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NDLS Update

News from the Notre Dame Law School

VOL. III NO. 7
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TEX DUTILE
EDITOR

NDLS ALUM NAMED ARIZONA "LAWYER OF THE YEAR"

Anthony J. Palumbo, NDLS '73, has been named "Lawyer of the Year" by the State of Arizona. Tony, a partner at Harris & Palumbo in Phoenix, volunteered to represent a forty-four-year-old indigent, hispanic mother of four. The client was informed that, without a liver transplant, she would die within six months. When, in an administratively unfair proceeding, the client was denied public benefits, Tony spent 200 to 300 professional hours challenging the constitutionality of Arizona's statutory and administrative scheme for providing these benefits. The court, because of Tony's efforts, found the law unconstitutional as applied. The client is now first on the list awaiting a liver transplant and will undergo the surgery at public expense.

In a letter to Doug Kmiec, Tony wrote: "I must tell you that this was, indeed, one of the more gratifying experiences that I have had in my twenty-

plus years as a lawyer. The honors are clearly incidental and, quite frankly, embarrassing. With all the success with which I have been blessed, I have a lot of paying back to do. This was just one opportunity to recognize that obligation."

NDLS GRAD SECURES VERDICT OF 125 MILLION DOLLARS

Stephen R. Miller, NDLS '83 and a shareholder in Kansas City's Miller Law Firm, has recovered, in favor of a small family company, a jury verdict of approximately 125 million dollars. The verdict came after a month-long trial in San Francisco. One newspaper observed that this verdict might represent the largest damages award against a surety company in the history of the United States. The verdict may well change the way in which insurers and other guarantors treat small businesses they bond. In his letter to Dean Link, Stephen credits "the education, especially the trial advocacy training, which I received at Notre Dame."

NDLS TRIAL TEAMS COMPETE

On February 5, the NDLS Trial Team, comprised of Peter McCarthy, Larry Liu, Joe Rossi and David Cloutier, placed third in the Midwest Regionals held in Chicago. Our second team, comprised of Andrea Roberts, Sunni Cummings, Richard McCaulley and Sue Toth, won its trial against De Paul, but later lost to John Marshall. We congratulate both teams for a job well done.

GERRY BRADLEY SAYS: "Oops"

Like many of us, Gerry Bradley, while his 1993 desk calendar remained relevant, jotted down 1994 appointments on a separate sheet. In early February, Gerry belatedly proceeded to enter these appointments on his 1994 desk calendar. Alas, he was chagrined to learn that he had missed a one-on-one meeting in mid-January. His discomfort upon this discovery in no way dissipated when he realized that the appointment was with University President Father Malloy.

His colleagues, helpful to the end, suggested several solutions. Perhaps the most imaginative called for Gerry to write Father Malloy a short note beginning, "Where were you? I waited all afternoon in my office" The *NDLS Update* will provide Gerry's new work address as soon as it is available.

NEWS FROM THE LIBRARY

Patti Ogden has been invited to West Publishing Company to discuss her efforts to develop a computerized hyper-texted bibliographic construction teaching module.

NEWS FROM LEGAL AID

The Immigration Division of the Legal Aid Clinic, an unqualified success during the Fall semester, finds itself again in full swing. Eight students participated during the Fall and as many participate this semester. The students, all of whom must take a course in Immigration Law, spend Tuesday and Thursday evenings at La Casa de Amistad (the Hispanic cultural center in South Bend), advising clients on their immigration options, filing immigration forms, and reviewing and collecting the necessary documentation. Students also represent clients at deportation or exclusion hearings. Over one hundred people have benefited, in one way or another, from the Division's activities.

In mid-January, the Immigration and Naturalization Service used the new Clinic offices to adjust, from "refugee" to "legal permanent resident," the status of approximately fifty individuals. According to Barbara Gasperetti, who supervises all immigration cases, "It was a mini United Nations that day, with Jews from the former Soviet Union, Iraqis who fought with the United States in the Gulf War, and Vietnamese who also were American allies during the Vietnam war. There was very little English spoken [there] that day, but [there was] a great opportunity for our students to sit in on the INS interviews and talk to the INS representatives."

Kurt Merschmann and Bill Hoyer comprised the Clinic's trial team on a protracted and difficult guardianship and adoption hearing in St. Joseph Probate Court in late January. Kurt and Bill represented a grandmother who for seven years has been the court-appointed guardian for her three

grandchildren; the natural mother of the children, who sued to dissolve the guardianship and contests adoption by the grandmother, was represented by Marian Faupel, an Ann Arbor lawyer prominent as counsel in the "Baby Jessica" case. The trial in South Bend lasted three full days. Judge Nemeth anticipates a ruling in about a month.

Third-year students Mark Yoshida and Jim Frasher have completed their first asylum hearings before asylum officers in Chicago. These hearings involve clients fleeing persecution in Serbia and China. A second asylum case for Mark, before an Immigration Judge in Chicago, involves a deportation hearing during which the client, an older woman from Serbia, will assert an asylum claim.

Kris Godfrey and Eileen Doran took two Social Security disability cases to hearing in January. In one of them, in which the Clinic's client suffers from severe medical and mental problems, the administrative law judge ruled, at the end of the hearing, in favor of the Clinic's client (an unusually prompt outcome). The Clinic has hearings pending in several other Social Security cases. Recent victories in that area of practice include an award of benefits to an AIDS patient represented by Joe Senna and Tom Shaffer.

About a dozen pending Clinic cases involve serious physical and mental abuse of children and of spouses -- with interns and supervising attorneys seeking and getting guardianships, divorces, protective orders, and other relief. And Annette Brands and Eileen Doran won the Clinic's first nuisance injunction -- against the operator of a noisy outdoor air conditioner that kept the Clinic's

client awake and damaged her roses.

NEWS FROM CAREER SERVICES

On January 26, the Career Services Office co-sponsored, with the American Corporate Counsel Association, a program on Corporate Legal Practice.

Michael Keefer, NDLS '72 and Vice President and Associate General Counsel of Lincoln National Life, and Donald Noland, Second Vice President and Senior Counsel of Lincoln National, presented an hour-long program on life as a corporate attorney. Over thirty students attended.

The Career Services Office publishes for alumni a monthly newsletter listing current openings across the country for entry-level and experienced attorneys. The *NDLS Job Link*, with over 150 subscribers already, is sent without charge to all members of the Notre Dame Law Association.

NEWS FROM THE FACULTY

Tex Dutile published "The Law of Higher Education and the Courts: 1992 in Review," in *The Journal of College and University Law*.

The Michie Company has contracted with Jimmy Gurule for the publication of his manuscript, "Complex Criminal Litigation." The text will address the more common, though difficult, legal issues that arise in the prosecution of complex, multi-defendant, multi-count criminal cases. The book will fill an important gap in the study of criminal law and analyze highly controversial legal issues that have divided the courts and criminal-law practitioners.

The Hispanic Outlook in Higher Education, on February 1, carried an article featuring Jimmy. Written by Sandra Medina, the article was entitled, "Notre Dame's Jimmy Gurule: Portrait of a Pioneer."

On December 9, Doug Kmiec published an "op-ed" piece in the *Philadelphia Enquirer* entitled, "Legal Aspects of Sexual Abuse Cases Against Priests."

On March 10, in Denver, Doug will deliver the "Keynote Address" at the Third Annual Land Use Conference of the Rocky Mountain Land Use Institute. The Lecture, entitled, "The Supreme Court's 'Taking' Cases -- Are Other Courts Listening?" will explore how lower courts are interpreting recent constitutional "taking" decisions of the United States Supreme Court and the implications for both local communities and individual property owners.

On January 27, Don Kommers traveled to Washington to participate in a three-day Workshop on Comparative Constitutional Law and Constitutionalism, sponsored by the American Political Science Association.

On February 2, Father Lewers was hospitalized with an irregular heartbeat, which ultimately required installation of a pacemaker. Father Lewers was back at work just three days after the surgery.

On January 13 and 14, in Tucson, Carol Mooney participated in the meeting of the Standing Committee on Rules of Practice and Procedure of the Judicial Conference of the United States.

On January 7, Terry Phelps presented a paper entitled, "Tolerance and the Catholic Church," at the Annual Meeting of the Association of American Law Schools, in Orlando.

Bob Rodes authored "In Defense of Liberation Theology," in *America*, February 5, 1994.

Tom Shaffer reviewed *THE WORD AND THE LAW*, by M.S. Ball, in *Christian Legal Society Quarterly*.

Tom presided at a "Breakfast with the Author" session on his and Mary Shaffer's book, *AMERICAN LAWYERS AND THEIR COMMUNITIES*, during the annual meeting of the Society of Christian Ethics in Chicago, on January 8. At that meeting, he also spoke on legal ethics, in a session on "Responsibilities of the Academy for Moral Education."

From February 12 through 20, Eric Smithburn lectured to family-court judges from the United States and abroad at the National Judicial College Program, "Current Issues in Family Law," in San Diego.

NEWS FROM THE STAFF

On January 28, Nancy Beaudoin was admitted to Elkhart General Hospital for treatment of a blood clot. She remained at the hospital until the end of the following week. Nancy convalesced at home for another week. The next week, she and her husband, Bob, traveled to the Cleveland Clinic where Bob underwent testing in preparation for a lung transplant in the near future. On Monday, February 21, Nancy returned to work.

On January 31 in Hythe, South Hampton, England, Jackie Weiler's daughter, Major Ranay Bell, gave birth to a son, Conor. Ranay is American Army Commander of an English Shipyard. Conor holds dual citizenship (British and American).

On February 21, Lois Plawecki became a grandmother for the third time. Aaron Michael Plawecki, 21-1/2 inches long, weighed 8 pounds and 7 ounces.

On February 21, Marilyn Lamirand assumed the duties of secretary to Dean Link. Marilyn had worked in the Law School's NITA office since 1987.

NEWS FROM THE ALUMNI

Kathleen K. Brickley, NDLS '82, has become a partner at Barnes & Thornburg, South Bend.

Michael L. Dever, NDLS '84, has become a shareholder in the firm of Buchanan, Ingersol, in Pittsburgh. Mike specializes in the Law of Intellectual Property.

Kathryn Kelly, NDLS '78 and an Associate Professor at Catholic University, is now working on the ninth edition of PROSSER ON TORTS.

Donald C. McLean, NDLS '81, has been made a partner at Arent, Fox, Kintner, Plotkin & Kahn, Washington, D.C.

Paul J. Peralta, NDLS '86, has been made a partner in the South Bend Office of Baker & Daniels. Paul concentrates his practice on commercial litigation and employment law. He joined Baker &

Daniels after an association with Lord, Bissell & Brook, in Chicago.

Alan L. Weldy, NDLS '86, has been made a partner at Yoder, Ainley, Ulmer & Buckingham, in Goshen. Prior to joining the firm in 1991, Alan practiced with Ice, Miller, Donadio & Ryan, in Indianapolis. Alan came to the Law School as a graduate of Goshen College.

MISCELLANY

Anita Ushacka, Visiting Scholar from the University of Latvia, visited Clay Middle School for an Honors Breakfast as a guest of her son, Alex. At the Breakfast, Alex received a Certificate placing him on the School's Honor Roll. Congratulations to Alex and his Mother -- quite an accomplishment for a young man newly arrived to this country.

Frank Beytagh, formerly of our faculty, has left the Deanship at Ohio State Law School and is currently lecturing and researching, under the Fulbright Scholar Program, in Dublin. His work involves comparative (Irish and American) constitutional law.

On February 4, Mike Kenney, NDLS '83, spoke in the Courtroom. Mike addressed his own practice in environmental law, the federal environment status, career paths in governmental agencies, and his experience with the EPA. The Environmental Law Society sponsored the event.

The January 22 issue of the *Notre Dame Basketball Program* (marking Notre Dame's contest with Manhattan) contained a full-page article entitled, "Another Notre

Dame National Championship." The piece discussed NDLS's trial-advocacy team's victory in the National Trial Competition for 1993.

Rick Duncan, a Professor at the University of Nebraska College of Law and a visitor at NDLS some years back, authored an "op-ed" piece in the *Wall Street Journal* entitled, "A Speech Code for Lawyers," which appeared on February 3.

THE "ODD ITEM" DEPARTMENT

An employee of the Boston University Center for the Advancement of Ethics and Character has accused his supervisor of stealing his master's thesis for publication. (*Perspective*, Vol. 9, No. 1, January, 1994, p.2).

To help the *Update* remain current and thorough, please use this sheet to notify us of any recent news, including your publications, lectures, speeches, travels (outside the county!), awards, honors, appointments, social events, or family news. Please send it to my office or put it in my mailbox.

Thanks.

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