breaking in early fall on our new law building, which will be the concrete embodiment of our ambitions to be a premier law school faithful to our distinctive Catholic identity.

This issue of *The Lawyer* celebrates the commitments of members of this community—past and present—whose lives serve as examples of efforts to integrate mind, heart, and soul. We profile several alumni who have placed their legal education to work for the betterment of one of the many communities in which they live. Ed Fillenwarth, '63 J.D., describes his efforts and those of his wife to bring about peace and justice in troubled areas of our hemisphere. Robert Weaver, '75 J.D., recounts his work to secure due process for some of the “enemy combatants” currently held at Guantánamo Bay. Alisa Rosales, assistant director of Career Services, writes about Sean Litton, '97 J.D., who recently returned from Southeast Asia where he engaged in the rescue of women and children from sex trafficking. John Crowley, '92 J.D., tells of his role in developing a drug to save two of his children from premature death due to a rare disease. Jose Nunez, '06 J.D., describes reuniting a Congolese pastor with his children, left behind in Africa when he and his wife escaped the internecine warfare that haunts that region. Dory Mitros Durham, '06 J.D., reports on how she plans to use a prestigious Skadden fellowship to start a civil rights initiative for recent immigrants through Indiana Legal Services. Finally, five current students describe public interest fellowships that enriched their lives last summer.

We segue from these stories to my own account of the life, death, and continuing influence of Rev. William Lewers, C.S.C., and Rev. Michael McCafferty, C.S.C., on the occasion of the tenth and twentieth anniversaries of their deaths. Both of them were exemplars of the integration of mind, heart, and soul for which we strive at Notre Dame. Similarly, Ray Marvar's beautifully-orchestrated reflections on the life and sudden death of Mary Ellen Carpenter, '79 J.D., 2006-2007 president of the Notre Dame Law Association, capture a life lived to the fullest and a loss that came far too soon. As we go to press, we grieve the loss of Ryan Rudd, a 3L student who died on Holy Saturday only five weeks after his diagnosis with cancer.

Here at Notre Dame it is not only the rites of nature that remind us of the new life heralded by spring, but also the great Easter season. In the face of the injustices that our graduates commit themselves to eliminating, in the face of the loss of loved ones—some many years ago, some all too recent—we are mindful of the thoughts expressed in the final chapter of the Constitution of the Congregation of Holy Cross: “Jesus entered into the pain and death that sin inflicts... We whom he has sent to minister amid the same sin and pain must know that we too shall find the cross and the hope it promises. The face of every human being who suffers is for us the face of Jesus who mounted the cross to take the sting out of death. Ours must be the same cross and the same hope.”

May the stories in this issue serve as reminders that we walk by Easter's light filled with the promise of new life. We are people with hope to bring.



Patricia A. O'Hara

Patricia A. O'Hara
The Joseph A. Matson Dean and Professor of Law



Pursuing Justice in South America

EDWARD J. FILLENWARTH JR., '61 B.B.A., '63 J.D.

My wife, Valerie, and I have long had a concern for the poor and deprived people in this country and throughout the world. We both grew up in Indianapolis, where I was the son of a lawyer who represented labor unions. I was greatly influenced by my father and went into practice with him after my graduation from Notre Dame Law School in 1963. Another significant influence on me was Notre Dame Law School Prof. John Broderick, “the Chief,” as he was affectionately called by his students, who taught labor law, and who further instilled in me a need to show compassion for the underdog.

Val joined the Maryknoll Sisters’ novitiate for two years and then attended Marian College in Indianapolis. She and I were married in 1964. We raised seven children and have 17 grandchildren; we both were active volunteers with our children’s schools, sports, and other activities.

In 1980, Val was shocked to read that four churchwomen were raped and killed in El Salvador, two of them Maryknoll Sisters. Later that year, Archbishop Oscar Romero was gunned down while saying Mass in El Salvador. While deeply disturbed by these events, Val could not foresee how they would affect the rest of her life. In 1989, Val learned of another assassination in El Salvador: this time of six Jesuit priests, their housekeeper, and the housekeeper’s teenage daughter.

It later became known that soldiers, many of whom had been trained at the School of the Americas (SOA), committed the brutal killings of 1980 and 1989. Originally named the Latin

American Training Center—Ground Division, SOA was started in Panama at Fort Glick in 1946. In 1963, it was renamed the US Army School of the Americas. In 1984, it was moved to the grounds of Fort Benning, Ga., following the signing of the Panama Canal Treaty. Its stated mission is to “provide professional education and training” while “promoting democratic values, respect for human rights, and knowledge and understanding of United States customs and traditions.” Military personnel are trained there from many countries in Central and South America. In 2000, under mounting congressional pressure to stop its funding, the Pentagon renamed the school the Western Hemisphere Institute for Security Cooperation.

SOA’s history is controversial, at best. Shortly after its founding, it came to be known as the “School of Assassins” or “School of Coups.” Father Roy Bourgeois, a Maryknoll priest who was a decorated Naval officer in Vietnam, discovered that hundreds of graduates of the SOA have been responsible for terrible human rights violations in their own countries. In November 1990, on the weekend closest to the date that the Jesuits were killed the year before, Father Roy and a few friends protested at the gates of Fort Benning with a water-only fast. Repeated every year since 1990, this peaceful, nonviolent vigil has grown: This past November, at least 22,000 people were at the gates of Fort Benning to participate in a very peaceful, solemn funeral procession to honor those killed by graduates of the SOA.

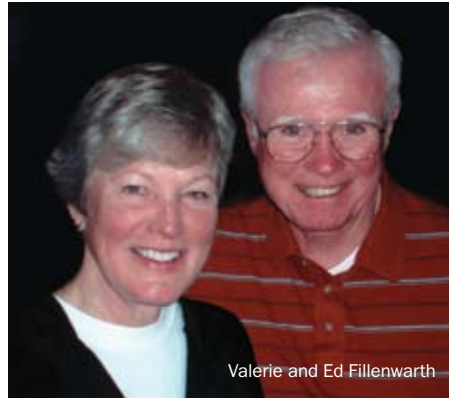
Val has participated in these annual vigils since 1998. In 2002, she and I attended the trial of Kathleen Desautels from

Indianapolis, a Sister of Providence of St. Mary-of-the-Woods, Ind., who had trespassed onto the base. Sister Kathleen was sentenced to six months in a federal prison for her nonviolent civil disobedience. When asked why the news media has reported so little about the SOA, Sister Kathleen replied, "Who owns the media?" referring to the large corporations in the United States who benefit from SOA grads keeping the poor, human rights workers, youth leaders, missionaries, and union organizers "in line" in their own countries.

While attending the annual vigils, Val and I also learned of Witness For Peace (WFP), an organization that has a presence each year at the vigils. WFP is a nondenominational, faith-based, grassroots organization that raises awareness of some of the United States' unconscionable policies in Central and South America.

WFP began in 1983 during the US Contra war in Nicaragua. In 2003, Val and I participated in a WFP trip to Mexico to study the effects of NAFTA on the Mexican people. I was already familiar with the terrible effects of NAFTA in Indiana and in the United States, one of which was thousands of lost union jobs. However, we were surprised to learn that NAFTA has been just as bad, and maybe worse, for the Mexican people. Thousands of Mexican farmers have been put out of work by huge American-owned agribusinesses; numerous small- to medium-sized Mexican companies have also been closed as a result of NAFTA. We have been working since 2003 to try to get the United States government more concerned about fair trade than it is about free trade, which, in our judgement, primarily benefits multinational companies based in the US.

In 2004, I was asked to become a member of the national board of WFP and quickly accepted the opportunity. While I had hoped to travel to Cuba with WFP, our current administration refused to renew the WFP license to take delegations to Cuba. I did join a delegation to Colombia in 2006 to study human rights and labor rights in that country and am now working to educate people in the US about the problems caused by its Colombian policies and huge shipments of arms to that country.



Valerie and Ed Fillenwarth

[School of the America's] history is controversial, at best. Shortly after its founding, it came to be known as the "School of Assassins" or "School of Coups."

Val crossed Fort Benning's property lines at the November 19, 2006 vigil, along with other protesters, seeking to close the SOA. While the Indianapolis media did not report the vigil itself, there have been two articles about this mother of seven and grandmother of 17 who risked jail to raise awareness of the SOA/WHINSEC.

As it turns out, Val and 13 of her fellow protesters now face jail time. By the time you read this article, many will have begun their sentences, which range from 30 days to six months. Val begins serving her 100 days in the Federal Corrections Institution in Danbury, Connecticut on April 17.

During the history of the SOA annual demonstrations, 231 people have been sentenced to a combined 92 years in

prison for this Class B misdemeanor, and 50 others have been given probation. Accountability by those who run the school for their conduct and the conduct of the school's graduates has yet to happen. There has also been close to complete impunity for graduates of the school whom we believe to have committed numerous atrocities.

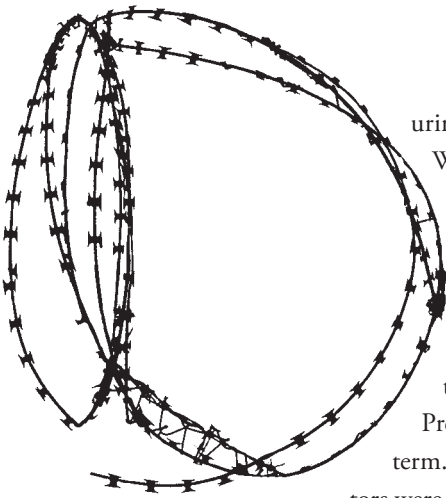
Val and I love our country very much, but we reject policies that cause human rights abuses for the benefit of huge multinational corporations. We believe the United States can do better. We can start by learning about the terrible effects of our policies on millions of poor people in Central and South America, and then work to change those policies.

Ed and Val Fillenwarth have been married for 42 years and live in Indianapolis, Ind. Ed is a retired partner with Fillenwarth Dennerline et al, having practiced labor law for most of his career. Ed currently sits on the board of Witness for Peace, an organization that supports the cause of peace, justice, and sustainable economies in the Americas.

He is a "double Domer," having received a B.A. in business in 1961.

Report from Guantánamo

BY ROBERT C. WEAVER JR., '72 B.A., '75 J.D.



During his Commencement address at Washington Hall to the Notre Dame Law School Class of 1975, Edmund Stephan, then chairman of the University's Board of Trustees, spoke thoughtfully about lessons of Watergate, a term newly coined to embrace the imperial abuses of President Richard Nixon's second term. Acknowledging that the perpetrators were mostly lawyers, he reminded his audience that Watergate's heroes were also lawyers, that thanks to good lawyering, Nixon was driven from office, his subordinates sent to prison, and, in *US v. Nixon*, the Supreme Court affirmed the principle that not even the President is above the law. It was an exciting time to be a law student, especially for one whose interests did not naturally turn to trust and estates.

With me in the audience that morning was my classmate Paul Fortino. Both trial lawyers, we took markedly different career paths after graduation. However, more than 30 years later, we have joined forces in the representation of a number of "enemy combatants" imprisoned at Guantánamo Bay Cuba (Gitmo). In the annals of lawless abuses by the executive branch, Gitmo will surely find its place alongside Watergate.

Guantánamo Bay was acquired by the United States as a perpetual leasehold at the conclusion of the Spanish-American War. The base has had little strategic military significance for decades. But in

2001, when the Department of Defense was looking for a place to establish a five-star interrogation facility beyond the meddlesome purview of the media, human-rights advocates, and the US courts, Guantánamo Bay answered very well.

The swift defeat of the Taliban and Al Qaeda in Afghanistan in the fall of 2001 resulted in the capture of hundreds of Islamic fundamentalists. Initially, they were kept shackled in ancient prisons in places like Kandahar, where the conditions were filthy and primitive. Beginning in the spring of 2002, approximately 500 of them were hooded, handcuffed, drugged, and flown to newly constructed prison facilities at Guantánamo. Most have remained confined there in maximum-security cells ever since, although only a handful have actually been charged with any crime.

Two are clients of mine. They are both young Syrian men, handed over to our military forces in the fall of 2001 by bounty hunters. Orders entered in their cases that restrict the use of information from their files and the security obligations assumed by all lawyers who act on behalf of Gitmo prisoners prohibit disclosure of much about their circumstances. Nonetheless, although President Bush recently ordered 14 alleged major terrorists transferred to Gitmo from secret prisons elsewhere, most Gitmo prisoners present no such danger. In 2001, my clients were young and unemployed and easily emboldened by the hateful fervor of some Islamic clerics. A substantial number of the Gitmo prisoners, including both of my clients, never fired

Gitmo is a menacing environment calculated not to punish or reform, but to frighten.



a shot at anyone, never possessed a weapon, and had no terrorist training.

Still, in 2001, all prisoners captured in or near Afghanistan were regarded by the administration as potential intelligence assets. Their cases were immediately taken over from the military by the President's lawyers, who declared all detainees to be "enemy combatants," a classification that lacked definition; relied on that classification to deny prisoners protections under international treaties, including the Geneva Conventions; made allowances for torture; and deemed Guantánamo Bay to be foreign soil beyond the reach of US courts, and, therefore, a perfect place for unrestrained interrogation.

Gitmo is a menacing environment calculated not to punish or reform, but to frighten. Prisoners are a world away from anything or anyone they know, and their religion, upbringing, and culture make them uniquely vulnerable. Interrogations are still conducted, even though it is generally acknowledged that little useful information can be extracted from the prisoners after their many years in custody. My clients are generally confined to small, maximum-security cells. If they protest, say, by spitting or by throwing urine, they are placed in solitary confinement. The space provided for my meetings with them is small and hot. We sit at a table in a windowless room where they are chained to the floor. With the assistance of my interpreter, we talk with each other as we bake in the heat.

The Bush administration reasons that since the "war on terror" is limitless, so, too, may be the incarceration of enemy combatants; and since the war is global, enemy combatants may be apprehended anywhere and deposited at Gitmo. So, by the summer of 2002, there most of them were, branded as terrorists but charged with no crime, routinely shackled and interrogated, completely at the mercy of Department of Defense personnel who often made and violated the rules as they went along.

Contrary to what some defenders of the administration's policies have said, no lawyer for the detainees has argued that anyone should have been read Miranda rights after being captured on the battlefield. Raising the false specter of Miranda was one of several calculated efforts by the administration to garner support for stripping US courts of habeas corpus jurisdiction and us of our ability to represent our clients. Nor do the detainees' lawyers argue that the United States cannot detain persons captured in Afghanistan or punish those fairly convicted of war crimes. We do adamantly maintain, however, that our clients may not be jailed without the oversight of our courts, because doing so is contrary, not merely to long-standing principles of Anglo-American law, but to basic notions of human dignity.

A foothold for judicial review of the administration's internment policies was established by the Supreme Court in June 2004 when, in *Rasul v. Bush* and *Hamdi v. Rumsfeld*, it held that habeas corpus

Law is our touchstone, and we rightfully expect adherence to it. With Gitmo, administration lawyers have aided and abetted a deplorable assault on the rule of law by systematically violating it when it becomes inconvenient and abandoning it altogether for matters they regard as more important.

jurisdiction does apply and that enemy combatants must be granted “a meaningful opportunity to contest their detention before a neutral decision maker.” American lawyers—including a number of the Judge Advocate General officers who have courageously put their careers at risk—heeded that call and urged our courts to address the question left unaddressed in *Hamdi* and *Rasul*: May a foreign national be held in a maximum-security prison for the rest of his life, in territory over which the United States has exclusive jurisdiction, on the authority of the President alone, without ever being charged with a crime, and without meaningful judicial review?

The administration’s response has been manipulative. First, Department of Defense officials, ignoring their own precedents for courts-martial and special military tribunals, invented “military commissions” to adjudicate the cases of the 10 enemy combatants actually charged with war crimes. Last summer, in *Hamdan v. Rumsfeld*, the Supreme Court held that the military commissions violated basic due process requirements and struck them down. The President and Congress answered just before the fall elections with the Military Commission Act (MCA), which did not cure the defects of the military commissions but did attempt to eliminate all habeas corpus relief. We are currently asking the US Court of Appeals for the District of Columbia to determine whether the MCA is constitutional. But what is lost in the

administration’s noise is that the MCA did nothing to address the plight of the overwhelming majority of the enemy combatants who have never even been charged with a war crime—all but 10 of the approximately 450 still imprisoned. Their legal protections are even fewer than they used to be. Once a year, an Administrative Review Board (ARB), consisting of three military officers, reviews each uncharged man’s file to determine whether he satisfies the definition of enemy combatant and poses a continuing threat to the United States. The enemy combatant may not review much of the information used by the ARB, and he may not have the assistance of a lawyer. Allegations in the file that are the product of torture and abuse may be relied on by the ARB. The prisoner bears the burden of proving he is not an enemy combatant, a vague term that has no fixed meaning in law. Not surprisingly, many of the prisoners have refused to participate in this charade.

Understandably, it has been difficult for my clients to comprehend that an American would travel so far to assist them for no fee. I spent my initial visits dispelling fears that I might be another government inquisitor posing as a lawyer. Subsequent visits had elements of eighth-grade civics lessons, as I explained the separation of powers doctrine and asked them to trust that an equally powerful court could check our sovereign, President Bush. The Supreme Court’s *Hamdan* decision in June has been helpful here. But when my clients ask if their cases



will ever be heard and whether their confinement will ever end, I can only offer hope. They then turn to Allah. My clients have been imprisoned at Guantánamo for nearly four years. The court processes meant to address their particular circumstances of confinement grind on. I have watched their physical and emotional health worsen.

Much has been written about this administration's arrogant disregard of other cultures in pressing its war against terrorism. To the extent that that is true, it is a lesser offense than its willful abuse of our own culture, which is based on the rule of law. Law created us. We invest enormous resources in the enactment, enforcement, and interpretation of laws designed to preserve our way of life in a rapidly changing world. We look to law as the expression of our collective morality. Law is our touchstone, and we rightfully expect adherence to it. With Gitmo, administration lawyers have aided and abetted a deplorable assault on the rule of law by systematically violating it when it becomes inconvenient and abandoning it altogether for matters they regard as more important. The Military Commission Act that the President and his lawyers crammed through Congress in the fall is more of the same, and, because of that, many career military lawyers don't support it.

In a time of war there is an inevitable tension between law and necessity. Nonetheless, we have always found a way to protect the nation's security while preserving our liberties. For the Gitmo lawyers and their clients, we return to our courts to reestablish that balance.

This piece is adapted from a longer article that appeared in Commonweal on October 6, 2006.

Bob is a shareholder at the Portland, Ore., firm of Garvey Schubert Barer, practicing white-collar criminal defense and complex business litigation. He is married to Hannah Callaghan, '75 J.D., who has been a lawyer with Legal Aid Services of Oregon for 30 years. They live in Portland.

Inaugural NDLA Award Recognizes Devotion to Social Justice Law

BY ALISA M. ROSALES
ASSISTANT DIRECTOR FOR PUBLIC INTEREST
LAW SCHOOL CAREER SERVICES

On September 15, 2006, the Notre Dame Law Association board of directors bestowed the inaugural St. Yves Award upon a University of Notre Dame Law School graduate. The award recognizes the substantial devotion of time and effort in the practice of, or support of, social justice law. In the case of the first recipient, devotion hardly begins to describe the work of Sean Litton, '97 J.D.

Sean Litton, currently the vice president of interventions for International Justice Mission (IJM), has worked tirelessly on behalf of victims of violence, sexual exploitation, slavery, and oppression. Upon graduation, he joined the Washington, D.C., office of Kirkland & Ellis LLP. When he subsequently joined IJM in 2000, he was tasked with beginning the operations in the Philippines for the young nongovernmental organization (NGO). With a two-page mission plan and a one-page budget, he left for Manila, uncertain what he had to bring to the table, but fired by his faith

that this was not a leap of folly. As he told the students, staff, faculty, and alumni that gathered to hear him speak of his experiences, "In my three years at Kirkland, I learned and accomplished more than I thought I would in six years. But, when faced with reality of children being repeatedly raped with little hope of rescue, I felt that the tradeoff of a successful legal career for the opportunity to help one child was a bargain worth making."



Sean Litton, currently the vice president of interventions for International Justice Mission, has worked tirelessly on behalf of victims of violence, sexual exploitation, slavery, and oppression.

IJM is not your typical Christian NGO. IJM hires Christians of all denominations, and sets aside time each workday for personal reflection and group prayer. IJM is also holistic in the work that they do. By working within the legal framework of each country, the organization investigates human-rights violations, bringing the evidence to appropriate authorities for prosecution. When IJM rescues victims of human-rights violations, it not only removes them physically from the oppression, but also works to rehabilitate their bodies, minds, and spirits. IJM works with aftercare partners to ensure that each victim has access to rehabilitative mental and physical care and job-skills training, when possible. Though their approach is technical, their daily work reflects the mantra, "They will know we are Christians by our love," by reaching out across religious lines to relieve human suffering and degradation. Though IJM enters a region primarily with American attorneys, the organization's goal is eventually to have their offices staffed with national staff by developing local leadership. So far, four of IJM's 13 offices are staffed entirely by nationals.

When [International Justice Mission] rescues victims of human-rights violations, it not only removes them physically from the oppression, but also works to rehabilitate their bodies, minds, and spirits.

Upon completion of his assignment in the Philippines, Sean's next assignment took him to Thailand to deal with the trafficking of women and children in the brothels of Southeast Asia. Victims, women and children, are tricked into leaving their

homes in Burma, Laos, Cambodia, China, or Thailand with the promise of factory or domestic work, and then are illegally transported across international borders to become part of the highly lucrative sex trade. The victims are told that they will be allowed to return home, or at least complete their period of bondage, once their "debt" is repaid, a feat that never happens. Sean related the story of Jern, who was tricked

into leaving her home in China by a village elder with the promise of factory work, and then was transported across Burma and Thailand, ending up in a brothel in Malaysia. After an IJM investigation, Malaysian police rescued Jern, and IJM social workers facilitated her return to her family in China.

IJM eventually called Sean to work as director of operations for Southeast Asia and to oversee all the work in the region. He has recently returned to the United States with his wife and two children as the vice president of interventions. As he moves into this new phase, he is grateful for the experiences he gained in his six years "in country." He feels that he will be able to represent the realities of daily fieldwork effectively in the home office in Washington, D.C., while also helping to shape the future policies and programs of IJM.



To Save the Children

BY JOHN CROWLEY, '92 J.D.

“Go ahead and enjoy the time you have with your children,” we were told. In just one hour, our world was changed by circumstances that we never could have imagined, and that, we were told, we could not change.

I remember the first time I saw the Notre Dame football team play on television. It was January 1, 1975. My dad, a New Jersey police officer, had regaled me with stories of the legends of Irish football, and on that chilly, January night, we were ready to watch our first game together as father and son. It was a right of passage, of sorts, in our family. I was 8 years old. I still remember being mesmerized by the glow of the stadium lights off the gold helmets. ND beat Alabama in that Orange Bowl, 13-11. After the game, I asked my Dad for a helmet just like the one the ND players donned. The next day, we went to Sears, bought a generic white football helmet and spray-painted it gold. Twelve days later my Dad, my hero, died in the line of duty. He was 35. This experience would forever change me. I would learn to cherish each and every day with those I love. I would resolve to deal with each and every challenge in a way that would make my Dad proud, and I would one day get a degree from the University of Notre Dame.

In 1990, my high school sweetheart, Aileen, and I married. We moved that summer into our first apartment, in South Bend, Ind. I was a second-year law student at Notre Dame. The three years studying law at ND taught me what it means to be a citizen and, most importantly, about choosing right over wrong, especially when “right” seemed so difficult. This foundation would serve us well in the years to come.

After practicing law in Indianapolis for four years and later earning an MBA at Harvard, Aileen and I moved to Walnut Creek, Calif. We were on top of the world. It was 1997. I had a great job with a consulting firm in San Francisco. Most importantly, we had two beautiful children. John was two, and Megan was one. By March of the following year, we were expecting our third child. Three kids aged three and under—the perfect Irish Catholic family was in the making! In the months before our third child Patrick was born, however, we began to notice that Megan wasn’t as strong as a one-year-old child should be. She wasn’t pulling up in her crib, and she wasn’t taking her first steps. The doctor recommended that



John and Aileen and their children (from left to right), Megan, John, and Patrick, enjoy time together as a family despite the demands of pursuing a treatment for the youngest children's rare disease.

she have a biopsy so they could examine her muscle pathology and determine exactly what any problem might be.

Patrick came to us on March 13, 1998. He was a great big, healthy newborn, an Irish lineman-to-be, no doubt. Seven days later, the physician in California had the biopsy results on Megan. In a steady but nervous voice, he explained that the results showed that Megan's muscles were rapidly accumulating stored sugar in the form of a substance called glycogen. This glycogen accumulation was leading to the rapid degeneration of all of her skeletal muscles and her heart muscle. She had a disease called Pompe Disease. Aileen and I had never heard of this strange disease. We were told that there was no treatment and that babies diagnosed with Pompe rarely lived past age two. She was 15 months old when we received the diagnosis. The physician went on to tell us that Patrick, only seven days old, had a 25 percent chance of having the disease, as well.

It was a long ride home from the hospital. Aileen and I were both very healthy and had no family history of any disease. Pompe is a rare, recessive disease. Parents are carriers and have no symptoms and usually no family history for the disorder.

The doctors that day told us that there was nothing we could do, and that we should accept this most difficult of diagnoses. "Go ahead and enjoy the time you have with your children," we were told. In just one hour, our world was changed by circumstances that we never could have imagined, and that, we were told, we could not change. Throughout that day, Aileen, our close family, and I went through a range of emotions. We experienced shock, denial, anger, sadness—and fear. We feared for Megan and possibly for Patrick, too. (Our oldest son John, thankfully, was already a thriving and strong three-year-old, without Pompe). We knew little of the medical world. The Internet 10 years ago was just taking hold, and I spent that night on the computer to learn about this strange disease and to see

if there was anyone, anywhere, who might be able to help our baby girl. I put into Yahoo the words “Pompe Disease,” and with that, stepped into a whole new world of diseases, biotechnology, and medical science.

Pompe disease, I learned that first night in front of the computer, was first characterized in 1932 by Dutch pathologist Dr. J.C. Pompe. He was the first to make the connection between the glycogen coming from a deceased baby’s muscle cells and the symptoms of the disease—the enlarged heart and weakening of the muscles that eventually led to death. I learned, too, that researchers in the Netherlands and at Duke University were working on competing projects to develop an enzyme-replacement therapy in their labs that could be used in humans with Pompe. The thought was that with this lab-made enzyme, we could replace the ineffective enzyme that patients with Pompe naturally made. We could, in essence, use this biotechnology to treat the disease. After reading and learning for hours, I woke Aileen to tell her about all that I had discovered. Still groggy from her deep sleep, and just seven days after a third C-section, she asked me: “What does this all mean?” I responded, “It means hope, Aileen. It means maybe there’s hope.”

Two months after Megan’s diagnosis, we got the results of testing on Patrick. To our great surprise and sadness, Patrick was also diagnosed with Pompe. By the fall of 1998, within just six months of her diagnosis, our little Megan rapidly deteriorated. She lost so much strength that, when she got a simple cold in September, she developed pneumonia and lost the ability to breathe on her own. She ended up in the pediatric intensive care unit (PICU) of a local hospital here in New Jersey. For hours, the doctors struggled to stabilize our 20-month baby girl. We were told to expect the worst, and we just prayed that morning, that if that was going to be the outcome for Megan, that it come quickly. “Please, God, don’t let her suffer any more.”

After hours of waiting, I recall vividly when the head of the intensive care unit came into the waiting room. Aileen and I embraced, waiting to hear the words that we dreaded. Instead, he told us that Megan was breathing on a ventilator and stable. The doctor was amazed. He told us we had some little fighter—that she refused to give up—and that we could briefly see her. We entered the PICU and we found Megan lying still and awake on the bed, medical tubes coursing through seemingly every vein in her body. Her eyes were moving around the room, inspecting all of the action, and finally locked on to her mother’s eyes, with both bursting into tears. It was in that moment that we knew that she didn’t want to quit—and neither could we. I stroked her brown hair and told her, “Okay, Princess, if you want to fight, we’ll fight, too.”

Over the next few months and years, our lives would continue to change and to be defined by a quest to help our children. By early 2000, we had grown frustrated with the pace of research in Pompe. A treatment always seemed right around the corner, but never came. Finally, in March of 2000, I left my job at Bristol-Myers Squibb to take over as the CEO of a four-person biotechnology start-up company based in Oklahoma City that was doing research into a new medicine for Pompe. The company was called Novazyme, and over the next 18 months, we grew Novazyme into a 120-person company. Admittedly, I knew little about the world of biotech and venture capital; to say that we learned “on the job” is even being generous. Still, we had a vision and a mission, and failure was not an option. Novazyme was eventually merged into one of the world’s largest biotechs, Genzyme Corporation. At Genzyme, we continued the work to develop a medicine to save, extend, and enhance the lives of people with Pompe, and I struggled to get my own two kids access to this experimental treatment. Even this proved to be a momentous struggle against nature, time, and even accusations of conflict of interest. It strained our lives, our marriage, and our friendships. Finally, nearly five years after their diagnoses, Megan and Patrick received the

After reading and learning for hours, I woke Aileen to tell her about all that I had discovered. Still groggy from her deep sleep, and just seven days after a third C-section, she asked me: “What does this all mean?” I responded, “It means hope, Aileen. It means maybe there’s hope.”

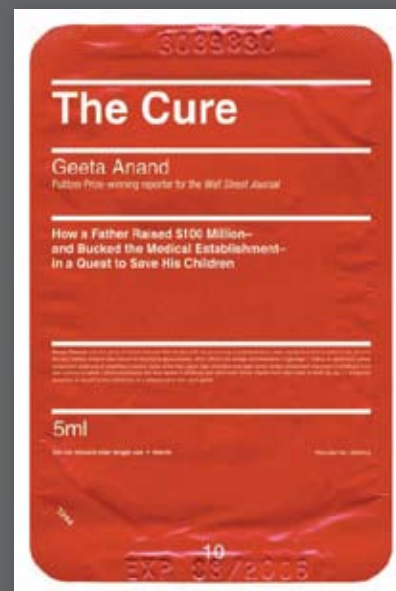
enzyme-replacement therapy that they so desperately needed. It was January 9, 2003. That day would have been my Dad’s 63rd birthday. Somewhere, an Irish cop was smiling in heaven.

The enzyme therapy has saved the kids’ lives. Their hearts, which had swollen to nearly twice normal size, within months returned to normal. It was our miracle—and they are our little miracles. Today, over 500 kids worldwide with Pompe take this enzyme, now an approved drug known as Myozyme.™ Even with this drug, Megan and Patrick are still profoundly physically handicapped from the ravages of the disease on their skeletal muscles over the years. We continue the search for new and better ways to treat them and to make them stronger. The advances of the past decade are the results of the efforts and passion of hundreds of scientists, businesspersons, caregivers, patients, and their families. Megan and Patrick’s courage and inner strength have taught us more about love and life than we could ever have taught them over these years. And so we grab onto each precious moment with them, cherish it, celebrate it, laugh at it, cry in it, and hope for another, even as we continue the journey into the unknown and unknowable that we call life.

—
John Crowley is president and CEO of Amicus Therapeutics, Inc. He is also a commissioned officer in the US Navy Reserve and has just recently completed a six-month active duty assignment.

While a student at the Law School, he was a member of the national moot court team and was named best advocate in the showcase argument before Supreme Court Justice Kennedy and two other judges. He was selected to deliver his class’ commencement address.

John and his wife, Aileen, and their children, John Jr., Megan, and Patrick, live in New Jersey.



The Crowley family story is told in a book published last year called ***The Cure: How a Father Raised \$100 Million—And Bucked the Medical Establishment—in a Quest to Save His Children***. It is authored by Geeta Anand, a Pulitzer Prize-winning reporter for ***The Wall Street Journal***. The Crowley family story is also being made into a major motion picture by Sony films, produced by Michael Shamburg and Stacey Sher (producers of ***World Trade Center*** and ***Erin Brockovich***.) You can learn more at: www.thecurebook.com or www.crowleyfamily5.com.

Reuniting a family

JOSE I. NUNEZ, '06 J.D.

In November 2006, Pastor Joseph Bukassa was finally reunited with his seven children after two painful years of separation.

Joseph Bukassa is a Christian pastor from the eastern region of the Democratic Republic of Congo, a region that, over the last decade, has been the site of continuous warfare between many different groups. The International Rescue Committee estimates that in the last six years, 3.8 million people have died in the conflict.

In 2001, Joseph changed the focus of his ministry and began preaching messages of reconciliation, forgiveness, and tolerance, urging the different groups to stop fighting. In the fall of 2003, Joseph was arrested by the local military and held for several hours. He was stripped of his clothing, interrogated, beaten, and accused of conspiring with one of the opposition groups. Similar arrests and attacks occurred over the next six months, including an attack on Joseph's wife and children. In the summer of 2004, Joseph and his family fled their house and went into hiding. On December 25, 2004, Joseph was able to fly to the United States with his wife and their two youngest children, leaving his other seven children behind, in hiding along the Rwandan-Congolese border.

In the spring of 2005, I began working on Joseph's case through the Notre Dame Immigration Clinic. In the fall of 2005, Pastor Bukassa was granted political asylum and, soon afterward, received permission to bring his seven children from Africa to the United States. I remember telling Joseph the good news that his children could come to the United States. While he seemed happy, he was subdued; we both understood the financial obstacles that stood in the way. Tickets for the seven children would cost more than \$10,000.

I had conflicting thoughts. Technically, I had accomplished everything I could for my client. Joseph was granted asylum and his children could legally immigrate to the United States.

On the other hand, how could my job be finished when Joseph's children were still in Africa, living in constant danger, maybe to remain there for several more years?

I thought a lot about the concept of being "a different kind of lawyer." Does it mean being an ultra-ethical lawyer? Does it mean doing more pro bono work than other lawyers? The

concept likely means different things to different Notre Dame lawyers, but I realized what it means to me: always remembering that from one to whom much is given, much is expected. It means realizing that whatever benefits I have been blessed with, the blessing was accompanied by the expectation that I would use my gifts to help others. For me, it meant helping the Bukassas, even after my professional obligations were fulfilled.



In the spring of 2006, with help from the Notre Dame Immigration Clinic, my parents, and my beautiful bride, Melissa, the Bukassa Family Reunification Project was created with the goal of raising \$10,000 to help Pastor Bukassa bring his children to the United States. Flyers were distributed, donors and alumni

were contacted, and donations were slowly collected. Many Notre Dame law students gave money, along with other members of the South Bend community.

Finally in the fall of 2006, through a combination of our project and the fundraising efforts by a network of local churches in South Bend, enough money was collected to bring all seven children from Africa. Joseph had always insisted that the children be brought together, refusing to bring them over in small groups as money was raised. He also insisted on traveling to Africa himself to gather his children and

accompany and protect them on their journey to their new home. Traveling from South Bend, he flew to an airport in Rwanda and rode a bus for three days to Burundi where the children were in hiding. The bus ride was particularly dangerous because local gangs often attacked, robbed, or commandeered buses, and Joseph's persecutors were still looking for him. Once reunited with his family in Burundi, Joseph and his children embarked on their long return trip back to the United States, first by bus and then by airplane.

On November 9, 2006, Joseph and his children landed in Chicago, and the family was finally reunited for the first time in two years, just in time to celebrate their first Thanksgiving in their new home.

Helping Joseph gain asylum and bring his children over from Africa was a deeply rewarding experience for me. There are too many uncertain moments in our lives when it is difficult to know for sure whether we are doing the right thing. Every moment I spent working with Joseph, I knew with absolute certainty that I was doing the right thing. This is just one of the many benefits of working with nonprofits and performing community service.

Such service allows one to meet some amazing individuals such as Joseph, who has experienced unbelievably horrific events, yet still maintains his smile. Through my work and friendship with Joseph, I realize that the trivial things I worry about on an average day are not worth getting upset over and should always be kept in perspective. Joseph's faith and ability to stay positive while enduring two years without his children always inspired me. He is the type of individual who makes people feel better just by being around him.

Joseph is a good man and remains one of my good friends; we still talk every few weeks. This spring I will be visiting South Bend to see the Bukassas and meet his seven children.

This experience would not have been possible without Notre Dame Law School and the Notre Dame Immigration Clinic. Thank you.

A 2006 graduate of the Law School, Jay Nunez works at a law firm in Newport Beach, Calif., that specializes in construction defect, product liability, legal malpractice, and personal injury. He is currently working to establish a relationship with pro bono immigration law clinics so that he will be able to work pro bono hours in immigration and asylum law. His wife, Melissa Nunez, is in her final year at Notre Dame Law School.



In order to assist the Bukassas and other refugee families making the transition to their new lives in the United States, please donate to:

UNITED RELIGIOUS COMMUNITY

Attn: Refugee Program

2015 W. Western Avenue

South Bend, IN 46629

Unfinished Business

DORY MITROS DURHAM, '01 B.A., '06 J.D.

“There is unfinished business in the American experiment in freedom and justice for all.”

I read these words, part of a 1986 Pastoral Letter from the US Catholic Bishops, for the first time as a third-year law student. But the truth expressed in them has given me my sense of purpose as an American, as a person of faith, and as an aspiring lawyer for quite some time.

While I was in high school in South Bend, I started volunteering at the Notre Dame Legal Aid Clinic. In those days, South Bend was experiencing an influx of refugees from central Africa, and in particular, from Rwanda. As a young woman who spoke French, I was asked by Prof. Barbara Szweda to be an interpreter for many of the Rwandans who sought the assistance of the clinic in obtaining the protection of the United States. I was 14.

One day, as a part of that task, I looked across the table at the clinic and saw a woman who was not significantly older than I was. I translated as she timidly told the story of her family's persecution, the murder of her parents, her own rape and torture and, ultimately, her fearful and hopeful journey to America. Of everything that happened that day, of every image she put in my mind as she

spoke, what I remember most vividly is a tiny moment: I remember seeing her embarrassment when, despite her best efforts to remain composed, her voice began to waiver. I remember pulling a little embroidered handkerchief out of my pocket and handing it to her. We exchanged the shy, sad smile that teenage girls so often do; in that instant, with that shared smile, I remember thinking how very much the same we were, and how very, very different the accident of our separate births had made us.

It wasn't long after that day that I knew that my experiences at the clinic had fundamentally changed both my perspective and my aspirations. It also wasn't terribly long before I found myself at Notre Dame, first as an undergraduate, and then as a law student, doing very much the same work, and hoping to do so for some time.

I think about that day often. I thought about it when, as a law student, I researched Catholic social thought on immigration and racial and economic justice in the United States for a directed reading course. I thought about it when I read the words of the Bishops: There is unfinished business. And as I read those words, with thoughts of that young woman filling my mind, I realized again

Dory Mitros Durham was awarded a 2007 Skadden Fellowship and will be starting an immigrants' civil rights initiative at Indiana Legal Services in South Bend. The initiative will address the growing problems of immigrant exploitation and discrimination within the South Bend community, with a particular focus on families, schools, workplaces, and public agencies.

Durham was inspired to create her project after observing how many of her former clients from the Notre Dame Legal Aid Clinic continued to face unlawful barriers to full participation in community life, despite their successfully completing, in many cases, a multiple-year effort to obtain legal status in the United States.

The Skadden Foundation is emblematic of this commitment. In its nearly 20 years of existence, the foundation has funded the work of more than 500 young lawyers beginning careers in the public interest.

the persistent need for people—and especially for lawyers—to get to work on it.

In the fall of this year, I will have the great privilege of beginning a career that I hope will be about that unfinished business. With the generous support of the Skadden Fellowship Foundation, I will create a project to address immigrants' civil rights in the South Bend community. With Indiana Legal Services, I will work to defend the rights of immigrant members of our community who struggle to combat unlawful barriers to full participation in civic life. My efforts will join with others across the nation to make real the promise of justice to those whose immigration status has been a source of exploitation and discrimination in families, schools, workplaces, and public agencies. I wait with growing anticipation, joy, and nerves to dig in.

It may have been those early, formative experiences at the Legal Aid Clinic that set me on the path to pursuing a career in public interest law, but I can't say that those experiences, as powerful as they were, sustain that pursuit in themselves. Instead, I have relied on the equal commitment of my family and the mission of my faith community,

both of which tell me that the American experiment in freedom and justice for all is a pursuit worthy of our collective best efforts. Now, as a young lawyer, I find that I have never felt more assured of that principle. I find myself surrounded by professional colleagues—lawyers of all stripes—who live and work with that concept guiding them every day. Whether they are full-time public interest lawyers, public servants in our government, academics, private attorneys, or corporate counsel, legal professionals are preaching a commitment to community service, and they are practicing what they preach with renewed vigor and visibility.

The Skadden Foundation is emblematic of this commitment. In its nearly 20 years of existence, the foundation has funded the work of more than 500 young lawyers beginning careers in the public interest. Its work through the men and women it funds and supports has not only touched communities across the nation, but has also served to remind the legal community that work in the public interest demands the same excellence that work in the private sector demands. The Skadden Foundation has called for and received our collective best efforts as a legal community.



At Notre Dame, our mission makes us particularly well-suited to join efforts like those of the Skadden Foundation. Indeed, Father Hesburgh, himself, served on the fellowship committee at its inception. We have a tradition of service that extends throughout the University's programs and schools. As I am about to begin a public interest law career, I find this tradition to be a source of pride in our past and hope for our future. But that same tradition is also a source of deep challenge and obligation. We must continue, as a community, to express our commitment to law in the public interest, and we must live that commitment with characteristic excellence, in whatever area of the profession we find ourselves and in whatever amounts we can. We must challenge one another to live that commitment with increasing resolve. There is unfinished business, and we, Notre Dame lawyers, must stand ready to do it.

SUMMER INTERNSHIP EXPERIENCES

Before they leave the Law School and enter practice, many of our students learn the importance of service to the communities in which they live. What follows are stories of five students who exemplify what it means to be a Notre Dame lawyer: one who envisions a world in which justice is found for all.



Anthony Bianco, '07 J.D.

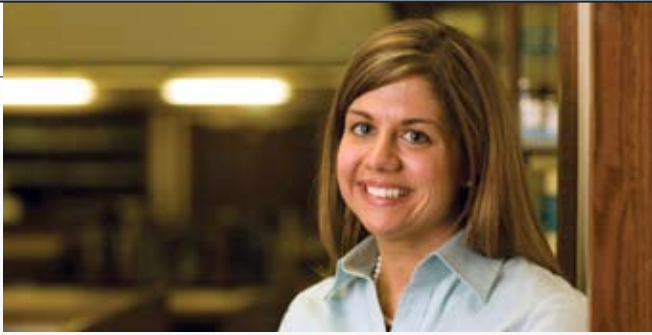
Anthony Bianco was looking for something that he could sink his teeth into this past summer, and his work as legal intern with the Connecticut Attorney General did not disappoint. Anthony's work was funded by the Kirchner Fund.

During his interview, his eventual supervisor, Michael Cole, promised him the opportunity to do meaningful work. Anthony found himself expected to immediately contribute. "Often the largest firms in the Northeast are opposing counsel, so the state is often challenged in terms of manpower. As a result, the office relies greatly on the legal interns to supplement the staff and perform the work of a staff attorney. I was promised, and eventually experienced, the opportunity to play an important role in cases."

As an intern, Anthony used his business background as a consultant with Accenture, especially when he had to synthesize a multitude of facts to analyze and present the legal and factual issues in a concise manner. Anthony spoke with quiet pride when he said, "The work I performed was relied upon for deposition preparations and my economic analysis of financial documents provided the state with crucial support in its negotiations with opposing counsel."

Anthony found that he not only gained corporate litigation experience in the public sector through his work on federal anti-kickback statutes, state and federal antitrust issues, and corporate veil problems, but that the public sector truly "provides opportunities for the best and brightest. The skills I developed are the same ones I would need to use to advocate for a large, private client, because I represented the State of Connecticut in matters of corporate competition and unfair trade practices."

Anthony is grateful for the way that his supervising attorneys included him. "The attorneys I worked for treated me as an actual attorney on their staff, including me in strategy and case progress meetings, seeking my opinion and allowing me to attend meetings with opposing counsel. They challenged me to get involved in cases. It truly gave me a professional experience that I know will serve me well in my legal career."



Jessica Hensley, '07 J.D.

Jessica Hensley spent her summer with the Cook County Public Guardian, enabling her to use her psychology background while also securing extensive court experience. Her experience was funded to a large extent by a student organization fellowship provided by the Public Interest Law Forum (PILF).

A third-year member of PILF, Jessica spent her second summer with the Public Guardian, where much of her time went toward drafting motions, conducting hearings and trials in front of judges, interviewing clients, preparing witnesses for hearings, and visiting clients in their placement sites. “Immediately after receiving my 711 (student practice) license, I was asked to do a temporary custody hearing in front of a judge. Even though I was unsure of myself, with guidance from my supervisor, it was a success. I ended up with more than 25 court appearances during the course of the summer.”

Jessica also enjoyed an experience not often encountered in the private sector. “I had the chance to visit clients in their homes, and worked with various child care professionals. By being able to go out into the field and talk to clients and see what life was like for them, I was able to put the work I did into perspective.”

“This experience solidified my dedication to a career in public interest law, convincing me to pursue a career in child advocacy. I was attracted to the Public Guardian’s office because of the great work they do with children in foster care and the experience did not disappoint.”



Kate McGinn, '07 J.D.

Kate McGinn spent her summer working alongside the director of the Boston office of the Center for Law and Education. Kate said the example of the lifelong dedication of this mentor has solidified and strengthened her desire to work on educational issues, especially when she found that the work she performed over the short span of a summer was “meaningful and there is a great need to work on these issues.” Her work was funded in part by the Curtin Fund.

Kate sought out this opportunity because she knew the center concentrated on areas near to her heart: the lack of quality education for children of low socio-economic backgrounds, children in the minority, and children with disabilities. By working alongside a national expert, Kate gained a great deal of knowledge on educational policy issues, including the problems with implementation and recognition of rights under various federal and state statutes.

“There are many laws you hear about in the news, like the No Child Left Behind Act and the Individuals with Disabilities Education Act,” Kate said. “But I was able to work on specific provisions of these Acts, such as the Highly Qualified Teacher Provision and Surrogate Parent Provision. I learned about the problems of implementation. For example, the Surrogate Parent Provision was intended to provide wards of the state with an education advocate. This provision is being misused in some states to work against low-income and minority families. I also did an extensive writing project on the lack of quality education, specifically a lack of highly qualified teachers, for children in juvenile detention centers. I researched state and federal law, finding that many times children in these detention centers are denied quality teaching.”

“My work at the center truly opened my eyes to many issues and populations of children that are overlooked every day when the law fails to protect them. All of my work during the summer was a fight for the rights of low-income children, children with disabilities, and children in the care of the state, because they and their parents often do not know their rights and entitlements under the law.” Kate paused. “I gained in-depth knowledge about issues that I truly care about, that I feel are often overlooked, and I was able to not only understand, but also think critically about, the role of legislation, policies, and court decisions. I look forward to dedicating my time and energy to improving, if not fixing, these issues.”

SUMMER INTERNSHIP EXPERIENCES



Ben Runkle, '08 J.D.

"Most of the firms I have interviewed with have been impressed by the level of legal work I was allowed to perform as a legal intern with the Notre Dame Legal Aid Clinic (NDLAC). I interviewed clients, negotiated with opposing counsel, and improved my resource management skills." Ben Runkle's internship, as funded by the NDLAC, provided him with the opportunity to represent clients, draft and submit court documents, and negotiate with opposing counsel.

"Far too many people are not receiving the legal assistance that they need. In a country under the rule of law, no one can avoid situations where the law directly impacts daily life and decisions made. Quality representation should not be a luxury reserved for the rich. My experience at the clinic has convinced me of the need to perform pro bono work as part of my ethical professional responsibility to the community in which I live," Ben said. He found it heartening that he was allowed to take the lead on the cases assigned to him, under close faculty supervision, so that he could hone his advocacy skills while also providing much needed legal services.

Ben was also impressed with the holistic approach encouraged by the NDLAC professors. "We were encouraged to determine what the client's real problem was, legal or otherwise. We were taught to see each client as a whole person, not just a mere legal problem to be resolved. This approach enabled me to hone problem-solving and listening skills, because sometimes I was able to resolve the problem by assisting the client in procuring social services."

Ben recommends the clinic experience to any student interested in handling a great deal of responsibility. "Early on, I was conducting my own client meetings, preparing court documents, and negotiating with opposing parties. It provided a great hands-on experience with proper supervision and mentoring. I am much more confident in my ability to advocate and represent clients, and look forward to using my skills in both the public and private sectors as my career continues."



Thomas Winegar, '08 J.D.

With the help of an Alumni Funded Fellowship, Thomas Winegar spent last summer with the Legal Assistance Foundation of Metropolitan Chicago. He was attracted to the foundation, in part, because of its size, which translated into an ability to "sustain a number of specialized projects, as well as a broad base of attorneys working in more general capacities to provide direct legal aid."

Thomas was given substantive responsibilities almost immediately after his arrival. "Though I spent a good bit of time completing research, I was also interviewing prospective clients, and preparing briefs for the attorneys who would be representing them, within two weeks. By the end of the summer, I had handled a case of my own from start to finish, successfully representing a client in an administrative hearing."

Thomas was surprised by the latitude he was given in his time with the foundation. "I was given a great deal of autonomy. There is great need for legal representation among the poor, especially because those who prey upon them display great ingenuity. I was encouraged to pursue any unusual fact pattern that piqued my interest. This actually once resulted in uncovering a new claim that was shared among a number of clients."

The foundation provided Thomas with a "wholly positive" experience. He said, "Public interest work will be a part of whatever I choose to do. I find it infuriating to see people taken advantage of, particularly when society has provided them with precious few advantages already. I was given the opportunity to improve the lot of some people who are being kicked down, while doing a bit of kicking on their behalf. I was given hands-on experience in drafting motions for summary judgment, arguing a case, and even negotiating with the city courthouse clerks. These experiences will serve me well no matter where my legal career takes me."

Jim Seckinger

Prof. Seckinger joined the faculty of the Notre Dame Law School in 1974 as an assistant professor of law, becoming an associate professor in 1976 and a full professor in 1979. He earned his B.S. in physics and math from St. John's University (Minnesota) in 1964, his M.S. in nuclear physics from Vanderbilt University in 1968, and his J.D. from Notre Dame in 1968, where he served as articles editor of the Notre Dame Law Review.

Prof. Seckinger teaches and writes in the areas of deposition techniques, evidence, professional responsibility, and trial advocacy. He coauthored Problems and Cases in Trial Advocacy, one of the leading books used to teach trial-advocacy techniques both in law schools and in continuing-legal-education programs for practitioners throughout the US and Canada. He also has authored trial advocacy text, problems, and case files for use in New Zealand, Australia, Scotland, Ireland, England, France, Rwanda, Sierra Leone, El Salvador, Panama, and Brazil.

Prof. Seckinger frequently gives lectures and workshops on trial advocacy and deposition skills at many of the most prestigious law firms and legal organizations around the world. He organized and taught advocacy skills to the war crimes prosecutors for Rwanda in 1996 and to the war crimes under the jurisdiction of the Special Court for Sierra Leone in 2004.

In 1996, in recognition of his outstanding contributions to the field of post-admission legal education, the ALI-ABA Committee on Continuing Professional Education bestowed on Prof. Seckinger its prestigious Francis Rawle Award. The award cited his “extraordinary contributions to the continuing education of the bar as director from 1979 to 1994 of the National Institute for Trial Advocacy [NITA]” and recognized him “as an exceptional teacher, a great innovator and a proven administrator, as is reflected in his 15-year leadership of NITA in its development years—years not only of expansion but of consistently high standards of quality that have made it the quintessential world-wide model of [continuing legal education] in trial advocacy.

Prof. Seckinger is also an academic fellow of the International Society of Barristers (since 1989) and an honorary member of the New Zealand Law Society.

What started your interest in legal studies?

I was a physics and math major as an undergraduate and had received a fellowship from Vanderbilt University to study nuclear physics.

But I also liked working with people, and I was worried about a life that would involve research in a lab setting with very little human interaction.

One of my roommates from college was a first-year law student at Notre Dame, so I decided to apply, was accepted, given money, and started studying law in 1965.

What was NDLS like then?

Well, Tex (Dutile) had just graduated. Tom Shaffer, John Newman (later a chaired professor at Berkeley and a judge on the 9th Circuit Court of Appeals), Father Bill Lewers (CSC), and Bernie Ward (author of federal appellate rules and later a chaired professor at Texas) were all on the faculty. It was an exciting place to be.

While you were a law student, where did you think you wanted to practice?

As a second year, I clerked at a patent firm in D.C. and discovered I didn't want to specialize in patent law or live in D.C.

But I did enjoy the federal civil rules of procedure, tax, estate planning, and corporate law.

But you haven't mentioned trial advocacy.

After graduation, I clerked for Judge William E. Doyle of the US District Court in Denver, Colorado (1968–69). After my clerkship, I served as director of litigation at Denver Legal Aid (1969–72) as a Reginald Heber Smith Fellow. This fellowship allowed me to study law reform and litigation. And after the fellowship, I enrolled in NITA's first class in 1972, which was a four-week "boot camp" of trial advocacy held at the University of Colorado Law School in Boulder.

By then, I had fallen in love with trial work.

What brought you to a career in teaching?

I had finally realized that I loved both learning about and teaching trial advocacy. I decided to come to Notre Dame, which I did in August of 1974.

This journey to NDLS seems far removed from a career in nuclear physics.

Yes, and no.

Trial work requires one to have what I call a "bathtub mind." While preparing for a case, one might study several areas of substantive law, learning everything there is to know in preparation for the trial.

But once the trial is over, the plug is pulled and what remains is the "ring" of knowledge.



Like with physics, trial work involves studying facts, figures, numbers, problems. And I remain fascinated by this cognitive work.

But—trial work also involves the human condition. A particular case would be completely different with different witnesses, different clients. I am equally fascinated by the element of humanity that trial work carries within it.

So, physics and trial work are similar in that both require cognitive work but different in that only trial work involves a human element.

Can you remember some of your first cases?

Very clearly, because I remember the people involved.

I remember two in particular because they each taught me the power to change a client's life.

Early on in my practice, I represented a man who was being evicted for being behind on his mortgage payments. A lower state court was about to rule on an eviction of a family who had purchased a home under a special federal law for low-income families. Commercial property lawyers representing the mortgage company were pressing the state court to rule on the eviction, and we had to act fast and in an innovative way.

While doing research for the case, I discovered a federal regulation providing a right to a hearing for the mortgagee family when they fell behind in their mortgage payments. Low-income families live on the edge in making ends meet, and the regulations were designed to help low-income residents keep their homes through various government services. The mortgage company had not given our client notice of a right to a hearing, so we sued HUD (Department of Housing and Urban Development back then) in the Denver Federal Court to enforce the federal regulations requiring a hearing before eviction. We asked the federal court to stay the state court eviction proceeding while the federal court considered our clients' right to a hearing under the federal regulations.

After briefs and a hearing before the Chief US District Court judge in Denver, HUD settled the case because it didn't want a low-income family's "right to a hearing" publicized. Our client family was able to retain their home, and the smiles on their faces and the joy in their hearts were enough compensation to last for many years.

While I was teaching at Notre Dame, I learned that a federal judge in Illinois ruled against HUD based on the papers filed in our Denver case, and the ruling was adopted across the US.

I also vividly remember another case in which a woman had been eliminated from welfare based on her older daughter living with her. After researching the welfare regulations, I filed a class action lawsuit in federal court. Eventually, I wrote a brief to the US Supreme Court and had the case reversed without an argument at the Court.

What I still feel, from these cases and others, is that trial work can affect an entire class of people.

How did you transition from trial work to teaching?

I began teaching at NITA in 1973 just before I began teaching at Notre Dame. While teaching with NITA, I developed my problems and case-study approach to teaching trial advocacy, which I brought with me to Notre Dame. I was charged with developing the school's trial advocacy programs, and my NITA experience was invaluable. Throughout my career at Notre Dame, my experiences teaching and learning with NITA have all been brought back to the classroom at NDLS.

Once I began teaching, I realized the power of the synergy between teaching law students, NITA clients, and law firm associates. I found that teaching was very fulfilling and I really enjoyed working with students.

I spent the 1978–79 academic years at Cornell—I brought along my wife and our four children, who ranged in age from one month to 10 years! But even though I was offered a permanent position there, I very much wanted to return to Notre Dame.

In addition to developing the Law School's trial advocacy program, you also developed coursework for NITA, right?

Yes. From 1979 until 1994, I served as the director of NITA, working half-time at the Law School and half-time at NITA. When I began at NITA, it published a couple of case studies and was running five programs. When I left, in '94, there were over 100 programs, a catalogue of publications, and thousands of students.

During my tenure at NITA, I also moved the director's office to the University in '79 and the publishing in '88 to the University. Between 1989 and May of 2006, all NITA programs were run out of the University.

How has NITA influenced trial work in the United States?

NITA offered scholarships to law school professors, both clinical and regular, for them to attend NITA trial programs as well as special teacher training programs. NITA's goal was to assist law faculty in bringing the learn-by-doing methodology and teaching materials to the law schools. NITA's success was immediate and across the US. By the late '80s, almost every law school in the US had a "learn-by-doing" skills programs based on the NITA method.

NDLS played a critical role in this development by being the center of NITA's administrative operation and by using NDLS's classrooms as a laboratory for learning on how students learn skills. NDLS also sent scores of students into practice as advocates of ND, NITA, and learning skills through the "learn-by-doing" method.

How has NITA influenced trial work outside the United States?

In at least three ways:

Bar Association Programs for Lawyers. NITA has helped many countries develop learn-by-doing trial skills programs. I personally have assisted the law societies in New Zealand, Australia, Scotland, England, Panama, El Salvador, and Singapore to develop programs on advocacy training.

Human Rights Work. I have provided training for the prosecutors associated with the War Crimes Tribunals in Rwanda and Sierra Leone, relying on the learning and teaching skills I developed through NITA and teaching at NDLS. Both Rwanda and Sierra Leone have a civil-law approach to dispute resolution, and the common-law procedure of open courts with lawyers examining witnesses was a new experience for the civil law-trained lawyers. Some prosecutors were volunteers from the US, Canada, and Australia, and helped in the training process. I also had the opportunity to meet and work with graduates of NDLS's Center for Civil and Human Rights.

International Arbitration. International arbitration is almost entirely commercial cases with parties from different countries and also from the same country who want to avoid the local court system for resolving disputes. NITA has influenced advocacy skills and transplanted the NITA learn-by-doing method to lawyers practicing in judicial systems but has not had any influence in arbitration practice and the development of arbitration advocacy skills.

Now that NITA has relocated to Colorado, what is the next step for you in trial advocacy work?

This year I will be one of four founding members of the Foundation for International Arbitration Advocacy to be based in Geneva, Switzerland. The goal of the foundation is to be a lab for developing international arbitration advocacy skills and publications. I think that FIAA is where NITA was in 1970, poised to provide much-needed skills to advocates, just this time the audience is international!

The FIAA will need to develop the means to bridge the difference between common and civil law and to fashion the art of advocacy skills on a new level. We're going to build on the oral tradition of American trial lawyers and English barristers, introducing these skills to the arena of international advocacy work.

And what about your work here at the Law School?

In addition to my work in trial advocacy, I developed our deposition skills course, which is very relevant in modern litigation practice. Our current deposition skills course is a basic course, and I am looking forward to spinning off some advanced courses in different, specialized areas of practice, such as expert testimony, product liability cases, medical malpractice cases, environmental cases, and other areas where we have specialties at ND, in the South Bend community, or by NDLS alums who want to help our students.

I continue to enjoy working with our students. Over the years, I have developed the intensive trial advocacy course, bringing in our alumni but also lawyers from other law schools to serve as judges. Students especially enjoy working with these judges and practicing lawyers.

I would like to see the Law School expand its trial advocacy offerings by creating the position of director of litigation skills. Our trial advocacy program is always ranked in the top 10 of such programs by *US News and World Report*, and we know that many applicants are drawn to the Law School because of this program.

The Law School remains one of a few highly-ranked law schools with a great trial advocacy program. I am pleased that the Law School continues to deliver on this reputation.

Rev. Michael McCafferty, CSC, and Rev. William Lewers, CSC

BY DEAN PATRICIA A. O'HARA



When young men are ordained as priests of Holy Cross, they select a biblical passage or quotation for imprint on a card that is given to members of the congregation as a memento of their ordination. At the ordination of Rev. Michael McCafferty, CSC, there were two such cards. For those who knew Father Mike well, this will come as no surprise—if the standard practice was one card, he would want two! On a deeper level, however, Father Mike's choice proved prescient. He picked two quotes—the first, from St. Thomas More, praying for patience in tribulation to conform one's will to the Lord's; the second, from Cardinal Suhard, defining Christian witness as living life in a way that would not make sense except for the existence of God. The two quotes captured the dual dimensions of Father Mike's life as a lawyer and a priest. Throughout his life—but especially during his unsuccessful battle with cancer at the age of 40—Father Mike lived up to the words of both quotes.

The oldest and only son of a prominent Cincinnati family, Father Mike's plans to become a lawyer did not seem a stretch to his parents, Mr. and Mrs. J. Robert McCafferty (ND '43), or to his five sisters. He had won vigorous debates on the home front since childhood. When he decided to enter the seminary following his sophomore year at Notre Dame, the news was more unexpected.

Following completion of a master's of divinity degree and law degree at Notre Dame, Father Mike was ordained at the Basilica of the Sacred Heart in April 1974. He served two years as a trial attorney at the Equal Employment Opportunity Commission in Washington, D.C., practiced law with Winston & Strawn in Chicago, and obtained an LL.M. from Harvard before returning to Notre Dame.

Father Mike joined the faculty of the Law School in 1978, serving as assistant dean for academic affairs and teaching courses in torts and products liability. When he left his administrative position in 1982, he added constitutional law and jurisprudence to his teaching portfolio. With a Waterford biscuit jar filled with M&Ms, he drew students and colleagues alike to his office, which served as "communication central" in the Law School. He had his finger on the pulse of the Law School, and he used this knowledge to deliver homilies at Sunday liturgies that were tailored to the issues with which law students grapple. Father Mike began the practice of celebrating Mass on Sunday afternoons in the Law School, and these liturgies continue to this day. His sense of humor, his Irish jig at the annual talent show, and his daily 5-mile runs with students ending with a prayer at the Grotto were known far and wide.

Father Mike was riding high in spring 1986 as he approached his 40th birthday. Coauthor of a treatise on medical malpractice, he offered testimony to a congressional committee in Washington regarding damages in personal injury cases, and returned to campus in time for an interview with the University's Board of Trustees as one of five Holy Cross priests under consideration to succeed Father Hesburgh. In May 1986, however, Father Mike was diagnosed with a particularly aggressive form of non-Hodgkins lymphoma that would take his life 13 months later.

Prior to departing the Law School in February 1987 for an unsuccessful bone marrow transplant, Father Mike preached

his final homily in the student lounge, which was stripped of furniture to accommodate the crowd. He spoke of the power of the Cross. In the months that followed, he gave powerful witness to that Cross as he worked to accept the will of God, who called him home that summer.

Not long after the death of Father Mike, Rev. William Lewers, CSC, rejoined the faculty of the Law School. Raised Scotch Presbyterian, Father Bill received his law degree from Illinois, pursued graduate studies at Yale Law School, practiced law in Kansas City, and served on the law faculties of the University of Kentucky and the University of Illinois before finding his way to Notre Dame. At some point in his journey, he converted to Catholicism. Like everything else he did in life, once he converted, he went full-out and entered the priesthood. Later in life, tongue-in-check, he would quip that he became Catholic because he believed in the social justice teaching of the Church only to find that he was among the select few who really did.

Ordained in 1965, Father Bill joined the faculty of the Law School that same year. Among the many students whom he mentored was Mike McCafferty, then a seminarian. He left the Law School in 1973 to serve as provincial superior of the Indiana Province of Holy Cross. Belying its name, the Indiana Province stretches from Indiana to the West Coast and includes apostolates in Chile, East Africa, and Bangladesh.

Father Bill provided selfless leadership to Holy Cross from 1973 to 1979 during tumultuous times. Stateside, religious communities re-envisioned themselves in the wake of Vatican II; abroad, Father Bill provided bold leadership to Holy Cross ministries during the dictatorship of Augusto Pinochet in Chile, during the reign of Idi Amin in Uganda, and in the critical years following the civil war that resulted the separation of Bangladesh from Pakistan. These experiences shaped the remaining years of his life.

Following his service to Holy Cross as provincial, Father Bill became head of the Office of International Justice and Peace at the United States Conference of Catholic Bishops in Washington, D.C. In 1988, he rejoined the faculty of the Law School, serving at the same time as a member of the University's Board of Trustees. He spent the last nine years of his life establishing our LL.M. and J.S.D. programs in international human rights. With initial grants from the Ford

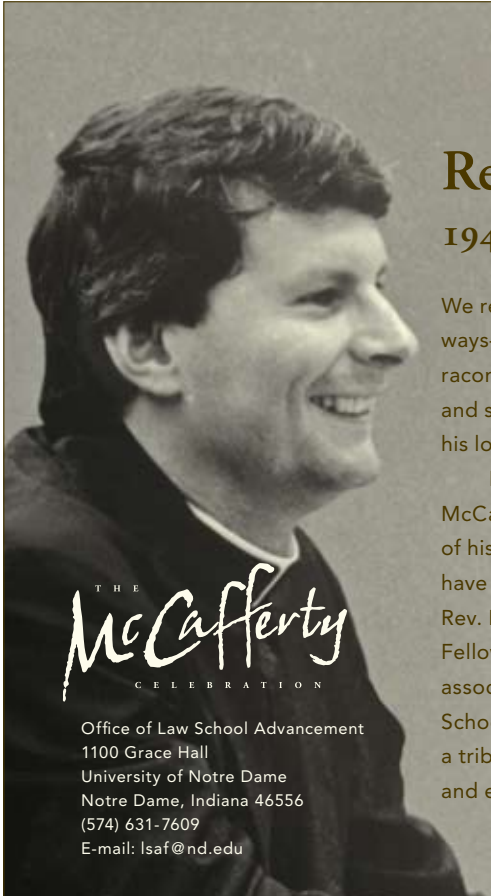
Foundation and the MacArthur Foundation, and later with University funding, Father Bill built a program in which young lawyers from countries fraught with the kind of strife he had seen as provincial, engage in studies on a fully subsidized basis at Notre Dame. Upon receipt of their degrees, they receive postgraduate internships to serve as human rights advocates around the globe.

Father Bill accomplished all this while laboring under significant health problems. He recovered from a heart attack and bypass surgery only to be diagnosed with non-Hodgkins lymphoma of a different type than that suffered by Father Mike. For seven years, he went through cycles of chemotherapy, remission, and relapse before succumbing to the disease in April 1997, six months prior to his 70th birthday. An indefatigable Democrat, an inveterate Cubs fan, a fiercely loyal friend, and a person of principle, Father Bill died as he lived—with dignity, grace, and deep faith.

In the coming months, the Law School will mark the 20th anniversary of the death of Father Mike McCafferty and the

10th anniversary of the death of Father Bill Lewers—two great Holy Cross lawyer-priests whose spirits still animate our hallways. One student in each class proudly bears the name McCafferty Scholar; the network of Notre Dame international human rights advocates who have graduated from the LL.M. program created by Father Lewers now numbers more than 200. We will mark each man's passing with an event that befits him—in the case of Father Mike, a Mass and brunch this summer on the Sunday morning of Reunion Weekend, to which we will invite the 10 years of alumni whose lives he touched; in the case of Father Bill, a smaller dinner this spring among his close friends.

As we approach the great paschal mystery, I am mindful of the refrain from a hymn that we often sing during Holy Week: we remember, we celebrate, we believe. These three simple phrases capture our thoughts as we mark in faith the anniversaries of the deaths of Father Michael McCafferty and Father William Lewers.



Rev. Michael D. McCafferty, CSC

1946–87

We remember his brilliance in so many ways—as priest, lawyer, scholar, teacher, raconteur, and friend. He brought his wit and sagacity to every class. And he wore his love of the priesthood on his sleeve.

His name was Michael Dillon McCafferty, and through the generosity of his family and the many friends who have created and supported the Rev. Michael D. McCafferty, CSC, Fellowship, his name will forever be associated with the Notre Dame Law School. Not just as a memory. But as a tribute that lives, year after year, in each and every McCafferty Scholar.

On June 3, 2007, we will celebrate Father Mike's life by gathering on campus for a memorial Mass and brunch following the Law School Reunion. We hope that you can join us for this special occasion.

We also hope you will give generously to this year's Law School Annual Fund. You can be sure your contribution will strengthen the Notre Dame Law School by providing much-needed financial assistance for our students.

If you like, you can designate your gift for the McCafferty Fellowship. In so doing, your gift will become part of the living legacy of a Notre Dame legend.

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The Much Maligned 527 and Institutional Choice

LLOYD HITOSHI MAYER
ASSOCIATE PROFESSOR OF LAW

Swift Boat Veterans and POWs for Truth. Americans Coming Together. Republicans for Clean Air. These groups are the most prominent of the much maligned “527s”—political organizations named after the tax law section granting them tax-exempt status. Their high-profile election activities, totaling almost half-a-billion dollars in 2004 alone and funded in large part by wealthy individuals, has led to public calls for strict government regulation.¹ But in responding to those calls, Congress is creating an unwise and unworkable hybrid of election law and tax law. A careful evaluation of the relative strengths and weaknesses of these two bodies of law and the agencies that administer them reveals that Congress’ current approach to regulating 527s will almost certainly result in a confusing and ineffective legal regime.

REGULATING POLITICAL ACTIVITY

Both election law and tax law have historically regulated political activity, but in distinct and separate ways. Election law required the disclosure of contributions and expenditures for a narrow range of election-related activities.² These activities were generally limited to campaign contributions and communications that unambiguously supported or opposed the election of particular candidates.³ Election law also restricted who could give money for such activities, barring unions and corporations entirely and limiting the size of contributions by individuals to candidates and political parties.⁴ Both the disclosure rules and contribution limits arose because of Congress’

concern with corruption in elections.⁵ Advocates of such rules also sought to reduce the influence of the wealthy over the electoral process.⁶

Tax law, in contrast, defined political activity broadly. This broad definition of political activity included “any and all activities that favor or oppose one or more candidates for public office.”⁷ But tax law did not require significant disclosure of such activity or limit contributions to support it. Tax law instead simply required taxpayers to use after-tax dollars for such activity by barring taxpayers from deducting political expenses and charities that receiving deductible contributions from engaging in such activity.⁸

Both election law and tax law have historically regulated political activity, but in distinct and separate ways.

527



THE EMERGING REGULATION OF 527s

The rise of 527s led Congress to breach this separation. In 2000, Congress imposed a disclosure regime on them that mimics the disclosure regime for political committees (commonly known as “PACs”) but is administered by the IRS instead of the FEC.⁹ When this disclosure regime revealed that in 2004 alone, almost half-a-billion dollars flowed through 527s,¹⁰ Congress began considering legislation to extend existing contribution limits to 527s.¹¹

What Congress has ignored up until now is the fundamental differences between election law and tax law. These differences are reflected in the historical functions of these laws and the agencies that administer them (the Federal Election Commission and the Internal Revenue Service, respectively). The question that Congress must ask is this: If the government can and will regulate political activities, and particularly those of 527s, by requiring disclosure and limiting contribution, is election law or tax law the best vehicle?

HOW TO CHOOSE

To answer this question requires developing a framework for choosing between two or more bodies of substantive law. This framework must take into account the different *legislative processes* that create each body of law, the *administrative agencies* that interpret and enforce them, and the actual or likely *effectiveness* of that administration. Applying this framework to the question of whether election law or tax law is best suited to be the home for regulation of political activity reveals striking contrasts law that strongly favor placing such regulation within election law, although with one significant reservation.

Legislative Process. There are profound differences in the level of attention Congress devotes to election law changes as compared to tax law changes relating to political activity, with the former receiving much greater consideration. For example, the passage of the most recent election law changes in 2002 involved thousands of pages of congressional hearing transcripts and four years of debates.¹² The passage of tax law Section 527 was, in contrast,

The mixing of election law and tax law also creates a significant opportunity for “regulatory arbitrage” by giving political actors the ability to choose under which of two regulatory structures to operate.

accompanied by only a few pages of legislative history that were intermixed with discussions of tax provisions relating to upholstery and needles.¹³ These examples are characteristic of the legislative and litigation history of other significant changes to these two bodies of law. The election law legislative process is, therefore, much more visible to the public, as is presumably desirable for laws affecting activity that is central to the functioning of our democracy, and much more deliberative, leading to less risk of inconsistent or ill-designed laws.

Agencies. There are also deep differences between the FEC and the IRS that favor regulating 527s through election law, although with one major caveat. The FEC’s sole focus is in administering election law,¹⁴ which has led to it developing an expertise with respect to political activity, having to be accountable for the regulation of such activity, and being best placed to coordinate any future laws relating to disclosure or contribution limits with the existing rules. The IRS, in contrast, has a much broader mandate, as it is responsible for administering a system that collects over \$2 trillion in taxes each year.¹⁵ Even the part of the IRS that oversees tax-exempt organizations, including the infamous 527s, is responsible each year for processing over 850,000 returns that report receipts and expenditures of over \$1 trillion.¹⁶ This broad role limits the ability of the IRS to gain expertise with respect to political activities, reduces its accountability for regulating in this area since it can easily and legitimately plead the press of other

priorities, and constrains the degree to which it can coordinate any disclosure rules or contribution limits with the rules the FEC administers.

There is, however, one major concern with the FEC. According to its many critics, the FEC is captured by incumbent politicians and, therefore, administers election law in a way that favors that group.¹⁷ The structure of the FEC actually lends itself to such capture, because the six FEC commissioners, all of whom are political appointees, not only have to approve all guidance, but each significant stage of every enforcement action.¹⁸ This apparent capture contrasts sharply with the IRS, which has only a single political appointee (the IRS commissioner) who is generally shielded from involvement in specific taxpayer matters.¹⁹

Effectiveness. The deep differences between the agencies are also reflected in their effectiveness in enforcing the laws under their current jurisdiction. By almost every measure, the FEC has proportionately greater resources to dedicate to enforcement. For example, the FEC staff actually reviews, at least in a cursory fashion, every form filed with the FEC and resolves several hundred enforcement actions a year, even though its oversight is limited to approximately 10,000 organizations.²⁰ The IRS makes no pretense that it reviews all of the filings by tax-exempt organizations or even all of the filings by 527s, and its audit coverage reaches less than one percent of the returns filed.²¹ The one disadvantage the FEC has in comparison to the IRS,

however, is that while the FEC’s enforcement of disclosure rules is generally applauded, its enforcement of contribution limits and related rules has received very mixed reviews because of the apparent capture of the FEC by incumbent politicians.²²

The mixing of election law and tax law also creates a significant opportunity for “regulatory arbitrage” by giving political actors the ability to choose under which of two regulatory structures to operate. By targeting an organization type, instead of an activity type, the existing disclosure rules and the proposed rules for imposing contribution limits on 527s only reach 527s. But the exact same activities as those conducted by 527s—political activity as broadly defined for tax purposes—can be conducted by other types of organizations, including other types of tax-exempt organizations such as the Sierra Club, the National Rifle Association, the AFL-CIO, and the US Chamber of Commerce, as long as such activities are a secondary activity.²³ This creates the opportunity for organizations that want to escape the reach of any new 527 rules to simply transfer their political activities to a like-minded organization that has sufficient other activities to make the political activities a secondary function.

RECOMMENDATIONS

These observations mean that disclosure of and restrictions on political activity should generally be placed within

election law and not made dependent on tax law determinations. The one caveat is that the FEC's capture problem needs to be resolved. More specifically, Congress should implement these recommendations:

Give the FEC Responsibility for Political Activity Disclosure.

Congress should shift responsibility for the disclosure of political activity by 527s to the FEC. The FEC's expertise and effectiveness in obtaining accurate disclosure reports for political activities, its greater visibility and, therefore, accountability for regulating political activity generally, and its ability to coordinate these new disclosure rules with the existing political committee disclosure regime strongly support such a shift.

Resist the Temptation to Subject 527s as a Group to Contribution Limits.

Congress should resist the temptation to impose contribution limits on 527s as a group. The IRS's ability to enforce

classification as a 527 is suspect given the IRS' limited accountability for regulating political activity, its lack of any demonstrated ability to coordinate with the FEC on matters relating to such activity, and its limited enforcement efforts and resources. This problem is only aggravated by the fact that political activity can, under the tax law, be conducted by other types of non-charitable tax-exempt organizations. Any attempt by Congress to further regulate political activity should, instead be done by refining the definition of political activity for election law purposes, without relying on tax classifications to determine whether such regulation will apply.

Create an Independent Federal Election Commission.

Congress should solve the FEC's capture problem to the extent possible. Here the IRS can provide a model in that it is protected against capture by political interests by limiting the number of political appointees and, more importantly, their role in both interpreting the law and applying it in specific

cases. Congress should, therefore, strongly consider restructuring the FEC with a single commissioner with limited authority over investing specific enforcement cases.

CONCLUSION

Congressional concerns about preventing corruption and the undue influence of wealthy individuals on elections can be reflected in an effective and coherent set of political activity laws. But such laws will not come about unless Congress considers the long-established differences between election law and tax law and designs any new laws with those differences in mind. Only then will Congress' actions be more than an empty attack on the much maligned 527, garnering headlines but leaving political landscape essentially unchanged.

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Excerpted from "The Much Maligned 527 and Institutional Choice," 87 *B.U.L. Rev.* (forthcoming June 2007); published with permission of the *Boston University Law Review*.

¹ See Center for Public Integrity, *527s in 2004 Shatter Previous Records for Political Fundraising* (Dec. 16, 2004); Center for Public Integrity, *527 Fundraising Nets a Record Haul* (Oct. 18, 2004).

² U.S.C. § 434(a)(4), (b)(3)(A), (5)(A) (2000 & Supp. III 2003); see generally Federal Election Campaign Act of 1971, as amended, codified primarily at 2 U.S.C. §§ 431-455 (2000 & Supp. III 2003).

³ *Buckley v. Valeo*, 424 US 1, 44, 79-80 (1976).

⁴ 2 U.S.C. §§ 431, 441a(a), 441b(a), 441i (2000 & Supp. III 2003).

⁵ See *McConnell v. FEC*, 540 US 93, 115-117 (2003); *Buckley v. Valeo*, 424 US 1, 27 (1976).

⁶ See ROBERT E. MUTCH, CAMPAIGNS, CONGRESS, AND COURTS: THE MAKING OF FEDERAL CAMPAIGN FINANCE LAW 54-66 (1988).

⁷ IRS Fact Sheet 2006-17 (released Feb. 2006).

⁸ See 26 U.S.C. §§ 162(e), 170(c)(2)(D), 501(c)(3), 6033(e) (2000).

⁹ See Pub. L. 106-230, 114 Stat. 477 (2000) (codified as amended at 26 U.S.C. §§ 527(i), (j) and other, scattered sections of 26 U.S.C.).

¹⁰ See *supra* note 1.

¹¹ See, e.g., 527 Reform Act of 2005, H.R. 513, 109th Cong., § 2 (2005); 527 Reform Act of 2005, S. 1053, 109th Cong., § 2 (2005).

¹² *McConnell v. FEC*, 251 F. Supp.2d 176, 202-05 (D.D.C.), *aff'd in part, rev'd in part*, 540 US 93 (2003); 2 CIS PL 107155, 107 CIS Legis. Hist. P.L. 155.

¹³ H.R. 93-1502, at 103-13 (1974), S. Rep. 93-1357, at 25-36 (1974); H.R. Rep. 93-1642, at 22-23 (1974). *Mobile Republican Assembly v. United States*, 353 F.3d 1357 (11th Cir. 2003).

¹⁴ See 2 U.S.C. § 437c(b)(1) (2000).

¹⁵ INTERNAL REVENUE SERVICE 2005 DATA BOOK 1-2.

¹⁶ *Id.* at 32; Statistics of Income Division, Internal Revenue Service, *Charities and Other Tax-Exempt Organizations*, 2002, SOI BULLETIN, Fall 2005, at 263, 270.

¹⁷ See, e.g., Todd Lochner & Bruce E. Cain, Equity and Efficacy in the Enforcement of Campaign Finance Laws, 77 TEX. L. REV. 1891, 1895-96 (1999).

¹⁸ See 2 U.S.C. § 437b(a)(2), (3), (4)(A)(i), 437c(e), 437d(a)(7), (8) (2000).

¹⁹ See 26 U.S.C. § 7803(a)(1)(A), (2) (2000); STAFF OF THE JOINT COMM. ON TAXATION, 106TH CONG., REPORT OF INVESTIGATION OF ALLEGATIONS RELATING TO INTERNAL REVENUE SERVICE HANDLING OF TAX-EXEMPT ORGANIZATION MATTERS 96 (Comm. Print 2000).

²⁰ FEDERAL ELECTION COMMISSION ANNUAL REPORT 2005, at 5.

²¹ INTERNAL REVENUE SERVICE 2005 DATA BOOK 32.

²² See, e.g., John McCain, *Reclaiming Our Democracy: The Way Forward*, 3 ELECTION L. J. 115, 119 (2004); Testimony of Trevor Potter Before the Committee on Rules and Administration, United States Senate (July 14, 2004), 2004 WL 1590048 (F.D.C.H.).

²³ John Francis Reilly & Barbara A. Braig Allen, *Political Campaign and Lobbying Activities of IRC 501(c)(4), (c)(5), and (c)(6) Organizations*, EXEMPT ORGANIZATIONS TECHNICAL INSTRUCTION PROGRAM FOR FY 2003, at L-1, L-2 to L-3.

FACULTY SCHOLARSHIP AND HONORS

Matthew J. Barrett and D. Herwitz published *Materials on Accounting for Lawyers* 4th ed., unabridged version (Eagan, Minn.: Foundation Press, 2006); *Materials on Accounting for Lawyers* 4th ed., temporary concise version (Eagan, Minn.: Foundation Press, 2006); *Materials on Accounting for Lawyers Teacher's Manual* 4th ed., unabridged version (Eagan, Minn.: Foundation Press, 2006); and *Materials on Accounting for Lawyers* 4th ed., concise version (Eagan, Minn.: Foundation Press, 2007).

Joseph P. Bauer, with J. Lopatka and W. Page, published supplements to *Kinter's Federal Antitrust Law* (LexisNexis Publishing Group, Bethesda, Md., 2006): Annual Supplement for 2007 Vol. I–Vol. XI. Bauer is teaching antitrust and copyright at the Notre Dame London Law Centre for the spring 2007 semester.

Anthony J. Bellia Jr. published "Congressional Power and State Court Jurisdiction," *Georgetown Law Journal* 94 (2006): 949; "State Courts and the Interpretation of Federal Statutes," 59 (2006): 1501. Bellia made the following presentations: "The Origins of Article III 'Arising Under' Jurisdiction" (lecture, Cecil D. Branstetter Civil Litigation and Dispute Resolution Program Workshop, Vanderbilt University Law School, Nashville, Tenn., 27 October 2006); "The Origins of Article III 'Arising Under' Jurisdiction" (lecture, Institute for Constitutional Studies, George Washington Law School, Washington, D.C., 25 January 2007); and "The Origins of Article III 'Arising Under' Jurisdiction" (lecture, faculty workshop, University of Virginia Law School, Charlottesville, 6 February 2007). Additionally, Bellia presented a response to Harvard Prof. Richard Fallon's lecture "If Roe Were Overruled: Abortion and the Constitution in a Post-Roe World" (talk, St. Louis University Law School, 13 October 2006); the response will appear as an article titled "Federalism Doctrines, Abortion, and Subject-Matter Neutrality," *St. Louis University Law Journal*. Bellia also was elected to serve on the Executive Committee of the Federal Courts Section of the Association of American Law Schools. He began service as editor of the *Federal Courts and Jurisdiction* abstracts journal of the Social Science Research Network. Bellia is serving as a visiting professor of law at the University of Virginia Law School for the spring 2007 semester.

Margaret F. Brinig published "Penalty Defaults in Family Law: The Case of Child Custody," *Florida State Law Review* 33 (2006): 779. Brinig edited two volumes of *The Economics of Family Law*, (Northampton, Mass.: Edward Elgar Press, 2007). She made the following presentations: "Vision Standards for Licensing and Driving" (lecture, Canadian Law Economics Association, Toronto, Canada, 29 September

2006); "Vision Standards for Licensing and Driving" (lecture, continuing legal education course, University of Notre Dame Law School, 7 October 2006); "Vision Standards for Licensing and Driving" (lecture, faculty workshop, Boston University, Boston, Mass., 12 October 2006); "Vision Standards for Licensing and Driving" (lecture, Midwest Law and Economics Association, 21 October 2006); "Unconditional Love in Children" (lecture, Emory Conference on Agapic Love of Children, Emory University, Atlanta, Ga., 22 September 2006); "Unconditional Love in Children" (lecture, faculty workshop, University of Notre Dame Law School, 23 January 2007); and "Children and Religion" (lecture, Role of the Civil State and Religious Groups, Pepperdine Law School, Malibu, Calif., February 2007).

Alejandro E. Camacho was a respondent for "The Other Alien Debate: The Biology and Policy of Invasive Species" (lecture, Law &... Series, University of Notre Dame Law School, 8 February 2007). Camacho presented "Making Regulation Evolve: Lessons from Regulatory Maladaptive Management" (lecture, faculty workshop, University of Illinois Law School, Champaign, 29 January 2007); "Making Regulation Evolve: A Case Study in Maladaptive Management" (lecture, Environmental Research Workshop, Washington, D.C., 4 December 2006); and "Endangering the Endangered Species Act's Habitat Conservation Program" (lecture, Environmental Law Society, University of Notre Dame Law School, 10 November 2006).

Paolo G. Carozza published, with Mary Ann Glendon and Colin Picker, *European Legal Traditions: Text, Materials and Cases for the Study of Comparative Law* 3rd ed. (Eagan, Minn.: West Publishing, 2007). Carozza presented "The Need for an 'Advocate General' in the Inter-American Human Rights System" (talk, Annual International Law Association fall meeting, 2006). He also continues to work with the Inter-American Commission on Human Rights, attending regular sessions in Washington, D.C., to hold hearings and decide cases. As part of his work with the commission, Carozza made an official visit to Peru to meet with officials of the new government. He also has made two trips to Costa Rica to argue cases before the Inter-American Court of Human Rights.

Alexander L. Edgar, adjunct assistant professor, presented "11 U.S.C. §109(h) Credit Counseling, Debtor Audits, and Means Testing under 11 U.S.C. § 707(b)(2)" (lecture, Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 Seminar, Fort Wayne, Ind., 17 October 2006); and "Corruption" (lecture, Purdue University Calumet, Lafayette, Ind., 31 October 2006).

Barbara J. Fick published "The American Worker," foreword for the Symposium Issue on "The American Worker," *Notre Dame Journal of Law, Ethics & Public Policy* 20 (2006): 513. Fick also presented "Economic, Social and Cultural Rights: ILO and Inter-American Enforcement Regimes" (lecture, summer course on human rights, Katholieke Universiteit, Leuven, Belgium, 31 August 2006); and "Human Rights in a Globalizing Economy: Rights and Responsibilities" (lecture, Jubileum Conference Symposium on Fundamental Rights and Fundamental Responsibilities, Katholieke Universiteit, Leuven, Belgium, 1 September 2006). She was elected to a three-year term on the executive board of the International Society for Labor and Social Security Law, the US Branch.

Judith L. Fox presented the introduction to "Social Justice Matters" (Midwest Clinical Legal Education Conference, University of Notre Dame Law School, 14 October 2006). Fox also presented "Fair Debt Collection Practices Act" (lecture, continuing legal education course, Amazingly Interesting CLEs for Attorneys with a Heart Conference, Indiana Supreme Court, 3 November 2006). She was a representative of the University of Notre Dame in the Community Partnership, which successfully obtained a grant to develop a community-wide network for more efficient distribution of heating assistance. Fox is also the co-chair of the board to implement the program.

Nicole Stelle Garnett is currently a visiting professor of law at the University of Chicago Law School. She published "The Neglected Political Economy of Eminent Domain," *Michigan Law Review* 105 (2006): 101.

Richard W. Garnett is currently a visiting professor of law at the University of Chicago Law School, teaching courses in criminal law and Catholic social thought. He published "Civic Unity and Religious Pluralism," *Constitutional Commentary* 23 (2007) 241 reviewing Noah Feldman *Divided by God: America's Church-State Problem and What We Should Do About It* (2005); and reviewing Kevin Seamus Hasson *The Right To Be Wrong: Ending the Culture War Over Religion in America* (2005). He published, with Joshua D. Dunlap, "Taking Accommodation Seriously: Religious Freedom and the *O Centro Case*," *Cato Supreme Court Review* (2006); "Religion, Division, and the First Amendment," *Georgetown Law Review* 94 (2006): 1666; "Law, Lawyers, the Court, and Catholicism," *American Catholic Studies Newsletter, Cushwa Center for the Study of American Catholicism* 33, 2 (Fall 2006); with Kermit Roosevelt, debate, "Judicial Activism and Its Critics," *University of Pennsylvania Law Review*

155, PENNumbra 112 (2006), <http://www.pennumbra.com/debates/debate.php?did=3>; with Michael Stokes Paulsen, "What Would Lincoln Do? A Test for the Roberts Court," *The Weekly Standard* (16 October 2006); and "Don't Use First Amendment To Erase Divisions," *Los Angeles Daily Journal* (9 October 2006). Garnett presented "The Myth of Judicial Activism" (lecture, New Book Symposium, University of Pennsylvania Law School, Philadelphia, 5 December 2006); "Two There Are: Understanding Church-State Separation and Religious Freedom" (lecture, Christian Jurisprudence Project, Center for the Study of Law and Religion, Emory University School of Law, Atlanta, Ga., 3 November 2006); "May Churches Discriminate?" (lecture, The Federalist Society, Pepperdine University School of Law, Malibu, Calif., 17 October 2006); "May Churches Discriminate?" (lecture, Southwestern Law School, Los Angeles, 16 October 2006); "Religion in the Public Square: What Do Our Laws and Traditions Have To Say?" (lecture, Holy Cross Center for Religion, Ethics & Culture, College of the Holy Cross, Worcester, Mass., 12 October 2006); and "Pope Benedict XVI and the Freedom of the Church" (lecture, First Annual Scarpa Conference: From Pope John Paul II to Benedict XVI, Continuing the Re-Evangelization of Law, Politics, and Culture, Villanova University School of Law, Villanova, Pa., 15 September 2006). He was elected chair of the Law and Religion Section of the American Association of Law Schools. Garnett was a visiting scholar at the Erasmus Institute, University of Notre Dame, for the fall 2006 semester.

Jimmy Gurulé presented "Legal Responses to the Global Threat of Terrorism" (lecture, Hesburgh Lectures, Memphis, Tenn., 9 November 2006). Gurulé coauthored, with Jordan Paust, Cherif Bassiouni, Michael Scharf, Leila Sadat, and Bruce Zagaris, *International Criminal Law* 3rd ed. (Durham, N.C.: Carolina Academic Press, 2007). Also published with the edition was a new Documents Supplement. *The Human Rights Module* was published in summer 2006. He traveled to India in October 2006, visiting Mumbai, Pune, New Delhi, and Calcutta, delivering lectures on US and international legal responses to the financing of terrorism and money laundering at MIT-SOG (MIT School of Government), National Defense Academy, Institute of Defense Studies and Analysis, Central Economic Intelligence Bureau, National Institute of Bank Management, Indira School of Management Studies, Nehru Center, and ICICI Bank Seminar. Gurulé's trip was sponsored by the US Department of State.

Robert L. Jones Jr. presented "Teaching Legal Ethics in a Social Justice Context" (lecture, Midwest Clinical Legal Education Conference, University of Notre Dame Law School, 14 October 2006); "The GALILEE Program" (talk, Midwest Clinical Legal Education Conference, University

of Notre Dame Law School, 14 October 2006); and "How Relationships Matter: Issues in Joint Representation" (lecture, Continuing Legal Education Course, University of Notre Dame, 4 November 2006).

M. Cathleen Kaveny was interviewed and quoted in "The Future of the Catholic Church" in *The Congressional Quarterly* 17, 3, (January 2007).

Donald P. Kommers wrote "A View From the Classroom," *Notre Dame Magazine* 35, 4 (Winter 2006–07): 44–48.

Lloyd H. Mayer wrote the chapter "The Legal Rules for Public Policy and Civic Impact by Foundations" in *Power in Policy: A Funder's Guide to Advocacy and Civic Participation* (St. Paul, Minn.: Fieldstone Alliance, 2007).

John Copeland Nagle wrote "The Last Acts of the Lame Ducks," *The Chicago Tribune* (Chicago, 17 November 2006).

Kenneth F. Ripple has been appointed by the Chief Justice to the Judicial Resources Committee of the Judicial Conference of the United States.

Robert E. Rodes Jr. published *Law and Chastity* (Durham, N.C., Carolina Academic Press, October 2006). Rodes' profile was featured by Carol C. Bradley, "He Took to Feminism More Easily Than to Computers: Robert E. Rodes Reflects on 50 Years at ND" in *ND Works* 4, 7 (9 November 2006): 3.

Thomas L. Shaffer published "Trust in Democracy: Anabaptists, Italian Americans, and Solidarity," *Journal of Law and Religion* 21 (2006): 413–25; and "Roman Catholic Lawyers in the United States of America," *Journal of Law and Religion* 21 (2006): 305–13. Shaffer, together with student lawyers from the Notre Dame Legal Aid Clinic, made presentations and provided services on wills, trusts, powers, and health care to groups at Little Flower Catholic Church, Robinson Community Learning Center, and Forever Learning Institute, South Bend, September 2006.

J. Eric Smithburn published *Judicial Discretion: A Text* (Reno, Nev.: National Judicial College, December 2006). Smithburn also presented "Judicial Discretion in Indiana: A Bench Book for Judges" (lecture, Indiana Judicial Conference, sponsored by the Indiana Judicial Center, Century Center, South Bend, 13 September 2006); "Evidence in Juvenile and Family Court" (lectures, National College of Juvenile and Family Justice of the National Council

of Juvenile and Family Court Judges, Reno, Nev., 15–20 October 2006).

O. Carter Snead published "A Comparative Analysis of EU and US Funding Policies for Embryonic Stem Cell Research: Details, Aims, and Effects," *Quaderni Costituzionali*, trans. Stefania Ninatti (forthcoming 2007); "An Assessment of UNESCO's Universal Declaration of Bioethics and Human Rights," *National Catholic Bioethics Quarterly* (forthcoming 2007); "Preparing the Groundwork for a Responsible Debate on Stem Cell Research and Cloning," *New England Law Review* 39 (2005): 701 (reprinted *Legal and Ethical Aspects of Cloning*, ICFAI Books, 2006); and "The (Surprising) Truth about *Schiavo*: A Defeat for the Cause of Autonomy," *Constitutional Commentary* 22 (2006): 101 (reprinted in Joseph W. Koterski, S.J. ed. *Life and Learning* XVI, 2006). He presented the following: "Bioethics and the Meaning of Man" (talk, conference sponsored by the Bryan Center for Critical Thought and Practice, Bryan College, Dayton, Tenn., 16 November 2006); "Neuroimaging, Capital Sentencing, and the Complexity of Punishment" (talk, Quinnipiac University Health Law Speakers Series, Hamden, Conn., 20 September 2006); "The Science, Ethics, and Law of Stem Cell Research: A Primer for Citizens" (talk, Knights of Columbus South Bend Council 533, South Bend, 14 January 2007); "Stem Cells and Human Cloning" (lecture, University of Notre Dame Law School *Jus Vitae*, 26 October 2006); "Cloning, Stem Cell Research and Respect for Life" (lecture, Notre Dame and St. Mary's Right to Life "Respect Life" Week, 3 October 2006); and "Social Issues and Civic Engagement: Ethical and Policy Considerations" (panelist, annual meeting of the Evangelical Philosophical Association, 16 November 2006). He was the featured speaker at the Judicial Conference on Emerging Issues in Neuroscience, sponsored by Stanford Law School, the American Association for the Advancement of Science, the Federal Judiciary Center, the National Center for State Courts, and the Dana Foundations, 7–8 December 2006). Snead was a respondent for "The Biophysics of Life and Public Policy Disputes: Interfacing with the Scientific Community on Bioethical Issues" (lecture, Law &... Series, University of Notre Dame Law School, 9 November 2006). Snead was the session chair of "Modernity and the Law" (University of Notre Dame Center for Ethics and Culture Annual Conference: Modernity Yearning for the Infinite, University of Notre Dame, 30 November–2 December 2006).

STAFF NOTES

Babafemi Akinrinade, of the Center for Civil and Human Rights, won a prestigious nationwide competition for a two-year, postdoctoral position in the Human Rights Program of the University of Chicago, where he teaches, organizes workshops, and advises students on theses. Akinrinade holds a law degree from his native Nigeria, and earned his LL.M. in 2000 and his S.J.D. in 2005 from the Notre Dame Law School.

Marie Bensman has been named the director of Law School admissions. Bensman has more than 17 years of experience in admissions at the director's level, which includes 12 years in law school admissions. While at Florida State University College of Law and Stetson University College of Law, Marie directed all activities related to enrollment management, marketing, and recruitment strategies. For the past five years, Marie served as executive director of admissions at the School of Pharmacy and Health Professions at Creighton University. Marie holds a master of science degree in counselor education and a bachelor of arts degree in speech communication, both from Northern Illinois University.

Bonnie Cope has been named manager of the Irish Café. Cope previously worked at South Dining Hall and has been with the University for two years. Cope has more than 20 years of experience in the restaurant and food service industry.

Melissa Fruscione has been named the assistant director of Law School admissions. Fruscione earned her bachelor's degree from Notre Dame in 1999 before earning her law degree from the University at Buffalo Law School in 2002. She joined the admissions office at Buffalo after she graduated and served as their director of law recruitment. While with the University at Buffalo Law School, she recruited future law students, assisted in evaluating applications, and helped to develop recruitment and marketing strategies.

Erika Harriord-McLaren, assistant director of the Career Services Office, has left the University of Notre Dame to join the Magenta Foundation, an International Human Rights NGO based in Amsterdam that combats racism, fascism, and other forms of discrimination.

Carol Jambor-Smith, director of External Relations, presented "Op-Eds: Good Ways to Publicize Good Scholars" during the panel "Making TV and Newspaper Coverage Work for You," as well as moderated the panel discussion "Choosing the Right Questions: Surveying Alumni Successfully" as part of the 2007 Association of American Law School's annual meeting in Washington, D.C. During the meeting, she was also elected to serve on the executive committee for the Section on Institutional Advancement.

Liz Kovacs has joined the Law School as an administrative assistant to the Center for Civil and Human Rights. Kovacs previously worked at Indiana University, Bloomington, as administrative support to the Inner Asian and Uralic National Resource Center.

Daniel Manier, director of information technology, attended a two-week conference in July 2006 held in Atlanta, Ga., by the Frye Leadership Institute.

Andy Mason has joined the Law School as a senior staff assistant. He previously worked for McGuire Woods in Chicago, as a legal secretary.

Vicki Moore, manager of the Irish Café, retired in April 2006, after 11 years of service to the University of Notre Dame.

Lois Palwecki, senior staff assistant to faculty, retired in June 2006, after 28 years of service to the Law School.

Gail Peshel, assistant dean for Student Affairs, was elected to the Board of Governors for the Indiana State Bar Association during the annual State Bar meeting in October 2006. Peshel will represent the Third District until 2008.

Alisa Rosales has joined the Career Services Office as the assistant director of public interest. Rosales earned her J.D. from the University of Nebraska College of Law. She is currently completing her master of public service degree from the University of Arkansas Clinton School of Public Service. Rosales earned her B.A. from the University of Nebraska-Lincoln. She previously worked with the Nebraska Commission on Public Advocacy, the Arkansas Community Dispute Resolution Center, the Phillips County Delta Bridge Project, Habitat for Humanity of Pulaski County, Our House Homeless Shelter, and the Boys and Girls Club of Phillips County.

BIRTHS

Erin Brandenberger Cole '00 J.D., adjunct professor of law, and her husband, Chris '99 J.D., welcomed their second child, Felicity, on July 21, 2006.

Heather Miller Moriconi, assistant director of admissions, and her husband, Mike, welcomed their first child, Silvano Angelo Wren, on May 3, 2006.

Joe Thomas, librarian and head of Technical Services, and his wife, Tracey, adjunct professor of law, are celebrating the adoption of their daughter, Julia. Joe and Tracey traveled to China in April to bring her home.



Remembering Nel

BY RAYMOND J. MARVAR, '79 J.D.

The telephone pierced the silence of the early morning quiet, and woke me from a deep sleep. It was my neighbor Nancy Ryan calling to tell me that our mutual friend Ellen Carpenter was in trouble. “She had a massive stroke last night, and they don’t think she’ll make it through.” This devastating news struck me like I had been kicked in the throat. How could this have happened? How do I tell my wife and children? She had just been at our home for the week of Thanksgiving. Nel passed away later that Sunday morning.

Mary Ellen Carpenter—referred to as “Nel” since law school, was my family’s dearest friend. She was as close to us and loved as any relative we had. Indeed, my children referred to her as “Aunt Nel.” Kerry, Lindsey, and Abbey stayed with her in Boston during summers—John, our youngest, now won’t get his chance. She played a major role in all of our daughter’s weddings, and she stayed with us as our house guest in Cleveland for the past 20 years to celebrate the Thanksgiving holiday. All of us e-mailed her or talked to her on the telephone several times a month, every month. We’d call her and she’d call us. She had just given my wife, Diana, roundtrip tickets to fly to Boston for a long “girls” weekend away during the Christmas Holidays. Losing Nel was like cutting off one of our limbs.



Nel with the Marvar sisters (from left to right): Lindsey, Kerry, and Abbey Marvar. Their brother John is shown in the picture on the bookshelf behind Abbey.

I met Ellen Carpenter the first day of law school in August of 1976. Later, we worked together at the Department of Labor in Washington, D.C. In fact, she was instrumental in getting me an interview for that job with now-SEC Administrative Law Judge Robert Mahoney.

That story is just one of many ways she affected my life and that of my family. I have numerous vivid memories and great fun stories about Ellen. Frankly, so does everyone who knew her. All of us agree on one thing for certain: “She lived life large” and knew how to celebrate it every day. Ellen’s death has provided the opportunity for me to talk to many friends and classmates across the country about Ellen. Many have written me, and I thought it important to share some of those thoughts.

Judy Gunderson Muncy, '80 J.D., became a close friend of ours in law school and then joined us at the Department of Labor in Washington

following graduation. She writes, “It’s hard to think of Ellen solely in the past tense, and partly because, when thinking about how best to describe Ellen, the first words that popped into my head were ‘life of the party,’ a characterization that seems frivolous in light of her many professional accomplishments. The fact remains, though, that when I think of Ellen what I remember most is simply how much fun she was to be with. Looking back on the time we worked together at the Department of Labor, it strikes me that Ellen should have had one of those ‘take-a-

number’ devices outside her office door to control the flow of visitors. Invariably, when I stopped by her office, someone else was already there, usually just to chat, but often to ask Ellen’s advice on some personal or professional problem. As one who frequently availed myself of her counsel (I’m confident she saved me thousands of dollars in therapist’s fees over the years), I can attest that Ellen not only was a patient and careful listener, but also had a knack for coming up with just the right response. When one adds those qualities to her intelligence, it’s no wonder she was such a successful lawyer. But, back to the ‘life of the party’ comment: not to minimize Ellen’s contributions to the legal profession or the Law School, but what I will miss most is the laughing and shrieking (and sometimes singing and dancing) that ensued whenever we were together.”

Hon. David J. Dreyer, '80 J.D., Marion Superior Court (Indianapolis), immediate past president, Notre Dame Law Association, worked with Nel on the

association. He said, “Describing Ellen Carpenter is easy on one hand, and a challenge on the other. She was bright, friendly, faithful, dedicated, passionate, courageous, innovative, Notre Dame-crazy, a leader, fun-loving, bold ... There is simply no way to shorten the list. But there is one unique description that serves Ellen best: a Notre Dame lawyer.

“When the Law School often states its mission to ‘educate a different kind of lawyer,’ then Ellen Carpenter is its poster child. She took law as her vocation, not just a way to make a living. Ellen’s jurisprudence included access for the poor, as well as the highest level of professionalism for her clients. She never allowed justice to be affected by expedience, nor ever bargained principle. On the other hand, she was a pragmatic, common-sense, problem solver. She showed the right kind of balance between the personal and professional—that is, letting her personal faith inform her professional responsibilities. In this way, she became the kind of lawyer that practiced, as Prof. Shaffer once described, the ‘ethics of care.’”

Over the past couple of years, David and Ellen had led the Notre Dame Law Association. “I always marveled as Ellen, the Notre Dame lawyer, approached every problem by first considering the moral elements involved. She took particular care to consider how decisions would affect people, such as board members, students, alumni, or others. The merits of any decision, legal or otherwise, had to square in Ellen’s mind with a human standard. We should all aspire to practice as well, and as right.”

Chris Roach, Nel’s law partner in Boston, brings another perspective. “For 17 years, it was my privilege to be Ellen Carpenter’s law partner. When Ellen first moved to Boston in 1987 to join the United States Attorney’s Office, she

knew exactly two people here. When she left us last month, literally hundreds of people in Boston went into profound mourning.

“Ellen and I liked to refer to one another as ‘Dear Fiduciary.’ And this is the best imagery I can use to convey what Ellen was like as a business partner. True to the meaning of the word, Ellen was unfailingly loyal, generous to a fault, and scrupulously honest, in what we used to like to call an ‘Irish Catholic’ sort of way. Ellen was a master at avoiding subjects she didn’t like. She would procrastinate as long as possible in discussing business decisions. But Ellen knew she couldn’t dodge a direct question from me. So, just before the tough question came, she would spontaneously confess whatever it was I needed to know.

“Most of the joy in practicing law comes from the exchange of ideas. Ellen was an enthusiastic peer, and an equal colleague. She was book smart, street savvy, and strategic. Ellen never forgot a name, a face, or any of the associations that came with them.

“Ellen loved the law, in that old-fashioned way that our generation used to talk about willingly. She believed in our Constitution, its separation of powers, its checks and balances. She believed herself to be an officer of the court, seeking justice through fair process. Never once, no matter how burdensome the task or the people involved, did I ever see Ellen descend into cynicism. She always had the courage to do a good job right.

“But Ellen was not made in Boston. Much as she loved taking over our town, she loved two places more—Bennington, Vt., and the Notre Dame campus. A special sort of comfort and peace would come over her any time she went to South Bend.

“The Notre Dame community helped to forge Nel’s unique values, and continued to sustain her throughout her too-short life. We in Boston are very grateful to all of you for that.”

Nel had a magical gift of being able to easily connect with people on a personal level. She left you feeling as if you were her close friend. And, this gift, when combined with her intelligence and other skills—including the most infectious laugh I have ever heard, caused her to be as successful as she was.

At our graduation from law school on May 20, 1979, Kenneth Ripple, recipient of the Distinguished Professor Award that year, gave the Commencement address on stage in Washington Hall. In his remarks, he said, “Each one of you in this class has received a ‘no-nonsense’ legal education. But, at the same time, because you went to Notre Dame, you have gained, along with that professional acumen, the capacity to view your life as a totality—to lead a ‘life in the law’ but, at the same time, to laugh, and sing, and dance, and pray, and work, and live your own interior life in celebration of life.”

Mary Ellen Carpenter listened well that day to Prof. Ripple, and throughout her career quoted his remarks often. But, I think at graduation, she already knew innately one of life’s lessons hard learned—that tomorrow is promised to no one. And that, in addition to our professional careers, we need to laugh, and sing, and dance ... in celebration of life.

A very bright light has been lost, and the only way to deal with losing a special friend like this, especially this early in life, is just to be thankful for the time we had with Nel and to learn each day some of life’s lessons she tried to teach us.

ADMISSIONS NEWS

The Notre Dame Law School alumni played a significant role in recruiting prospective students this past year. Across the country, they gave generously of their time and talents. Their assistance in helping recruit the finest future Notre Dame lawyers provides an invaluable service to the Admissions Office. The personal stories our alumni shared helped prospective students gain a better understanding of the Law School, its academic programs, career opportunities, culture, and mission.

If you would like to participate in alumni volunteer activities for admissions, please contact Patricia Cavanaugh, alumni coordinator, in the Admissions Office at (574) 631-9019 or at Cavanaugh.33@nd.edu.

The Admissions Office would like to take this opportunity to thank the following volunteers for their efforts:

[NDLA Regional Directors Who Sent Welcome Letters to Admitted Candidates for the Class of 2009](#)

Elena Baca, '92 J.D.
Robert Barton, '72 J.D.
Martha Boesen, '91 J.D.
Ellen Carpenter, '79 J.D.
Thomas Cushing, '87 J.D.
David Dreyer, '80 J.D.
Robert Greene, '69 J.D.
Elizabeth Imhoff, '82 J.D.
Brendan Judge, '91 J.D.
Frank Julian, '82 J.D.
Christopher Koenigs, '81 J.D.
Ellen LaBerge, '83 J.D.
Dan McDevitt, '93 J.D., '94 LL.M.
Timothy McLean, '88 J.D.
Ann Merchlewitz, '83 J.D.
David Scheper, '85 J.D.
Joseph Shannon III, '85 J.D.
Gregory Shumaker, '87 J.D.
Zhigong Wang, '94 J.D.
Mark Wattley, '91 J.D.

[Alumni Who Hosted Admitted Candidate Luncheons in March 2006](#)

Carlos Acosta, '90 J.D.
Justin Alvarez, '02 J.D.
Todd Barker, '00 J.D.
Kevin Barton, '02 J.D.
Jacqueline Bayley, '02 J.D.
Joseph Birmingham, '01 J.D.
Stephen Boettinger, '99 J.D.
Sarah Beuscher, '94 J.D.
Christine Chabot, '97 J.D.
Michelle Chelvam, '02 J.D.
Thomas Clare, '95 J.D.
Leon DeJulius, '02 J.D.
Dennis Ehling, '93 J.D.

Marcus Ellison, '91 J.D.
Martin Foos, '95 J.D.
Margaret Foran, '79 J.D.
Teresa Giltner, '86 J.D.
Paul Jones, '90 J.D.
Lance Lawson, '96 J.D.
Kathleen Lundy, '01 J.D.
Shannan McFadden, '01 J.D.
Julia Meister, '95 J.D.
Sarah Bassler Millar, '01 J.D.
Brian Murray, '00 J.D.
Sheila O'Brien, '80 J.D.
David Petron, '01 J.D.
Mark Pomfret, '92 J.D.
Diane Rice, '83 J.D.
Hilary Baldwin Ruley, '02 J.D.
Lindsay Sestile, '02 J.D.
James Shea, '95 J.D.
Thomas Shumate, '98 J.D.
Rick Siller, '96 J.D.
Sara Thomas, '01 J.D.
Jennifer Valentine, '01 J.D.
Katie Wahl, '03 J.D.
Gerald Woods, '75 J.D.

[Alumni Who Attended Law Days and Law Forums in Fall 2006](#)

Bradley Adamsky, '03 J.D.
Kimberly Albrow, '02 J.D.
James Arrowood, '02 J.D.
Amy Averill, '03 J.D.
Kristen Bailey, '05 J.D.
Nicole Bayman, '04 J.D.
Peyton Berg, '02 J.D.
Mario Bianchi, '01 J.D.
Joseph Birmingham, '01 J.D.
Ryan Blaney, '04 J.D.
Elizabeth Boettger, '98 J.D.
Douglas Borgmann, '06 J.D.

Kathleen Bricken, '94 J.D.
JonMarc Buffa, '01 J.D.
Patrick Carty, '90 J.D.
Michelle Chelvam, '02 J.D.
Scott Clements, '96 J.D.
Robert Crea, '05 J.D.
Megan Shannon Curoe, '93 J.D.
Ryan Dahl, '03 J.D.
Eric Delaporte, '06 J.D.
Chad DeVaux, '01 J.D.
Martin Foos, '95 J.D.
Geoffrey Forgione, '01 J.D.
Richard M. Goehler, '82 J.D.
Jonathan Gonzales, '05 J.D.
Adam Greenwood, '04 J.D.
Paul Hanley, '02 J.D.
Scott Hapeman, '01 J.D.
Michael Harte, '00 J.D.
Timothy Healy, '83 J.D.
Edward Heath, '99 J.D.
Lynne Hook, '93 J.D.
Timothy Hubac, '05 J.D.
Justin Kay, '05 J.D.
Emil Kiehne, '00 J.D.
Jessica Koester, '02 J.D.
Matthew Kowalsky, '02 J.D.
Coley Lechner, '05 J.D.
Jason Linster, '04 J.D.
Pam Macer, '03 J.D.
Crystal Marietta, '01 J.D.
Michelle Marlett, '96 J.D.
Mark Martinez, '04 J.D.
Alicia Matsushima, '97 J.D.
Timothy McCurdy, '02 J.D.
Thomas Merry, '89 J.D.
Elizabeth Hartman Miceli, '04 J.D.
Sarah Bassler Millar, '01 J.D.
Scott Moran, '97 J.D.
John Palma, '05 J.D.
Anthony Patti, '90 J.D.
Eileen Riley, '80 J.D.
April Roberts, '01 J.D.
Mark Rosenberg, '00 J.D.
John Skinner, '95 J.D.
Eileen Smith, '96 J.D.
Michael-Sean Torres, '05 J.D.
Carolyn Trendera, '02 J.D.
Sarah Troupis, '06 J.D.
Jeffrey Urban, '94 J.D.
John Vogt, '88 J.D.
Thomas Warth, '90 J.D.
LeCarie Whitfield, '96 J.D.
Andrew Woltman, '06 J.D.
Ha Kung Wong, '99 J.D.

1960s

Clifford A. Roe Jr., '67 J.D., from Dinsmore & Shohl LLP in Cincinnati, was selected by his peers for inclusion in *The Best Lawyers in America*® 2007.

Vincent B. Stamp, '69 J.D., from Dinsmore & Shohl LLP in Cincinnati, was selected by his peers for inclusion in *The Best Lawyers in America*® 2007.

1970s

Robert Bobb, '72 J.D., chief executive officer of Cardinal Growth L.P. in Chicago, has been selected by the Western Michigan University Alumni Association to receive the 2006 Distinguished Alumni Award.

Joseph Schoellkopf Jr., '73 J.D., was admitted to the American College of Trial Attorneys.

Jonathan Ries, '74 J.D., of Sandberg, Phoenix von Gontard, P.C. in St. Louis, has been selected for inclusion in *The Best Lawyers in America*® 2007.

Charles W. Garbett, '75 J.D., of Luxenberg, Garbett, Kelly & George, P.C. in New Castle, Pa., has been selected as a 2006 Pennsylvania Super Lawyer.

Ronald J. Hein Jr., '72 B.A., '75 J.D., was elected managing partner of Franczek Sullivan P.C. in Chicago.

Paul R. Mattingly, '75 J.D., from Dinsmore & Shohl LLP in Cincinnati, was selected by his peers for inclusion in *The Best Lawyers in America*® 2007.

John T. Sperla, '75 J.D., has been named to the management committee for the 2007 calendar year with Mika Meyers Beckett & Jones PLC in Grand Rapids, Mich.

Robert C. Weaver Jr., '72 B.A., '75 J.D., wrote "Inside Guantánamo," *Commonweal* 6 October 2006.

Nora Barry Fischer, '76 J.D., a partner with the law firm of Pietragallo Bosick & Gordon LLP, and group leader of its litigation defense practice, has been named the recipient of the 2006 Professionalism Award by the Civil Litigation section of Allegheny County Bar Association, Pittsburgh.

Jane Woodward Miller, '78 J.D., was appointed by Governor Mitch Daniels as a St. Joseph County superior court judge in September 2006.

Patrick J. Salvi, '78 J.D., of Salvi, Schostok & Pritchard P.C. in Waukegan, Ill., was recognized in *The Best Lawyers in America*® 2007 in

personal injury law. He was also named an Illinois Super Lawyer. Salvi also gave a presentation, "Why Medical Malpractice Caps are Wrong," to the Northern Illinois University Law Review Symposium. He spoke to the Northwestern University's Kellogg Graduate School of Management on "Tort Law: Negligence and Strict Liability."

Dean A. Calland, '79 J.D., an attorney at Babst, Calland, Clements and Zomnir, P.C. in Pittsburgh, was named to *The Best Lawyers in America*® 2007.

1980s

Timothy J. Carey, '73 B.A., '80 J.D., is a litigator concentrating on complex disputes with the firm of LeBoeuf, Lamb, Greene & MacRae LLP in Chicago.

Lucille Davy, '80 J.D., was named commissioner of education in New Jersey by Governor Jon Corzine on July 11, 2006.

Kathleen Moriarty, '80 J.D., a securities attorney for the ETF, was recently featured in a *Market Watch* article, "'Spider Woman' Spins ETF Web," 21 May 2006.

John E. Selent, '80 J.D., from Dinsmore & Shohl LLP in Cincinnati, was selected by his peers for inclusion in *The Best Lawyers in America*® 2007.

Joseph Donnelly, '77 B.A., '81 J.D., of Granger, Ind., was elected to the House of Representatives.

John J. Hurley, '81 J.D., has been promoted to executive vice president at Canisius College in Buffalo, N.Y.

Ellen E. McLaughlin, '81 J.D., partner with Seyfarth Shaw LLP in Chicago, was inducted into the College of Labor and Employment Lawyers, Inc.

Thomas J. Piskorski, '81 J.D., partner with Seyfarth Shaw LLP in Chicago, was inducted into the College of Labor and Employment Lawyers, Inc.

Frederic Shadley, '81 J.D., of Ulmer & Berne LLP in Cleveland, was selected to be an Ohio Super Lawyer.

Robert B. Clemens, '82 J.D., partner at Bose McKinney & Evans LLP in Indianapolis, spoke at the Indiana State Chamber of Commerce's 2006 Indiana Legal Review. Clemens spoke on the topic "Corporate Ethics." Clemens was also promoted from associate to advocate on the American Board of Trial Advocates. He has been named one of the best lawyers in the United States by *The Best Lawyers in America*® 2007.

Pamela J. Mills, '82 J.D., has joined Fox Rothschild LLP in Pittsburgh. Her practice will focus on domestic and international franchising, vertical distribution, and other business expansion initiatives.

Gregory A. Moore, '82 J.D., has returned to his position as command historian of the Florida National Guard following a voluntary recall from retirement to active duty in the United States Army. He served for one year as a public affairs officer for Combined Joint Task Force Phoenix in Kabul, Afghanistan.

G. Donovan Conwell Jr., '83 J.D., has founded the law firm of Conwell, Sukhia & Kirkpatrick, P.A., with offices in Tampa and Tallahassee, Fla. Conwell has been selected for inclusion in *The Best Lawyers in America*® 2007 in the area of intellectual property law. He has also been appointed to the intellectual property law certification committee of the Florida Bar Association.

Michael G. Cumming, '84 J.D., an attorney with Dykema Gossett PLLC in Bloomfield Hills, Mich., was named in *The Best Lawyers in America*® 2007. Cumming is a member of the taxation and estates practice group.

Andrea Roberts, '84 J.D., of Baker and Daniels LLP in Indianapolis, has been selected as a Distinguished Fellow by the Indianapolis Bar Foundation. Roberts practices in trial and appellate matters, particularly those involving the defense of pharmaceutical and medical device manufacturers.

Thomas D. Schroeder, '84 J.D., was nominated by President Bush to be a federal district court judge for the Middle District of North Carolina in September 2006. His name was submitted to the Senate for confirmation.

Thomas D. Lupo, '82 B.A., '85 J.D., has joined the firm Seyfarth Shaw LLP in Chicago. Lupo is a partner at the firm.

Grant Courtney, '86 J.D., is with the firm Pinnacle Real Estate Law Group PLLC in Bainbridge Island, Wash.

Mark N. Hinckley, '88 J.D., is battling his second round of colon cancer. His family asks that we all keep him in our prayers.

Lauretta K. Murphy, '88 J.D., of Miller Johnson in Grand Rapids, Mich., was invited to join the American College of Trust and Estate Counsel.

1990s

Andrea L. Cummings, '90 J.D., has accepted a position as assistant general counsel at US Airways in Tempe, Ariz.

Timothy J. Maher, '90 J.D., has been elected partner with Barnes & Thornburg LLP in South Bend.

Carolyn McIntyre, '91 J.D., was honored with the 2006 Burton Award for Legal Achievement. McIntyre has also been named to the 2006

Northern California Super Lawyers®. She is managing partner of Bergeson, LLP in San Jose, Calif.

Gregory M. Dyer, '91 J.D., has been named partner with McCarter & English LLP in Newark, N.J.

Mike Maher Jr., '91 J.D., has accepted a position as the senior advisor to the general counsel at the US Department of the Treasury in Washington.

James Ferguson, '92 J.D., has been named the executive director of Legal Services of Northern Virginia in Falls Church.

Patrick J. Keating, '92 J.D., recently joined the firm of O'Hagan Spencer LLC in Chicago.

George Ritchie, '92 J.D., is a partner with Saul Ewing in Baltimore. Ritchie is specializing in complex business litigation, intellectual property litigation, and product liability defense.

Max Siegel, '86 B.A., '92 J.D., was featured in an MSNBC article, "The Gospel Music Man," 23 October 2006.

Anjali C. Das, '93 J.D., of Wilson Elser Moskowitz Edelman & Dicker LLP in Chicago, presented "Directors and Officers Liability Insurance and the Stock Options Backdating Scandal" to the Chicago Bar Association, Insurance Law Committee, in Chicago, on December 6, 2006. She also presented "Stumbling Blocks to Settlement in D&O Cases" at the PLUS D&O West Symposium, San Francisco, September 2006.

Vicki Bren Fleischer, '93 J.D., has moved from Arizona to New Jersey to serve as the assistant dean for alumni and development at Seton Hall University School of Law in South Orange.

Larry Liu, '94 J.D., is with Charlston, Revich & Chamberlin LLP in Los Angeles.

George Molinsky, '89 B.B.A., '94 J.D., Taft, Stettisonius & Hollister LLP in Cincinnati, has been named in *The Best Lawyers in America*® 2007.

Michael J. Collins, '95 J.D., has been named partner at Gibson, Dunn & Crutcher LLP in Washington, D.C.

Julia Meister, '95 J.D., of Taft, Stettisonius & Hollister LLP in Cincinnati, has been named in *The Best Lawyers in America*® 2007.

Melissa Martinez Bondy, '96 J.D., has joined Bricker & Eckler LLP in Columbus as an associate in the education group.

Andrew Feske, '96 J.D., returned from deployment in Iraq on October 24, 2006. While in Iraq he conducted combat logistics patrols and earned a Combat Action Badge during an IED attack on a convoy.

W. Scott Hardy, '96 J.D., a director at Cohen & Grigsby, P.C. in Pittsburgh, has assumed the role of president of the W. Edward Sell Chapter of the American Inn of Court.

David Kowert, '96 J.D., has been named partner at the law firm of Wagenfeld Levine in St. Louis.

Michael P. Leary, '96 J.D., has recently been appointed to a new position within the Senior National Intelligence Service. He is the deputy national intelligence officer overseeing intelligence support analyzing national security implications of foreign investments in the US.

Christopher J. Spataro, '96 J.D., was elected to partner at Baker & Daniels LLP in Elkhart, Ind.

Jonathan Lienhard, '97 J.D., is the associate general counsel of Greystone Servicing Corporation, Inc. in Warrenton, Va.

Sean Litton, '97 J.D., was awarded the St. Ives Award by the Notre Dame Law Association board of directors on September 15, 2006. The St. Ives Award recognizes a Notre Dame lawyer who has devoted substantial time and effort in the practice or support of social justice law. Litton serves as the director of operations for the International Justice Mission in Southeast Asia.

Seann W. Hallisky, '98 J.D., has joined the firm of Stoel Rives LLP in Seattle, as Of Counsel in the intellectual property and technology group.

Julie M. Seaman Lake, '98 J.D., married Adam Lake on September 10, 2005. They are living in northern Virginia. Seaman Lake is a patent attorney.

Ariel Rodriguez, '98 J.D., is a trial attorney with the US Department of Justice in Miami.

Omar Munoz, '01 M.B.A., '99 J.D., has been promoted to manager of KPMG LLP in Los Angeles. Munoz has focused on the income franchise tax area.

2000s

David D. Black, '00 J.D., has joined the firm of Weston Hurd LLP in Cleveland. Black is a partner in the firm and focusing his practice on creditors' rights, bankruptcy, and transactional work.

Phylip J. Divine, '00 J.D., has joined National City Bank in Cleveland as a tax officer in the private client group, trust tax services.

Xiaoshend Huang, '00 LL.M., wrote *Suing the USA* (Beijing, China: Oriental Press, January 2007).

Melanie Allen, '96 B.A., '01 J.D., is a commercial litigation attorney for Gunster, Yoakley & Stewart in Fort Lauderdale, Fla.

Sarah Bassler Millar, '01 J.D., and her husband, Chris, are pleased to announce the arrival of their daughter, Nadia Irene Millar, born December 4, 2006. Millar is with the firm Gardner Carton & Douglas LLP in Chicago.

Mark T. Pasko, '01 J.D., was promoted to division counsel for AIG Global Marine and Energy in New York. The Pasko family has recently moved to Chatham, N.J.

Tricia Hoffman-Simanek, '01 J.D., has been elected partner at Shuttleworth & Ingersoll, PLC in Cedar Rapids, Iowa.

David T. Walsh, '98 B.S., '01 J.D., has joined Blackwell Sanders' in Kansas City, Mo., as an associate in the litigation department.

Kevin R. Gingras, '03 J.D., is with the Criminal Division's Appellate Section at the US Department of Justice in Washington. In 2006, Gingras received the Attorney General's Award for Excellence in Furthering the Interests of the US National Security.

Esther Slater McDonald, '03 J.D., has accepted a presidential appointment to serve as counsel to the associate attorney general of the United States.

Michael C. Thelen, '03 J.D., joined the firm of Womble Carlyle Sandridge & Rice, PLLC in Raleigh, N.C., as an associate.

Laura Bauer, '04 J.D., has accepted a permanent clerkship with the Honorable L. Scott Coogler, federal district judge in the Northern District of Alabama, Birmingham.

Thomas Biolchini, '00 B.A., '06 M.B.A., '06 J.D., has joined the firm of Crowe & Dunlevy in Oklahoma City. He will focus his practice on corporate law.

Mark C. Carryl, '05 J.D., has joined Miller Canfield in Grand Rapids, Mich., as an associate in the financial institutions and transactions practice group.

Kathryn E. Anderson, '03 B.A., '06 J.D., has joined Baker & Daniels LLP in South Bend as an associate. She will practice in business litigation.

Cristal Clark Brisco, '06 J.D., has joined Barnes & Thornburg LLP in Indianapolis as an associate in the firm's labor and employment law department.

B. 'Bobby' O. Brown, '00 B.A., '06 J.D., has joined Riker Danzig Scherer Hyland & Perretti LLP in Morristown, N.J., as an associate in the real estate group.

Amy L. VanDyke Birkhold, '06 J.D., has become an associate at Mika Meyers Beckett & Jones PLC in Grand Rapids, Mich. She will practice in business law and real estate.

Jared R. Danilson, '06 J.D., has joined Baker & Daniels LLP in Indianapolis as an associate. He will practice in the insurance and financial services group.

David Guevara, '06 J.D., has joined Sommer Barnard PC in Indianapolis. Guevara will be a part of the firm's environmental and litigation practice groups.

Marci Guevara, '06 J.D., has joined Sommer Bernard PC in Indianapolis. Guevara will be a part of the firm's business law practice group.

Daniel K. Hess, '06 J.D., has begun studies at Mt. St. Mary's Seminary of the West in Cincinnati.

Stephanie Hew, '06 J.D., is a litigation attorney for Gunster, Yoakley & Stewart in West Palm Beach, Fla.

Joseph E. LaRue, '06 J.D., has joined Graydon Head & Ritchey LLP in Cincinnati. He will be a part of the firm's commercial litigation and dispute resolution department, focusing primarily on bankruptcy, creditor's rights, and commercial litigation.

Sarah Troupis, '06 J.D., is an associate attorney in civil litigation at the DeWitt Ross & Stevens Capitol Square office in Madison, Wisc.

Kasey A. Wroblewski, '06 J.D., has joined the corporate practice group at the law firm of Godfrey & Kahn, S.C. in Milwaukee.

IN MEMORIAM

Warren A. 'Bud' Deahl, '41 B.A., '45 J.D., passed away on November 6, 2006. Deahl resided in South Bend, and leaves behind a wife, Marjorie, and two sons.

John David 'Chip' Harris, '73 J.D., passed away on July 13, 2006 after a short, but fierce, battle with esophageal cancer. He was an attorney with Harris, Powers & Cunningham, PC in Phoenix. He leaves behind a wife, Kathy, and six children.

M. Ellen Carpenter, '79 J.D., passed away unexpectedly on December 10, 2006. She was president of the Notre Dame Law Association board of directors and past president of the Boston Bar Association. Carpenter was a founding member of Roach & Carpenter PC in Boston.

The Call to Public Service

BY CAROLYN P. SHORT, '77 B.A., '80 J.D.

For a long time, it was only a whisper, speaking to me between life's frenetic moments. As I drifted off to sleep, nursed a baby, or sat in a courtroom during the vacant and exhausted hours awaiting a jury's verdict, it was an impossible nagging, this midlife call to public service. I had clients, a partnership in a major law firm, four private tuitions to pay, and a mortgage that was not insignificant.

"Done that," I told myself, to quiet this yearning, this feeling of duty and social responsibility. I clerked for the Chief Judge of the Minnesota Federal District Court, Miles Lord, right out of law school; I had been a federal public defender in Minnesota; and, finally, I had been a homicide prosecutor in Philadelphia before joining Reed Smith in 1989. Nine years of public service is "enough," I said to myself; sometimes out loud. Eventually, my husband got used to me talking to myself.

I actually blame my family and Notre Dame for this state of disquietude. Both of my grandfathers were public servants at the beginning of the 20th century. Jack McCann was clerk of the Manhattan Court system, and Robert Short was a Minnesota firefighter and city alderman. Both these immigrants, with a fierce sense of "giving back," insisted that their children contribute to this new country, their home. And so they did.

My uncles on both sides were firefighters and police officers. Their children, my six brothers and sisters and many cousins, also became firefighters, police officers, lawyers, and judges.

This "immigrant mentality," particularly the "Irish immigrant mentality," led my father to believe that, in addition to working hard and giving back, educating his children at Notre Dame meant that we had "arrived": the pinnacle of success; children educated at the greatest institution of Catholic learning in America. And so, five of his children hold 10 degrees from Notre Dame. I, among those five, reaped the benefits of the grinding labors of my immigrant ancestors.

And Notre Dame continued this culture. "You are privileged to be here. Don't waste it." This was the message and life example of Father Ted, my idol and educational leader for seven years. So, my genetic fiber, woven together with the

Notre Dame culture of service and giving, created this whisper, yearning, and sense of duty.

I told the voice that I was no longer capable of public service. My church, my husband, my children, and my clients deserved and needed all of my service. I was a “high-priced” Philadelphia trial lawyer, and nothing would ever change that.

And believe me, I loved my profession. My father (though he left practice early to become a successful businessman) was a lawyer, and two brothers and two sisters are also lawyers. One brother, Brian, was a US magistrate until my father’s death in 1982, when he resigned to help my mother run the family business; and one sister, Marianne, was a Minnesota State Court of Appeals judge until she returned to the private practice of law, where she is now the first-ever woman managing partner of Dorsey & Whitney. The law, and its practice, is in my blood, and it was not unimportant to me. I wanted to stay where I was: fat and happy.

Since I was now reaping the rewards of 25 years of hard work as a lawyer, my life was going my way. My way, that is until Senator Specter surprised my husband and me by joining us and another couple, Steve and Julia Harmelin, for dinner in mid-December 2004. Senator Arlen Specter (R-PA), in the United States Senate since 1980, had just been re-elected to his fifth term, becoming Pennsylvania’s longest serving US Senator. His battle for re-election had been brutal. The primary was a bloody ordeal, and the general was no piece of cake. But that night at dinner (six or seven weeks after the election), he was animated and vigorous and filled with anticipation of his work in the 109th Congress as the newly (if controversial) elected chairman of the US Senate Judiciary Committee.

I knew Senator Specter from Philadelphia political activities. He had been Philadelphia’s district attorney long before I moved there, but I came to Philadelphia as an assistant district

attorney in 1983, so I was very interested in his prosecutorial “war stories.” We also knew many of the same people. Senator Specter delighted us with his stories about the senate that night. He spoke about his recent election as chairman of the Senate Judiciary Committee, one of the most powerful committees in the senate.

Senator Specter had been asking me to come to D.C. to work for him for several years. According to him, “the senate needs a real Philadelphia lawyer.” This descriptive, “Philadelphia lawyer,” has a meaning understood by most Philadelphia lawyers and was very flattering to me. I had tried some very high-profile jury trials that he read about, and whenever I saw him at political events, he always spoke with me about my practice with interest.

And so that night, in mid-December 2004, Senator Specter asked again for my help—this time more seriously, more persistently, more persuasively. His out-loud voice was melding with my inner whisper. He didn’t know it. Steve and Julia Harmelin did not know it. But my husband was scared. Scared, because he knew it.

“No way, impossible, out of the question.”

“I am chairman now; it’s different.”

“Absolutely not. I live in Philadelphia. I have my husband, four children, three dogs, four turtles, and many clients.”

“We are going to have a Supreme Court nomination in 2005.”



“Oh... I can’t thank you enough.” Very flattering, etc.

We said our goodbyes and Senator Specter said, “This is not the end of this.”

Joe and I discussed the “what ifs.” I could be on the front lines of “history in the making,” the United States Supreme Court! For any lawyer, particularly a trial lawyer, such a possibility was simply irresistible. But I couldn’t do it. My youngest, Grace, was five years old. Joey, my then-seven-year-old, was attached to me at the hip. Kelly, then 17, was about to start the college application process. And my oldest, Travis, then 19, was a sophomore at the University of Pennsylvania and still fully involved in our family activities.

And what about Joe? How could he handle all of that with me living in Washington? We discussed my repressed feelings of the need to re-enter the public sector. How could a lawyer pass up this opportunity? I would like to say that Joe and I fully agreed on this issue, but that would be untrue. He did not want me to go. And so, I did not call Senator Specter and presumed the issue moot.

What I came to keenly learn over the following 15 months is that Senator Specter is the most perseverant, persuasive “closer” I have ever met. He called me. Could I have lunch in Philadelphia the week between Christmas and New Year’s? “Sure.” I could always say no, I thought.

And so we had lunch and Senator Specter asked me to be general counsel to the United States Senate Judiciary Committee. He said that I would only need to spend two nights per week in D.C., because Monday and Friday were usually nonbusiness days in the Senate. I could work from the Philadelphia office or from home on Mondays and Fridays.

He also promised that he would suspend his “two-year” requirement and allow me to leave within one year. This seemed workable to me. After all, when I was in trial, I reasoned, I was away much more than that. This seemed like I would have more time at home and be able to “answer the call.” We all could handle anything for a year, including the significant loss of income.

Bottom line... I agreed... I took it. I took the giant leap from family, home, and clients into this job that I felt suddenly ill-equipped to perform. Truth be told, although I answered the whisper within, the call of my ancestors, Notre Dame, my father and mother, I felt selfish for accepting. Because I was not just choosing for myself, I was making a choice that, in effect, my children would be motherless, my husband alone, and my clients without support. I made this decision that affected all of them deeply. But they didn’t get to work on the Class Action Reform Bill, the USA PATRIOT Act, the Detainee Bill, the Data Privacy and Protection Act, the Bankruptcy Reform Bill. They didn’t get to go to Guantánamo Prison and see the military interrogation system up close and personal. They didn’t get to participate in the process that confirmed two Supreme Court Justices, one the Chief Justice. They didn’t get to sit next to Senator Specter as he delivered floor statements. They didn’t get to go to dinner with Senator Specter and constitutional scholars from Yale, Harvard, the University of Pennsylvania, and other top law schools and listen to them debate current constitutional issues to help in our preparation for the nomination hearings. They didn’t get to draft legislation concerning the President’s controversial Terrorist Surveillance Program. They didn’t get to talk to Attorney General Gonzales and the heads of the FBI, CIA, Homeland

Security, and many of the top leaders in the US. They didn’t get to go to the White House. They didn’t get to go to the State of the Union address and walk home with Dana Reeves, wife of Christopher, who happened to be walking in the same direction as me that night. And most importantly, they didn’t get to work closely with Senator Specter, who defies description (this could be the subject of another article some day). I will only say that within a week of commencing my limited engagement, Senator Specter was diagnosed with Stage IV Hodgkin’s Disease, and yet, throughout his treatment and recovery, he worked harder than anyone with whom I had previously worked. His razor-sharp mind and physical stamina were without match.

Though Joe, Travis, Kelly, Joey, and Grace did not get to do the awesome things that I did from January 2005 through March 2006, they did fulfill their ancestors’ examples of sacrifice and public service by successfully carrying on with their lives without me. As it turned out, the two nights per week turned into four, and the year turned into 14 months. The one Supreme Court Justice turned into two, but I was able to quiet the whisper by answering the call. And by answering the call, I lived up to the ideals of my family and my University. To those who taught me by example, I say thank you. To those who come after me, I say fulfill the promise of your forebears and fulfill yourself. Answer the call to public service.

Carolyn P. Short is a partner at Reed Smith in Philadelphia, where she has practiced since 1989. She lives in Flourtown, Pennsylvania, with her husband, Joseph Torsella, and their four children, Travis, Kelly, Joey, and Grace. Joe Torsella is president and CEO of the National Constitution Center in Philadelphia.



“I am the king’s
good servant—
but God’s first.”

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