

Fall 2010 Edition

# AALS PROFESSIONAL RESPONSIBILITY SECTION NEWSLETTER



This newsletter is a forum for the exchange of information and ideas. The opinions expressed here do not represent the position of the Professional Responsibility Section of the Association of American Law Schools.



## MESSAGE FROM THE CHAIR

### CALL FOR YOUR THOUGHTS: HOW WILL CHANGE IN THE LEGAL PROFESSION AFFECT OUR TEACHING, SCHOLARSHIP AND SERVICE?

By Susan Carle  
(American University Washington College of Law)

The Section has had a busy and productive year thus far. This newsletter, produced through the fabulous efforts of Margaret Tarkington (Brigham Young), includes many reports from our various active subcommittees, including the Fred Zacharias prize committee, the exam bank project, the junior faculty mentoring committee, and the section reception/luncheon committee for the upcoming AALS Annual Meeting. Additional information about all of these activities and more can be found below.

For now, a few highlights: First, the Section program, entitled “Lawyers’ Special Responsibilities as Public Citizens in a Rapidly

Changing World,” was finalized a few weeks ago when the program committee selected Robert Vischer from the University of St. Thomas Law School in Minnesota to fill our last panelist slot based on our Section’s Call for Papers. Congratulations Robert! Other speakers include Bill Simon of Columbia Law School, Scott Cummings of UCLA, Nora Freeman Engstrom of Stanford Law School, and Lt. Colonel Yvonne R. Bradley of the U.S. Air Force JAG Corps. More detailed information about the annual meeting program and each speaker’s topic can be found below.

I also wanted to alert people that, in response to the AALS’s invitation and based on a poll of the preferences of the members of our Executive Committee and program speakers, the Section is

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requesting a change in the location of our Program to avoid the labor conflict currently taking place at the Hilton San Francisco Union Square, the official hotel site for the Annual Meeting . There is a “safe hotels” list for booking alternative personal accommodations for the annual meeting as well, so that you can make plans to attend without worrying about having to confront picket lines and striking hotel workers. Here is the link to that information, as compiled by the affected union, Unite Here: <http://www.hotelworkersrising.org/HotelGuide>. I recently booked my hotel reservations using this resource and was pleased to find close-by, highly rated hotels at rates lower than those available through the AALS.

In short, I hope the hotel strike situation does not deter you from coming to the Annual Meeting, and to our Section Program! More information about the labor conflict as it affects the 2011 AALS Annual Meeting can be found at <http://www.aals.org/am2011/AM&SFLaborDisputeMemo.pdf>.

In the rest of my column space, I thought I'd highlight the work of a Section subcommittee whose efforts will hopefully have their payoff during the **2012** Annual Meeting. This subcommittee, composed of Barbara Glesner-Fines, Louise Hill, Peter Joy, Peter Margulies, Ted Schneyer and myself, submitted a proposal to the AALS Professional Development Committee for a one-day workshop on the topic of “How Law Practice and its Regulation Are Changing and What These Changes Mean for American Law Schools.” We don't yet know whether the AALS will approve our proposal; all we know thus far is that the Professional Development Committee voted to send it on to the AALS Executive Committee, which will meet in November. Any announcement as to the success of the subcommittee's efforts would therefore be premature, but the ideas underlying the

proposal are worth considering in any event, so I thought I'd discuss them here.

The proposal begins by noting that the legal profession has undergone seismic change since our Section's last professional development program in 2005. Some of this change reflects trends that have been underway for many years; some reflects the effects of the Great Recession and its enormously disorienting impact on the American market for legal services; and still other change results from the global political situation and concomitant concerns about national security and related issues. All of these changes raise important questions for virtually all of us, on matters as basic as how law will be practiced, how law schools will operate, and how professionals dedicated to legal education will teach and otherwise conceive of their missions. What competencies will law students need in a changed practice world? What new or different kinds of training will the law schools of the future need to provide? How will projected changes in the economics of the legal profession affect law students' priorities and law schools' budgets?

We proposed a two-part conference, with the first part focusing on global change in the legal profession, a subject I wrote about in my last newsletter column. The focus of the second part, which I thought I'd highlight here, is on how these changes will affect our law teaching, scholarship, and service. Among the topics we proposed to consider in this connection are: projected trends in law school admissions; the effects of the Great Recession and its aftermath on law schools' hiring, curriculum, specialization, budget decisions, and overall pedagogical goals; and law schools' potential responses to demands from employers for new types of training and practice preparation, including opportunities for collaboration between law schools and legal practice organizations in lawyer development after the law school years. We also suggested that access to justice and diversity

issues are in crucial need of new examination in the current political and economic climate. We further proposed that it would be fruitful to pursue comparative perspectives in examining current trends in legal education and post-law school lawyer training, and suggested that law schools must consider how to train students in the new technology aspects of a changed legal practice landscape. Finally, we wanted to address the organization and financing of law schools of the future from the perspective of administrators and deans.

I'm wondering what section members think about these and related issues. In terms of our professional practice lives, will the future largely hold more of the same or are we in for significant change? Comments are most welcomed, either informally or for publication in our next newsletter and/or on the Section list serv, which can be accessed via our section website, at <https://connect.aals.org/p/co/in/gid=145>.

Until then, signing off and hoping to see you in San Francisco –

Susan Carle

AALS Professional Responsibility Section Chair, 2010  
[scarle@wcl.american.edu](mailto:scarle@wcl.american.edu)

## AALS PROFESSIONAL RESPONSIBILITY SECTION ANNOUNCEMENTS

### AALS SECTION ON PROFESSIONAL RESPONSIBILITY 2011 ANNUAL MEETING PROGRAM

*Lawyers' Special Responsibilities as  
Public Citizens in a Rapidly Changing World*  
 Friday, January 7, 10:30 a.m. to 12:15 p.m.  
 Golden Gate University

### Program Description:

Recent world events have led to enormous new pressures on, and potential transformations in, conventional understandings of lawyers' professional responsibilities. The worldwide economic crisis and its causal link to financial practices in which some lawyers were complicit, coupled with lawyers' roles in a host of recent corporate scandals, have shifted attention back to lawyers' professional responsibilities to safeguard the public purposes of regulatory law. The challenges of combating terrorism while preserving treasured lawyering traditions that protect individual civil liberties against state encroachment have raised difficult new dilemmas. Persisting economic and social inequalities pose a host of questions about lawyers' special responsibilities, if any, to work for social justice.

At the same time, globalization has led to increased linkages among lawyers in sharing best practices on professional responsibility and other matters. Lawyers from different parts of the world are sharing experiences in thinking through the roles of lawyers and the regulation of lawyers in enhancing corporate social responsibility. Lawyers are likewise sharing ideas about access to justice and other social responsibility concerns. These efforts suggest new possibilities for lawyer collaboration in their roles as public citizens throughout the world.

All of these new issues confronting lawyers in a rapidly changing world raise important questions about how we should teach new generations of lawyers to assume their places in the legal profession as special citizens with potentially unique duties as guardians of justice. A diverse panel of distinguished experts will discuss these issues at the 2011 Professional Responsibility Section's Annual Meeting Program. The Section

conducted a call for papers to fill some panelist slots.

### Confirmed Speakers:

**William Simon**, Columbia Law School, “Tax Practice and the Frontiers of the Gatekeeper Role”

**Lt. Colonel Yvonne R. Bradley**, “Reflections on Professional Responsibility Issues as a JAG Lawyer at Guantanamo Bay”

**Scott Cummings**, UCLA, “The Market for Public Interest Law Services”

**Nora Freeman Engstrom**, Stanford Law School, “Legal Advertising and Access to Justice”

**Robert Vischer**, University of St. Thomas Law School (Minnesota), “Trust and the Global Law Firm: Public Values, the Corporate Legal Services Market, and the Marginalization of Trust” (Call for Papers selection)

**COME JOIN PR PROFESSORS  
FOR LUNCH  
AT GOLDEN GATE UNIVERSITY  
FOLLOWING PR SECTION PROGRAM**

The Professional Responsibility Section traditionally holds an informal gathering of Section members at the AALS Annual Meeting. This year, thanks to the efforts of Peter Margulies and the hospitality of Golden Gate University, this gathering will be held as a lunch at Golden Gate University School of Law, commencing at 12:30 p.m. on Friday, January 7, following our Section Program, which will also be held at Golden Gate University that morning from 10 am – 12:15 pm. GGU is accessible from downtown either by foot or cab (we will organize in groups to travel there).

Please mark your calendars and plan to attend both events. The cost for the lunch will be approximately \$25.00, payable by check to Golden Gate University School of Law at the door, with prior R.S.V.P. to Peter required, at [pmargulies@rwu.edu](mailto:pmargulies@rwu.edu). Come to meet new friends and catch up with old ones, and to share a bit about your scholarship, service and teaching so that we can all get to know each other a bit better.

**AALS SECTION ON LITIGATION  
2011 ANNUAL MEETING PROGRAM**

***Current Issues in Judicial Disqualification***

Friday, January 7, 4:00 pm – 5:45 pm  
AALS Annual Meeting, San Francisco

On Friday, January 7, 2011, at 4:00 pm, the AALS Section on Litigation will be sponsoring a program on *Current Issues in Judicial Disqualification*. The AALS Sections on Civil Procedure and Professional Responsibility are co-sponsoring the Program.

The legal landscape for judicial disqualification has received a few recent jolts: *Caperton v. A.T. Massey Coal Co.*, 556 U.S. \_\_\_, 129 S. Ct. 2252 (June 2009), where the United States Supreme Court ruled that due process required disqualification of a West Virginia supreme court justice whose campaign received \$3 million in campaign support; *Citizens United v. Federal Election Commission*, 558 U.S. \_\_\_, 130 S. Ct. 876 (January 2010), the Supreme Court invalidated restrictions on direct corporate expenditures concerning political issues that could include judicial electoral processes; and the ABA’s 2007 Model Code of Judicial Conduct, which recommended that states require disqualification in cases of substantial campaign contributions. With interest groups’ asserting themselves into judicial elections with zeal, and scholars’ noting the risk of judges’ unconscious bias, issues of judicial

disqualification are more prominent than ever in litigation. The Program will explore the current shape of judicial recusal, including efforts to limit the influence of money in judicial elections and the degree to which the introduction of expanded due process considerations has altered the disqualification equation.

The Program's speakers will include **Les Abramson**, University of Louisville School of Law; **Charles Geyh**, Indiana University School of Law at Bloomington; **Margaret Tarkington**, Brigham Young University Law School; and the **Honorable M. Margaret McKeown** of the United States Court of Appeals for the Ninth Circuit.

### **PROFESSIONAL RESPONSIBILITY EXAM BANK: PLEASE CONTRIBUTE**

The Section is preparing an Exam Bank similar to the one that the Civil Procedure Section has had for a number of years. This database will be a collection of old Professional Responsibility exams that Section Members can use as a resource for drafting their own exams, for formulating classroom hypotheticals, and for other purposes. The database will only be available to Section Members.

The database will only be useful, of course, if it actually has some exams in it. Please send any exams that you are willing to share to Ben Cooper at [bcooper@olemiss.edu](mailto:bcooper@olemiss.edu). Along with your exam, please (1) indicate what casebook you use, (2) send a model answer if you have one that you are willing to share, and (3) let Ben know of any limitations that you would like to place on others' use of your exams. We will inform you when the database is available for your use.

### **NOMINATIONS FOR FRED C. ZACHARIAS MEMORIAL PRIZE FOR SCHOLARSHIP IN PROFESSIONAL RESPONSIBILITY**

Submissions and nominations of articles are now being accepted for the first annual Fred C. Zacharias Memorial Prize for Scholarship in Professional Responsibility. To honor Fred's memory, the committee will select from among articles in the field of Professional Responsibility with a publication date of 2010. The prize will be awarded at the Professional Responsibility Section program at the 2011 Annual Meeting in San Francisco. Please send submissions and nominations to Professor Samuel Levine at Touro Law Center: [slevine@tourolaw.edu](mailto:slevine@tourolaw.edu)

The deadline for submissions and nominations is November 1, 2010.

### **PUBLICATION OF 2010 PR SECTION PROGRAM & FATF SYMPOSIUM**

The papers from the AALS Professional Responsibility Section's program at the 2010 AALS Annual Meeting have now been published in the 2010 *Journal of the Professional Lawyer*. The AALS program and this Symposium issue focus on the impact on lawyer regulation (especially confidentiality rules) of the Financial Action Task Force (FATF), which is a 36 member intergovernmental international organization, the FATF's 40+9 Recommendations, and the FATF's 2008 FATF Lawyer Guidance. These items provided the major impetus for the ABA's August 2010 adoption of August 2010 adoption of [revised Resolution #116](#).

The articles in the *FATF Symposium* are available on ABA Center for Professional Responsibility website:

<http://www.abanet.org/cpr/pubs/symposium.html>.

They include three articles written by legal ethics professors and two additional articles written by experts in white collar crime and international administrative law:

*Laurel S. Terry*, [An Introduction to the Financial Action Task Force and Its 2008 Lawyer Guidance](#)

*Louise L. Hill*, [The Financial Action Task Force Guidance for Legal Professionals: Missed Opportunities to Level the Playing Field](#)

*Paul D. Paton*, [Cooperation, Co-option or Coercion? The FATF Lawyer Guidance and Regulation of the Legal Profession](#)

*Ellen S. Podgor*, [Regulating Lawyers: Same Theme, New Context](#)

*James Thuo Gathii*, [The Financial Action Task Force and Global Administrative Law](#)

The Symposium also includes articles by three lawyers who represented the ABA, the CCBE (which is the European Union's bar association) and the Federation of Law Societies of Canada during the negotiations with national government and FATF representatives. These articles describe their first-hand experiences in this [soft] lawmaking experience. See

*Colin Tyre*, [Anti-Money Laundering Legislation: Implementation of the FATF Forty Recommendations in the European Union](#);

*Kevin L. Shepherd*, [The Gatekeeper Initiative and the Risk-Based Approach to Client Due Diligence: The Imperative for Voluntary Good Practices Guidance for U.S. Lawyers](#)

*Ronald J. MacDonald*, [Money Laundering Regulation—What Can be Learned from the Canadian Experience](#)

## OTHER PROFESSIONAL ANNOUNCEMENTS AND OPPORTUNITIES

### HOWARD LICHTENSTEIN DISTINGUISHED PROFESSORSHIP IN LEGAL ETHICS HOFSTRA LAW SCHOOL

HOFSTRA LAW SCHOOL seeks nominations and applications for the Howard Lichtenstein Distinguished Professorship in Legal Ethics. This professorship is designed to advance the study and teaching of lawyers' ethics and the regulation of lawyers. To fill this position, we are looking for a distinguished scholar and teacher who will organize academic conferences and other programs designed to promote Hofstra's longstanding commitment to the field of legal ethics. Applicants and nominees should have a distinguished record of academic achievement, superior teaching ability, and significant experience in the study and teaching of legal ethics, as well as prominence in the professional ethics community. We have an institutional commitment to a diverse faculty, and particularly welcome applications from women and members of minority groups.

Please send applications or nominations to Professor Joanna L. Grossman, Chair, Faculty Appointments Committee, Hofstra University School of Law, 121 Hofstra University, Hempstead, NY 11549.

**DONALD CURRAN AND VALENA SCARPELLI  
CURRAN PROFESSOR OF LEGAL ETHICS  
GONZAGA UNIVERSITY SCHOOL OF LAW**

Gonzaga University School of Law seeks applications for the newly established Donald Curran and VaLena Scarpelli Curran Professor of Legal Ethics. The purpose of this chair is to advance teaching and scholarship in the areas of ethics and professionalism. The chair holder will be expected to fulfill the normal responsibilities of a faculty member and to be a leader in the area of professional development. For example, the chair is expected to participate in seminars and projects with local, state, and national organizations, take an active interest in providing education to the bench and bar, and to publish regularly. Tenured faculty applicants with a proven publication record are preferred. The law school is strongly committed to diversifying its faculty and furthering Gonzaga's mission as a Jesuit, Catholic and humanistic institution. Application is encouraged by December 3, 2010.

To apply, send a resume and letter outlining relevant experience and teaching interests to Professor Cheryl Ann Beckett, Chair, Faculty Recruitment Committee, Gonzaga University School of Law, P.O. Box 3528, Spokane, Washington 99220-3528, or contact Professor Beckett by e-mail at:

[cbeckett@lawschool.gonzaga.edu](mailto:cbeckett@lawschool.gonzaga.edu)

**UPCOMING CONFERENCES &  
WORKSHOPS**

**A SYMPOSIUM ON THE FUTURE OF  
LEGAL EDUCATION**

Iowa City, Iowa  
February 25–26, 2011

Hosted by the Iowa Law Review and  
the University of Iowa College of Law

“The Iowa Law Review, of the University of Iowa College of Law, is proud to host a symposium titled ‘The Future of Legal Education.’ The symposium will host deans, professionals, and scholars who will discuss the virtues and vices of current trends in legal education.” Panels at the conference include “(1) The Economic Viability of the Juris Doctor Degree; (2) The Importance of Diversity in Law Schools; (3) Creating and Recreating the Ideal Law School; (4) The American Bar Association and Control of Legal Education (5) Law Schools v. Employers: Who Is Responsible for Preparing Law Students To Be Lawyers?” [Quoted from SSRN announcement.]

**2011 ST. MARY'S LAW JOURNAL  
SYMPOSIUM ON LEGAL MALPRACTICE AND  
PROFESSIONAL RESPONSIBILITY**

February 18, 2011—San Antonio, TX

St. Mary's Law Journal is hosting the Tenth Annual Symposium on Legal Malpractice and Professional Responsibility on Friday, February 18, 2011 at the Plaza Club, 100 W. Houston in San Antonio. Papers from this symposium will be published in a forthcoming issue of the St. Mary's Law Journal. The program will include a variety of topics in the areas of ethics and malpractice from a knowledgeable and respected slate of legal experts

and practitioners. Pending approval, attendees will be able to earn six CLE ethics hours on the day of the symposium.

**NATIONAL INSTITUTE FOR TEACHING  
ETHICS AND PROFESSIONALISM (NIFTEP)  
WORKSHOP**

April 29–May 1, 2011  
University of St. Thomas' Gainey Conference  
Center, Minneapolis

The Fall 2010 workshop of the National Institute for Teaching Ethics and Professionalism (NIFTEP), previously scheduled for November 12–14, 2010, has been canceled due to the closing of the Red Top Mountain Lodge—the reserved workshop venue—as well as the scheduling of two other conflicting national events the same weekend.

The next NIFTEP workshop will take place April 29–May 1, 2011 at the University of St. Thomas' Gainey Conference Center (<http://www.stthomas.edu/gainey/>), one hour south of Minneapolis, MN. The themes for the Spring 2011 workshop will be:

- 1) What can law teachers and practitioners in one country learn from what is being done in other countries to develop innovative and effective ways of teaching ethics and professionalism?
- 2) How can teaching ethics and professionalism address practicing law in an increasingly global context?

Attendance at this highly participatory event is limited to invited speakers and to those selected to be Spring 2011 NIFTEP Fellows. Fellowship applications for the Spring 2011 workshop will be available in January and will be announced on the

NIFTEP website (<http://law.gsu.edu/niftep/>). We expect make selection decisions in February.

Fellowships are typically granted either to full-time law professors who teach legal ethics or to practitioners actively involved in ethics CLE education and professionalism programs. However, any person committed to promoting ethics and professionalism may apply. To receive email notification when fellowship applications are available and announcements of future workshops, email Charlotte Alexander, NIFTEP Deputy Director, at [calexander@gsu.edu](mailto:calexander@gsu.edu) and place in the subject line: "NIFTEP Mailing List"

Previous workshop programs and webcasts are available on the NIFTEP website: <http://law.gsu.edu/niftep/>

**RECENT CONFERENCES**

**JUSTICE: WHAT'S THE RIGHT  
THING TO DO?**

October 14, 2010

Boston University School of Law

Professor Michael J. Sandel gave the annual Boston University School of Law Distinguished Lecture concerning his recent book, *Justice: What's the Right Thing To Do?*, followed by a symposium on the book. The symposium featured commentators in law, philosophy, and political science along with a response by Professor Sandel. *Boston University Law Review* will publish the lecture, commentaries, and response. [Taken from SSRN Announcement.]

**LAWYER AND LAW FIRM DISPUTES:  
PROBLEMS AND PREVENTION**

September 17, 2010

Texas Tech University School of Law

Academic and practitioner experts addressed issues surrounding law firm lawsuits and lawyer mobility, including the following topics: (1) Avoiding Litigation Related to Law Firm Break-ups and Lawyer Mobility; (2) De-equitization and Other Issues Related to Law Firm Changes; (3) Lessons From Litigators Who Represent Lawyers in Intra-Firm Disputes; and (4) Discrimination Claims Against Law Firms. [Taken from brochure.]

**INTERNATIONAL LEGAL ETHICS  
CONFERENCE IV:  
THE LEGAL PROFESSION IN  
TIMES OF TURBULENCE**

Palo Alto, California  
July 15–17, 2010

In July 2010, the Center on the Legal Profession at Stanford hosted the fourth conference on International Legal Ethics, attended by over 170 participants. As explained in the SSRN Announcement, the conference explored “a broad range of issues, including the conditions of legal practice, bar regulatory structures, law firm culture, access to justice, diversity cause lawyering, client relationships, conflicts of interest, globalization, and legal ethics education.”

There were eight sessions, most of which had concurrent panels. The speakers (over 140 of them) came from approximately 14 different countries, with a particularly strong representation from the English common law countries of Australia, Canada and the U.K.

The ILEC IV website includes abstracts of the panel sessions and some powerpoints. See: <http://blogs.law.stanford.edu/ilec4/session-materials/>

The main website from ILEC IV is found at: <http://blogs.law.stanford.edu/ilec4/>

**DEVELOPMENTS IN THE  
REGULATION OF LAWYERS**

By Roy Simon  
(Hofstra University School of Law)

The ABA, the states, Congress, and other entities keep studying, changing, and adding to the rules that regulate or guide lawyers. This column summarizes significant recent developments and previews changes that are in the works.

**NATIONAL DEVELOPMENTS**

*American Bar Association Developments*

***ABA Model Rules of Professional Conduct:***

The ABA has not amended any of the ABA Model Rules of Professional Conduct since the Spring 2010 Newsletter. (The most recent amendments were in February and August of 2009, when the House of Delegates added and then revised the screening provision in Rule 1.10(a) and related Comments.) No amendments to the Model Rules were proposed at the ABA’s Annual Meeting in August of 2010 in San Francisco. But major changes are on the way because of the ABA Ethics 20/20 Commission, which I cover next.

***ABA Commission on Ethics 20/20:*** Significant amendments to the ABA Model Rules and related ABA guidelines are likely within the next few years

based on the work of the ABA Commission on Ethics 20/20. The Commission is reviewing and proposing changes to the ABA Model Rules of Professional Conduct and the American system of lawyer regulation in light of advances in technology and the increasing globalization of law practice. On September 20, 2010, the 20/20 Commission's Working Group on the Implications of New Technologies issued two "Issues Papers": (1) "Lawyers' Use of Internet Based Client Development Tools," and (2) "Client Confidentiality and Lawyers' Use of Technology." Both papers seek comments by December 15, 2010. The 20/20 Commission's work is expected to continue until August 2012.

***ABA Model Rules for Client Trust Account Records:*** At its August 2010 Annual Meeting, the ABA approved Model Rules for Client Trust Account Records. The new Model Rules replace the old ABA Financial Recordkeeping Rule, which was adopted in 1993 and had become outdated due to changes in technology and law office management practices. The Model Rules consist of five separate rules (with explanatory comments) entitled "Recordkeeping Generally," "Trust Account Safeguards," "Availability of Funds," "Dissolution of Law Firm," and "Sale of Law Practice." The Model Rules are available online at [www.abanow.org/2010/07/am-2010-103](http://www.abanow.org/2010/07/am-2010-103).

***Uniform Bar Exam (UBE):*** At the ABA's August 2010 Annual Meeting, the ABA's Council of the Section of Legal Education and Admissions to the Bar adopted a resolution encouraging states to consider adopting the Uniform Bar Examination (UBE). The Conference of Chief Justices (which is independent of the ABA) passed a similar resolution at its July 2010 Annual Meeting. The UBE consists of the Multistate Bar Examination, six Multistate Essay Examination questions, and two Multistate Performance Test tasks. It is designed to be consistent in content and administration from

jurisdiction to jurisdiction. In April of 2010, Missouri became the first state to approve the Uniform Bar Exam, and in June North Dakota became the second. Several other states, including Arizona, Colorado, Minnesota, New Hampshire and Washington, D.C., are actively considering using the UBE. For more information on the UBE, visit the website of the National Conference of Bar Examiners at [www.ncbex.org](http://www.ncbex.org).

### **Federal Statutes, Rules, and Regulations**

The regulation of lawyers is primarily a matter of state law, but Congress and federal rule makers and policy makers also sometimes regulate lawyers. This section reports on federal developments relevant to the regulation of lawyers.

***Legislative Efforts to Overturn Stoneridge:*** In *Stoneridge Investment Partners v. Scientific-Atlanta*, 552 U.S. 148 (2008), the Supreme Court held that §10(b) of the Securities Exchange Act of 1934 does not create a right of private action against aiders and abettors of securities law violations. The decision meant that private plaintiffs could not bring class actions based on §10(b) against lawyers (or others) who allegedly aided and abetted their clients in committing securities fraud. Under *Stoneridge*, only the government may sue aiders and abettors. In 2009, Senator Arlen Specter introduced a bill known as the Liability for Aiding and Abetting Securities Violations Act of 2009 (S. 1551). The bill was intended to override *Stoneridge* by authorizing private plaintiffs to bring civil suits against anyone who "knowingly or recklessly provides substantial assistance" to a person engaged in fraud. In April of 2010, Rep. Maxine Waters introduced a House version of essentially the same bill, H.R. 5042, which was referred to the House Judiciary Committee. The bills did not make it out of committee. Senator Specter and Rep. Waters later separately attempted to attach similar language to the financial reform bill (the Dodd-Frank Wall Street Reform and Consumer Protection Act), but that effort failed. As a result, *Stoneridge*

remains good law.

***Proposed Legislation to Restrict Sealing of Court Files:*** A proposed Sunshine in Litigation Act (S. 537, H.R. 1508) would prohibit sealed settlements in civil cases and impose substantial restrictions on a court issuing protective orders under Rule 26(c). Specifically, under the legislation, a judge could issue a protective order only if the judge first found that the information to be protected by the order would not affect public health or safety. (The provision has been introduced in every Congress since 1991 but has never become law.) In July of 2010 it was referred to the House Judiciary Committee's Subcommittee on Courts and Competition Policy. The Judicial Conference of the United States (responsible for proposing amendments to the Federal Rules of Civil Procedure and other court rules) has opposed the legislation.

***Federal Rules of Civil Procedure:*** Significant amendments to Rule 26(a)(2) and Rule 26(b)(4) will take effect on December 1, 2010 unless both houses of Congress reject them. The amendments would protect draft reports by experts and various attorney-expert communications from discovery. The amended version of Rule 26(b)(4)(B) and (C), which is almost all new, will provide as follows (with emphasis added):

- (B) *Trial-Preparation Protection for Draft Reports or Disclosures.* Rules 26(b)(3)(A) and (B) protect drafts of any report or disclosure required under Rule 26(a)(2), regardless of the form in which the draft is recorded.
- (C) *Trial-Preparation Protection for Communications Between a Party's Attorney and Expert Witnesses.* Rules 26(b)(3)(A) and (B) protect communications between the party's attorney and any witness required to provide a report under Rule 26(a)(2)(B), regardless of the

form of the communications, except to the extent that the communications:

- (i) relate to compensation for the expert's study or testimony;
- (ii) identify facts or data that the party's attorney provided and that the expert considered in forming the opinions to be expressed; or
- (iii) identify assumptions that the party's attorney provided and that the expert relied upon in forming the opinions to be expressed.

The Advisory Committee Note neatly summarizes the import of the new language: "Rule 26(b)(4) is amended to provide work-product protection against discovery regarding draft expert disclosures or reports and — with three specific exceptions — communications between expert witnesses and counsel."

For official updates, new proposals, and background information regarding federal rules, visit the official website of the U.S. Courts at [www.uscourts.gov](http://www.uscourts.gov) (click on "Federal Rulemaking") or contact John Rabiej, Chief of the Rules Committee Support Office, at (202) 502-2600.

***Federal Rules of Criminal Procedure:*** The Advisory Committee on Rules of Criminal Procedure is continuing to consider proposals to codify and expand the government's obligation to disclose exculpatory and impeaching information under *Brady v. Maryland*, 373 U.S. 83 (1963)." At its fall 2010 meeting, the Advisory Committee continued deliberations on Rule 16 and considered new empirical data from the Federal Judicial Center. For more information, visit the official website of the U.S. Courts at [www.uscourts.gov](http://www.uscourts.gov).

***FTC "Red Flags Rule" Litigation and Proposed Legislation:*** In 2003, Congress enacted the Fair and Accurate Credit Transactions Act,

which requires businesses that act as “creditors” to establish a program to prevent identity theft. In 2007, to implement §§ 114 and 315 of that Act, the Federal Trade Commission (FTC) and various federal agencies that regulate financial institutions adopted a final rule — the so-called “Red Flags Rule” — requiring creditors to identify potential areas of vulnerability within a business and include policies for detecting and responding to various “red flags” concerning identity theft. Because lawyers typically are not paid for legal services until after the work is completed, the FTC considers lawyers (and various other professionals) to be “creditors” who are subject to the Rule.

In August of 2009, the ABA, supported by over forty state and metropolitan bar associations, sued to enjoin application of the Red Flags Rule to lawyers. On October 20, 2009, while the ABA litigation was pending, the House of Representatives overwhelmingly passed a bill (H.R. 3763) to exclude health care, accounting, and legal practices with twenty or fewer employees from the Red Flags Rule and to require the FTC to issue new regulations allowing any company to apply for an exemption.

Soon afterwards, Judge Reggie Walton (D.D.C.) granted the ABA’s motion for summary judgment for declaratory and injunctive relief. See *American Bar Ass’n v. Federal Trade Comm’n*, 671 F.Supp.2d 64 (D.D.C. 2009). In late February of 2010, however, the FTC appealed Judge Walton’s decision. Briefing on the appeal (No. 09-1636) was completed on September 21, 2010, and the appeal remains pending.

At the request of various members of Congress, the FTC has also twice delayed enforcement of the Rule regarding entities under its jurisdiction (including lawyers), most recently through December 31, 2010. The FTC said that the extension would give Congress more time to consider pending legislation to narrow the scope of covered entities. FTC Chairman Jon Leibowitz said:

“Congress needs to fix the unintended consequences of the legislation establishing the Red Flags Rule — and to fix this problem quickly.” More information is available at [www.ftc.gov/redflagsrule](http://www.ftc.gov/redflagsrule) and [www.abanet.org/poladv/priorities/redflagrule](http://www.abanet.org/poladv/priorities/redflagrule).

**Federal Deposit Insurance Corporation:** In 2008, the Federal Deposit Insurance Corporation (FDIC) clarified the Temporary Liquidity Guarantee Program (TLGP) to include IOLTA accounts, which thus became fully insured for an unlimited amount. After the latest extension (announced April 12, 2010), the provision will remain in effect at least through December 31, 2010, and if the FDIC determines that economic conditions warrant yet another extension, the FDIC has an option to extend the program for another year without further rulemaking. As long as the provision remains in effect, IOLTA accounts will continue to be fully guaranteed, without limit, at participating financial institutions.

## DEVELOPMENTS IN THE STATES

### Broad Trends in the States

The ABA Center for Professional Responsibility Policy Implementation Committee focuses on implementing (a) relatively recent changes to the ABA Model Rules of Professional Conduct (including Ethics 2000 and the Corporate Responsibility Task Force), (b) the policies of the Multijurisdictional Practice Commission, and (c) the Model Code of Judicial Conduct. It also keeps track of state implementation of the ABA Model Court Rule on Insurance Disclosure, the ABA Model Court Rule on Provision of Legal Services Following Determination of Major Disaster (the “Katrina Rule”), and the ABA Model Rule for Registration of In-House Counsel. The professional staff of the Policy Implementation Committee (most notably John Holtaway) compiles and updates detailed charts containing state-by-state responses to all of those ABA efforts. (Some of these charts

used to be on different web pages and have been moved.) The incredible website of the Policy Implementation Committee is at [www.abanet.org/cpr/pic/](http://www.abanet.org/cpr/pic/).

**“Ethics 2000” reviews:** Nationally, since the Ethics 2000 Commission released its final report in 2001, forty-four U.S. jurisdictions have significantly revised their rules (AK, AL, AR, AZ, CO, CT, DE, DC, FL, IA, ID, IL, IN, KS, KY, LA, MD, ME, MN, MO, MS, MT, NE, NC, ND, NH, NJ, NM, NY, NV, OH, OK, OR, PA, RI, SC, SD, TN, UT, VA, VT, WA, WI, WY); five states have circulated proposed rules that remain pending (CA, MI, TX, WV); and two states have appointed review committees that have not yet issued their reports (GA, HI).

**Insurance disclosure rules:** In August 2004, the ABA adopted a Model Court Rule on Insurance Disclosure. At that time, only a few states required lawyers to disclose their malpractice insurance coverage. Today, at least 25 states require some form of malpractice insurance disclosure. About 75% of these require disclosure on their bar registration statements (eighteen states—AZ, DE, HI, ID, IL, KS, MA, MI, MN, NE, NV, NM, NC, ND, RI, VA, WA, and WV), while 25% require disclosure directly to clients (six states—AK, CA, NH, OH, PA, and SD). At least three additional states (NY, UT, and VT) are considering some form of legal malpractice disclosure rule. In addition, five states (AR, CT, FL, KY, TX) have rejected the ABA Model Court Rule on Insurance Disclosure. For a state-by-state chart of insurance disclosure rules, see

[www.abanet.org/cpr/clientpro/malprac\\_disc\\_chart.pdf](http://www.abanet.org/cpr/clientpro/malprac_disc_chart.pdf).

**Multijurisdictional practice rules:** A remarkable forty-four U.S. jurisdictions have adopted a multijurisdictional practice rule identical to or substantially similar to ABA Model Rule 5.5. For a state-by-state chart, see

[www.abanet.org/cpr/mjp/home.html](http://www.abanet.org/cpr/mjp/home.html).

**In-House counsel registration rules:** Thirty-four states have adopted an in-house registration rule that authorizes in-house lawyers who are in good standing in at least one U.S. jurisdiction to engage in the practice of law without being fully admitted to the bar of the state where they work as in-house counsel. (The ABA adopted the ABA Model Rule for Registration of In-House Counsel in August of 2008, and a number of states had in-house registration rules before the ABA acted.) A state-by-state chart is at [www.abanet.org/cpr/mjp/home.html](http://www.abanet.org/cpr/mjp/home.html).

**Katrina Rule:** In 2007, to respond to unauthorized practice problems caused by the dislocation of lawyers and clients after Hurricane Katrina, the ABA adopted the so-called “Katrina Rule” (formally known as the Model Court Rule on Provision of Legal Services Following Determination of Major Disaster). Where adopted, the Katrina Rule authorizes out-of-state lawyers to provide pro bono services in a stricken state, and allows lawyers from the stricken state to carry on their home state practices in jurisdictions that have adopted the Katrina Rule. To date, eight U.S. jurisdictions have adopted the rule.

### Developments in Particular States

The following items describe some of the more interesting developments in particular states since the Spring 2010 Newsletter. For detailed information about developments in particular states, visit the websites given after each state listed below, or find a link to individual state resources at [www.law.cornell.edu/ethics/listing.html](http://www.law.cornell.edu/ethics/listing.html) or [www.abanet.org/cpr/links.html](http://www.abanet.org/cpr/links.html).

#### California

([www.calbar.ca.gov](http://www.calbar.ca.gov), [www.courtinfo.ca.gov](http://www.courtinfo.ca.gov), and [www.leginfo.ca.gov](http://www.leginfo.ca.gov)): California is now the only state in the country that has yet to adopt some form of the ABA Model Rules, but that will change soon. Since 2002, California’s Commission for the

Revision of the Rules of Professional Conduct has been studying ways to revise and update California's rules. The goal is to eliminate unnecessary and potentially confusing differences between California and other states and to foster the evolution of a national standard with respect to professional responsibility issues. The Commission studied the rules for several years, then released clusters of draft proposed rules for the next several years, and finally in March of 2010 circulated a full set of sixty-nine proposed new and amended rules for public comment.

At its July 2010 meeting, after reviewing the public comments, the State Bar's Board of Governors approved sixty rules, rejected two rules, and modified seven rules in light of public comments. The two proposed rules that the Board rejected were Rule 4.4 (Duties Concerning Inadvertently Transmitted Writings) and Rule 8.3 (Reporting Professional Misconduct). Regarding the seven rules that the Board modified based on public comments, the Board authorized an additional 30-day public comment period, and on September 22, 2010 the Board approved all seven rules. However, reacting to vigorous objections from prosecutors during the public comment period, the Board further modified one of the seven, Rule 3.8(d), by narrowing a prosecutor's duties to disclose exculpatory evidence to a defendant. The next step is for the Board of Governors to forward the complete package of rules to the California Supreme Court for approval. The consultant to the commission that drafted the rules was Professor Kevin E. Mohr of Western State University. For more information on developments relating to the California Rules of Professional Conduct, including a draft of the proposed rules, visit <http://ethics.calbar.ca.gov/Committees/RulesCommission.aspx>.

#### Florida

([www.flabar.org](http://www.flabar.org)) or  
([www.floridasupremecourt.org](http://www.floridasupremecourt.org)): An amended

version of Rule 4-7.6, which governs lawyer websites, was scheduled to take effect on July 1, 2010, but on June 1, 2010 – even before the amendments took effect – the Bar submitted proposed amendments to the amended rule and asked the court to delay the effective date of amended Rule 4-7.6 until 90 days after the court issues an opinion about the new proposals. The Florida Supreme Court granted the petition and is considering the newly proposed amendments, which are intended to give lawyers greater guidance about websites. Guidelines for websites have become urgent because in November of 2009 the Florida Supreme Court decided that websites are subject to the general advertising rules contained in Rule 4-7.2. That rule bans lawyers from using testimonials, referring to past results, or characterizing the quality of their legal services, all of which are commonly done on law firm websites. Therefore, many law firm websites are potentially in violation of the rules governing lawyer advertising.

Finally, challenges by a law firm and the non-profit group Public Citizen, Inc. to various provisions of Florida's rules governing lawyer advertising were revived in *Harrell v. The Florida Bar*, 608 F.3d 1241 (11<sup>th</sup> Cir. 2010), which reversed the district court's summary judgment last year in favor of the Bar. The suit turns largely on whether a law firm may include the phrase "Don't settle for less than you deserve" in the firm's advertisements.

#### Michigan

([www.michbar.org](http://www.michbar.org)): The Michigan Supreme Court continues to ponder proposed changes to the Michigan Rules of Professional Conduct. The proposed changes would amend existing Rules 1.5, 1.7, 1.8, 3.1, 3.3, 3.4, 3.5, 3.6, 5.4, 5.5, and 8.5, and would add Rules 2.4 (Lawyer Serving as Third-Party Neutral), 5.7 (Responsibilities Regarding Law-Related Services), and 6.6 (Nonprofit and Court-Annexed Limited Legal Services Programs). To view the comments that the Court has posted, go to: [www.courts.mi.gov/supreme-](http://www.courts.mi.gov/supreme-)

[court/resources/administrative/index.htm](#) (scroll to 2009-06 under “other”).

### *Missouri*

([www.mobar.org](#)): Effective July 1, 2010, Missouri became the first state in the nation to adopt the Uniform Bar Examination (UBE), which will test general law rather than state-specific law. (See the entry on the UBE above in National Developments.) The first administration of the UBE in Missouri will be the February 2011 examination. To ensure knowledge of Missouri law, applicants for admission by examination (*i.e.*, via the UBE) will be required to complete an educational course on Missouri law prescribed by the Board of Bar Examiners and approved by the Supreme Court of Missouri.

### *New Jersey*

([www.judiciary.state.nj.us/rules/apprpc.htm](#)): The New Jersey Supreme Court is still considering a recommendation by the Court’s Professional Responsibility Rules Committee (PRRC) to amend New Jersey Rule 5.5. The proposed amendment would allow out-of-state lawyers to practice occasionally in New Jersey in particular matters if they “associate” with a New Jersey lawyer who is responsible for the matter (though not necessarily actively involved). The Court has also postponed decision on a PRRC recommendation to exempt lawyers engaged in ADR from registering with the state bar and paying assessments.

Also still pending is a proposed new Advertising Guideline that would prohibit an attorney or law firm from including, on a website or other advertisement, “a quotation from a judge or court opinion (oral or written) regarding the attorney’s abilities or legal services.” The New Jersey Supreme Court’s Committee on Attorney Advertising proposed the new Guideline after reviewing an attorney’s website that included two quotations from unpublished judicial opinions praising the attorney’s legal abilities.

### *New York*

([www.nysba.org](#) and [www.courts.state.ny.us](#)): Before discussing traditional news developments in New York, I want to mark the passing of my friend and professional colleague Steven C. Krane, who died suddenly at age 53 in June of this year. Steve was a talented and determined leader who spent many years in the 1990s heading up a special review committee (universally called the “Krane Committee”) to modernize the old New York Code of Professional Responsibility (which was comprehensively amended in 1999). Starting in 2003, as Chair of the New York State Bar Association’s Committee on Standards of Attorney Conduct (COSAC), he spearheaded the long and arduous effort to bring the ABA Model Rules format and much of the ABA language to New York, which finally happened on April 1, 2009. Without Steve’s energy, determination, guidance, skill, and political savvy, New York would still be the last Code jurisdiction. Steve was also a national figure – for example, a few years ago he chaired the ABA Standing Committee on Ethics and Professional Responsibility. Steve was a good friend and valued counselor to many of us, and we will miss him.

In October of 2010, pursuant to authority granted to it by the State Bar’s House of Delegates, COSAC will be making technical corrections to many of the Comments to the New York Rules of Professional Conduct to conform them more closely to the Rules as adopted by the Courts. Some changes corrected inadvertent errors, while other changes addressed tensions between the Comments and the black letter Rules. Because the Comments are adopted only by the New York State Bar Association and not by the Courts, the changes will take effect immediately and are available on the State Bar’s website.

The Comments are likely to be further amended sometime in 2011. As part of its continuing monitoring role, COSAC (which drafted the

proposed New York Rules and Comments from 2003 through 2008) is expected to make relatively minor substantive changes to a few Comments to respond to perceived problems. COSAC is also expected to write new Comments on provisions adopted by the Courts in 2009 that were not proposed by the State Bar, and therefore were not explained in the Comments. Substantive changes and new Comments will require approval of the State Bar's House of Delegates, so new and substantively amended Comments take effect until sometime in 2011 or 2012.

In addition, several bar committees from the New York State, New York County, and New York City bar associations are working jointly on a proposed in-house registration rule, which may come up for a vote in the New York State Bar Association House of Delegates in 2011. However, an in-house registration rule would not be binding unless and until adopted by the courts.

Finally, New York's rules on lawyer advertising remain in limbo. In *Alexander v. Cahill*, 598 F.3d 79 (2d Cir. 2010) (Guido Calabresi, J.), the Second Circuit affirmed almost all of a district court decision striking down on First Amendment grounds various New York lawyer advertising provisions that took effect in 2007. (However, like the district court, the Second Circuit a rule banning targeted advertising by any means, including newspapers or broadcast media, for 30 days after a "specific incident" involving personal injury or wrongful death.) On August 9, 2010, the defendants (who are disciplinary counsel employed by the Appellate Divisions) upheld filed a petition for certiorari. Briefing on the petition is still in progress.

### ***North Dakota***

([www.ndcourts.com](http://www.ndcourts.com)): Effective September 1, 2010, North Dakota became the second state to adopt the Uniform Bar Examination (UBE). The North Dakota Supreme Court's amended version of Rule 6

(Admission by Bar Examination) is available at [www.ndcourts.com/rules/Admission/frameset.htm](http://www.ndcourts.com/rules/Admission/frameset.htm).

### ***Tennessee***

([www.tba.org](http://www.tba.org)): Effective January 1, 2011, the Tennessee Supreme Court adopted the first set of comprehensive amendments to the Rules of Professional Conduct since the rules took effect in March of 2003. The amendments are the fruit of a six-year revision process initiated by the Tennessee Bar Association, followed by extensive opportunities for public comment and an oral argument before the Supreme Court in June 2010. Especially notable is Tennessee's new version of Rule 3.8(g)-(h), which imposes post-conviction responsibilities on a prosecutor upon receiving new, credible, material evidence of a wrongful conviction. Tennessee's version is based closely on the ABA model, with minor changes. The amended Tennessee Rules, plus helpful background materials, are available at [www.tba.org/ethics/index.html](http://www.tba.org/ethics/index.html).

### ***Virginia***

([www.vsb.org](http://www.vsb.org)): Three proposed amendments to the Virginia Rules of Professional Conduct are pending before the Virginia Supreme Court.

(1) On July 18, 2010, the State Bar recommended various amendments to Rule 1.15.

(2) In 2009, the State Bar recommended a proposed new Rule 1.18 regarding prospective clients, virtually identical to ABA Model Rule 1.18.

(3) Also in 2009, the State Bar recommended a proposed amendment to Comment 5 to Rule 4.2 to address the situation in which a law enforcement officer seeks legal advice from a Commonwealth's Attorney regarding whether the officer may obtain a statement from a defendant who is in custody,

formally charged, and represented by counsel, but who has waived his Miranda rights and wants to give a statement to a law enforcement officer without his counsel present.

The Virginia Supreme Court is also apparently still considering whether to adopt the Katrina Rule (formally entitled the "ABA Model Court Rule on Provision of Legal Services Following Determination of Major Disaster" – see explanatory note above), which the Bar recommended in 2008. The Virginia proposal generally follows the ABA model on this subject, with a few modifications.

The Virginia State Bar Council has also asked the Supreme Court to support a bill pending in the Virginia Legislature to increase the penalty for certain types of UPL (*e.g.*, a disbarred lawyer profiting from continued practice) from a misdemeanor to a felony. In a related UPL development, at its October 15, 2010 meeting the Virginia State Bar Council was scheduled to consider whether the State Bar should support a pending bill to increase the penalties for misdemeanor violations of UPL (including by requiring restitution) and to extend the statute of limitations for prosecuting those violations. Regarding out-of-state lawyers, on June 2, 2010 a Virginia State Bar committee recommended amending Virginia's court rules to provide that a lawyer not admitted in Virginia is subject to the disciplinary authority of Virginia if the lawyer provides, holds himself or herself out as providing, or offers to provide legal services in Virginia.

### *Wisconsin*

([www.wiscourts.gov](http://www.wiscourts.gov)): In 2009, a former Wisconsin State Bar President and 70 other attorneys petitioned the court either to extend the diploma privilege to graduates of all ABA-approved law schools in the country or to repeal it entirely. (The

diploma privilege allows graduates of Wisconsin's two law schools – Marquette and the University of Wisconsin – to gain admission to practice in Wisconsin without taking the bar exam. According to the petition, the Wisconsin legislature adopted the diploma privilege in 1870 to encourage prospective lawyers to study law in an academic setting rather than merely apprenticing or reading law with a practicing lawyer. From 1897-1903 the diploma privilege was extended to graduates of out-of-state law schools.) On October 4, 2010, the Wisconsin Supreme Court unanimously rejected the challenge, voting 7-0 to deny the petition, thus leaving the "diploma privilege" in place. In a related development, a federal class action challenging Wisconsin's diploma privilege, see *Wiesmueller v. Kosobucki*, 571 F.3d 699 (7th Cir. 2009), was settled in March of 2010 by paying the plaintiff \$7,500 for her legal fees. The only other jurisdiction with a similar privilege is New Hampshire, which allows students who complete a special program at New Hampshire's Franklin Pierce Law Center to practice without taking the state bar exam as long as they take and pass the Multistate Bar Examination.

## ITEMS OF INTEREST

### UPDATE ON ETHICS 20/20 COMMISSION

**By Andrew Perlman**  
(Suffolk University Law School)

Significant amendments to the ABA Model Rules and related ABA guidelines are likely within the next few years. In 2009, then-ABA President Carolyn Lamm announced the creation of the Commission on Ethics 20/20. The co-chairs of the Commission are former U.S. Deputy Attorney General Jamie Gorelick of Washington, D.C., and Michael Traynor of California, President Emeritus

and Chair of the Council of the American Law Institute. Several professors are involved in the Commission's work. Professors Stephen Gillers (NYU), Ted Schneyer (Arizona), and Carole Silver (Indiana – Bloomington) are members of the Commission. Professor Andrew Perlman (Suffolk) is one of the Commission's two reporters. Professor Bob Lutz (Southwestern) is a liaison from the ABA Task Force on Int'l Trade in Legal Services, and Professor Jack Sahl (Akron) is a liaison from the Standing Committee on Professional Discipline.

The Commission is reviewing and proposing changes to the ABA Model Rules of Professional Conduct and the American system of lawyer regulation in light of advances in technology and the increasingly global nature of law practice. The Commission has created several working groups, and they are gathering information and developing recommendations concerning a number of topics, including legal process outsourcing, alternative business structures (such as whether non-lawyers should be permitted to have an equity interest in law firms, as is the case in Europe and other parts of the world), regulations of law firms as entities, cloud computing, virtual law offices, choice-of-law problems due to jurisdictional variations domestically and internationally (especially regarding conflicts of interest and their imputation), third party litigation financing, and unauthorized practice issues for foreign attorneys who practice in the United States (sometimes called "fly-in, fly-out" lawyers). The 20/20 Commission's work is expected to continue until August 2012.

## **ABA PROMULGATES FORMAL ETHICS OPINION ON LAWYER WEBSITES**

By David R. Cleveland  
(Nova Southeastern University Shepard Broad Law  
Center)

This fall, the ABA published Formal Opinion 10-457, which specifically addresses issues related to the professional use of websites by lawyers.<sup>1</sup> The Formal Opinion straightforwardly applies to lawyers' website communications all the relevant obligations contained in the Model Rules of Professional Conduct. All the usual duties regarding a lawyer's communications about legal services, legal information, and the duties to prospective clients apply to communications via websites. The Formal Opinion also touches on the possibility of a client-lawyer relationship being formed through online communications. It does not contain any unusual proscriptions or prohibitions and effectively tracks the Model Rules of Professional Conduct and supports existing state practice.

Though the early twentieth century ethical canons prohibited lawyer advertising entirely,<sup>2</sup> by the late 1970s, the ABA Model Code of Professional Responsibility expressly permitted lawyer advertising.<sup>3</sup> It gave a long list of permitted communications allowed so long as they did not contain any "false, fraudulent, misleading, deceptive, self-laudatory, or unfair statement or claim."<sup>4</sup> The Model Rules of Professional Conduct still contain a prohibition on "false or misleading

<sup>1</sup> ABA Formal Opinion 10-457 (August 5, 2010)

<sup>2</sup> In 1908, the ABA Canons of Professional Ethics plainly prohibited lawyer advertising: "It is unprofessional to solicit professional employment by circulars, advertisements, through touters or by personal communications or interviews not warranted by personal relations." ABA Canons of Professional Ethics Canon 27 (1908)

<sup>3</sup> ABA Model Code of Professional Responsibility DR 2-101(A) (1978)

<sup>4</sup> ABA Model Code of Professional Responsibility DR 2-101(A), (B) (1978)

communications” as well as strictly limiting the circumstances in which a lawyer can solicit professional employment in-person.<sup>5</sup> The Model Rules of Professional Conduct regarding lawyer advertising, adopted by the ABA in 1983, remained unchanged in the wake of the creation and widespread adoption of the Internet in the 1990s. Throughout the last two decades or so, lawyers concerned with the ethics of their online communications were left to translate the existing professional conduct rules to their online practices.<sup>6</sup> Now, however, ABA Formal Opinion 10-457 codifies that application for the benefit of practicing lawyers who use websites to communicate with the public.<sup>7</sup>

The ABA’s introductory summary of its Formal Opinion seems apt: “Websites have become a common means by which lawyers communicate with the public. Lawyers must not include misleading information on websites, must be mindful of the expectations created by the website, and must carefully manage inquiries invited through the website.” Indeed, websites have become an important method for lawyers to: 1) communicate with the public about the quality and qualifications of the lawyer; 2) provide general information about the law; and 3) invite contact by potential prospective clients. The Formal Opinion addresses each of these types of communications in relation to lawyers’ Model Rules obligations as well as discussing the effect of disclaimers.

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<sup>5</sup> Model Rules of Professional Conduct Rules 7.1, 7.2, and 7.3 (2010).

<sup>6</sup> This process was common throughout the law the interaction between established law and this new technology raised new questions of application or expansion of the law. See e.g., Frank H. Easterbrook, *Cyberspace and the Law of the Horse*, 1996 U. Chi. L. F. 207 (1996); Lawrence Lessig, *The Law of the Horse: What Cyberlaw Might Teach*, 113 Harv. L. Rev. 501 (1999).

<sup>7</sup> Of course, the ABA Opinion is based on the ABA’s Model Rules of Professional Conduct. Practicing lawyers are bound more directly by the laws, court rules, professional conduct rules, and ethics opinions in their own individual jurisdictions.

The Formal Opinion reaffirms that a lawyer may communicate biographical and contact information regarding the lawyer and, where relevant, the lawyer’s law firm via website. Information regarding clients, matters, and results obtained may also be shared. All information of this type must be communicated in conformity with Rule 7.1 (prohibiting false or misleading statements of fact or law, including comments that might lead a reasonable person to form “unjustifiable expectations”), Rule 8.4(c) (prohibiting dishonest, fraud, deceit, or misrepresentation), and R.4.1 (requiring honesty in the representation of a client). Specifically, “no website communication may be false or misleading,” nor may it omit material facts in a manner that results in a false or misleading communication.<sup>8</sup> The Formal Opinion notes that a lawyer is responsible for making reasonable efforts to ensure that website communications made by the lawyer’s staff also conforms to these rules.<sup>9</sup> Lawyers must also update their websites on a regular basis to avoid misleading the public and must obtain the consent of clients or former clients mentioned specifically in the lawyers’ website communications.

In addition to introducing and describing the lawyer, many lawyer websites give general information about the law. The Formal Opinion acknowledges the benefits of providing the public with legal information and the wide variety of forms such a presentation may take, including FAQs, Q&As, narratives, and blog posts. As in the non-Internet context, the Model Rules require only that such information be accurate, current, and non-misleading. The Formal Opinion imports into the website context the usual distinction between legal information, which is given generally without regard to the audiences specific circumstances, and legal advice which responds to information about the non-lawyer’s fact-specific situation. The

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<sup>8</sup> Formal Opinion 10-457

<sup>9</sup> Formal Opinion 10-457 (August 5, 2010) (citing MRPC 5.1 and 5.3).

Opinion recommends that legal information be accompanied by a disclaimer informing the audience that the lawyer's communication is not legal advice and should not be viewed as a substitute for personal legal advice.

Responding directly to inquiries of a website visitor raises an issue of duties to a prospective client or even the creation of a client-lawyer relationship. Hypothetical questions and lawyer-drafted FAQs are often used to communicate legal information without running the risk of the lawyer owing duties to the website visitor as a prospective client (under R.1.18). However, lawyers who do communicate through the Internet with website visitors should be careful to structure such communications to create or avoid the prospective client duties they desire. All that is required is a bilateral or reciprocal communication between the lawyer and the prospective client. This may be simultaneous (as with a telephone call or chatroom) or asynchronous (as with a letter or email).

Regarding websites specifically, a lawyer whose website invites or requests submission of information by those seeking legal advice has likely entered into a discussion that creates a prospective client relationship when the website visitor submits such information. But a lawyer whose website does not request or invite the submission information does not enter that relationship until the lawyer responds. Regardless, once a prospective client relationship arises, a lawyer should take care to limit their future disqualification by following the process outlined in R.1.18.

Finally, the Formal Opinion acknowledges that a warning, disclaimer, or cautionary statement may be sufficient to limit a lawyer's obligations to website visitors. Lawyers will typically want to specifically disclaim that: "(1) a client-lawyer relationship has been created; (2) the visitor's information will be kept confidential; (3) legal advice has been given; (4) the lawyer will be

prevented from representing an adverse party."<sup>10</sup> Of course, such disclaimers are effective only if they are reasonably understandable, properly placed, not misleading, and not ignored or undercut by the lawyer acting or communicating contrary to the warning itself.

The Formal Opinion clearly applies to lawyer websites the existing Model Rules of Professional Conduct regarding truthfulness, advertising, and obligations to prospective clients. It provides a good, clear application of the Model Rules to the website context, though it does not address other forms of lawyer communications via the Internet, such as conversations on chatrooms, web forums, comment sections of blogs, and the like. It is certainly worth a careful read by any lawyer who maintains a website.

## MEMBER ANNOUNCEMENTS & PUBLICATIONS

### JOIN (FOR FREE) THE INTERNATIONAL ASSOCIATION OF LEGAL ETHICS

In July, 2010, the Center on the Legal Profession at Stanford hosted the fourth conference on International Legal Ethics, attended by over 170 participants. In order to formalize the event and to create a permanent forum for global interchange, we have launched an International Association of Legal Ethics. Please visit the website for information on joining the association (membership is free), forthcoming programs (a conference is planned for Banf, Canada, in July 2012), and links to papers and other materials. Feel free to contact Deborah L. Rhode (rhode@stanford.edu) with any questions.

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<sup>10</sup> Formal Opinion 10-457

**MERCER UNIVERSITY SCHOOL OF LAW TO HOST  
FIRST LEGAL ETHICS AND PROFESSIONALISM  
MOOT COURT COMPETITION  
NOVEMBER 12–13, 2010**

Mercer University School of Law is proud to host the first—in the nation—moot court competition in Legal Ethics and Professionalism. This competition builds upon Mercer Law's national leadership in legal ethics and professionalism. According to Mercer's website, the following teams have committed to compete:

- Stetson University College of Law - Gulfport, FL
- Pacific McGeorge School of Law - Sacramento, CA
- Georgia State University College of Law - Atlanta, GA
- St. John's Law School - Queens, NY
- Liberty University School of Law - Lynchburg, VA
- Florida Coastal School of Law - Jacksonville, FL
- The University of Mississippi (Ole Miss) School of Law - Oxford, MS
- Washburn University School of Law - Topeka, KS
- University of Dayton School of Law - Dayton, OH
- William Mitchell College of Law - Saint Paul, MN

**MILLER-BECKER CENTER'S SECOND  
DISTINGUISHED LECTURE IN PROFESSIONAL  
RESPONSIBILITY**

On October 28, 2010, **Ronald D. Rotunda**, the Day & Dee Henley Chair and Distinguished Professor of Jurisprudence at Chapman University School of Law, will present the Miller-Becker Center's Second Distinguished Lecture in Professional Responsibility at Akron University School of Law. The title of his presentation is: *Lawyers: Why We Are Different and Why We Are the Same*. The paper will be published in the AKRON UNIVERSITY LAW REVIEW.

**ETHICS DOCUMENTARY REGARDING  
*GENTILE V. STATE BAR OF NEVADA***

Duke Law has a program called "Voices of American Law," which produces documentaries on leading Supreme Court cases. It has recently completed a documentary on *Gentile v. State Bar of Nevada*. It has actual excerpts from Dom Gentile's press conference as well as interviews with Mr. Gentile explaining his actions as well as with the reporters who covered the underlying case. The documentary was prepared for use in law schools. Information about the documentary is available at <http://www.law.duke.edu/voices/gentile> or directly from Tom Metzloff (Duke Law School) at [metzloff@law.duke.edu](mailto:metzloff@law.duke.edu)

**AWARD-WINNING "LEGAL HEROES"  
DOCUMENTARY AVAILABLE FOR CLASSROOM USE**

A public television documentary produced by **Larry Dubin** (University of Detroit Mercy School of Law) was selected as a winner of The Wade McCree Advancement of Justice Award a number of years ago by the State Bar of Michigan. The program is entitled, "Legal Heroes." The program includes profiles of Fred Gray (noted civil rights lawyer) and Amelia Lewis who represented Gault in the landmark juvenile justice case. Larry Dubin would be happy to send a copy of the program at no cost to any PR professor interested in using this program. Contact him at: [dubinla@udmercy.edu](mailto:dubinla@udmercy.edu)

**APPOINTMENTS**

**Richard A. Zitrin** has accepted an appointment as a Lecturer in Law at University of California, Hastings College of Law. Zitrin has previously been working as an adjunct professor and practitioner, and he was the Director of the Center for Applied Legal Ethics at the University of San

Francisco. The USF Center has just been revitalized, with **Josh Davis** as the current Director.

**Paul D. Paton** was reappointed Chair of the Canadian Bar Association's National Ethics and Professional Responsibility Committee for 2010–2011.

### OTHER PUBLICATION & PRESENTATION ANNOUNCEMENTS

(As announced to the Editor)

**Richard L. Abel** is publishing two books with Oxford University Press this Fall. In his own words, "I wrote the books in an effort to make the dilemmas that lawyers confront more immediate to students, to make them say: 'That could have been me.' I chose New York and California because they make disciplinary records public when significant penalties are imposed, and those records offer a rich, detailed picture of both what the lawyers did and their own explanations for their behavior (in the penalty phase). Both books conclude with proposals for reform."

- **LAWYERS IN THE DOCK** (2010) uses six cases of disciplined New York lawyers to understand what they did wrong, why they did it, and what the disciplinary system (and other social control mechanisms) can do about such misconduct. I introduce the book by framing the problem as one of trust betrayed: that of clients, opposing counsel, the legal system, and society. OUP will publish it in paperback this fall.
- **LAWYERS ON TRIAL** uses six cases of disciplined California lawyers to continue that inquiry into additional forms of misconduct. I introduce that book with a history of lawyer discipline in California, showing the political constraints within which it operates. OUP will publish it in November.

**Lester Brickman**, Cardozo Law School, is publishing a book on contingency fees which is due out in January 2011, **LAWYER BARONS: WHAT THEIR CONTINGENCY FEES REALLY COST AMERICA** (Cambridge Univ. Press). The book is a broad and deep inquiry into how contingency fees distort the civil justice system, influence the political system and endanger democratic government. While the public senses that lawyers manipulate the civil justice system to serve their own ends, he contends that few are aware of the high costs that come with contingency fees. In this book, which distills 20 years of his research, he sets out to change that, providing a window into the seamy underworld of contingency fees that the bar and the courts not only tolerate but even protect and nurture. Contrary to a board academic consensus, Brickman argues that the financial incentives for lawyers to litigate are so inordinately high that they perversely impact the civil justice system and impose other unconscionable costs. It thus presents the intellectual architecture that underpins all tort reform efforts.

**Linda Galler & Michael B. Lang** published a new textbook in March, entitled **REGULATION OF TAX PRACTICE** (Lexis-Nexis). The authors use the book to teach J.D. and LL.M Seminars or Courses on Ethics in Tax Practice. A Teacher's Manual available.

**Michael B. Lang & William A. Drennan** **TAX PLANNING PATENTS, BNA TAX MANAGEMENT PORTFOLIO NO. 618**, is in publication and includes extensive discussion of ethics issues.

**Thomas D. Morgan, Ronald D. Rotunda, & John S. Dzienkowski** are publishing the 11th edition of **PROFESSIONAL RESPONSIBILITY: PROBLEMS & MATERIALS** (Foundation Press) this Spring.

**Richard A. Zitrin & Carol M. Langford's** book, *THE MORAL COMPASS OF THE AMERICAN LAWYER*, was published last year in Taiwan, is in the final stages of Japanese translation, and has just gone to contract in Beijing for a China translation.

**Richard A. Zitrin** also announces that **Liz Ryan Cole**, a long-time clinical professor at Vermont Law School, who has used our text for 15 years, has become a new co-author for the 4th edition of *LEGAL ETHICS IN THE PRACTICE OF LAW*. *Any ideas from our colleagues out there about how we may improve the text would be gratefully received.*

The Akron University Law Schools' **Miller-Becker Center for Professional Responsibility** announces two recent events:

- On April 6, 2010, **Adam Liptak**, the New York Times correspondent covering the U. S. Supreme Court, presented the Inaugural Journalism and the Law Lecture. The title of his presentation was: "Covering the Roberts Court in the Obama Era: A Reporter's Reflections."
- On September 27, a delegation came to the United States under the auspices of the U. S. State Department Bureau of Educational and Cultural Affairs in September. They met at The Joseph G. Miller and William C. Becker Center for Professional Responsibility at Akron Law, as part of their visit is to examine and explore the principles of ethics and transparency in American government and issues of corporate responsibility in this country.

## RECENT SCHOLARSHIP

By **Renee Newman Knake\***  
(Michigan State University College of Law)

**Anand, Rakesh K.** *Advancing the Cultural Study of the Lawyer: Developing Three Philosophical Claims and Introducing a New Comparative Normative Inquiry*, 3 WASH. U. JUR. REV. \_ (2010)

**Andrews, Carol Rice.** *The Lawyer's Oath: Both Ancient and Modern*, 22 GEO. J. LEGAL ETHICS 3 (2009).

**Barron, Laurie, Suzanne Harrington-Steppen, Elizabeth Tobin Tyler, and Eliza Vorenberg.** *Don't Do It Alone: A Community-Based, Collaborative Approach to Pro Bono*, 23 GEO. J. LEGAL ETHICS 323 (2010).

**Basile, Mary Elizabeth.** *Loyalty Testing for Attorneys: When is it Necessary and Who Should Decide?* 30 CARDOZO L. REV. 1843 (2009).

**Beardslee, Michele DeStefano.** *Advocacy in the Court of Public Opinion Part II: Broadening the Role of Corporate Attorneys*, 22 GEO. J. LEGAL ETHICS 1259 (2009).

**Beardslee, Michele DeStefano.** *The Corporate Attorney-Client Privilege: Third Rate Doctrine for Third Party Consultants*, 62 SMU L. REV. 727 (2009).

**Berman, Jonathan.** *You May Know the Law But I Own the Judge: Why Congress Can and Should*

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\* Forthcoming articles announced to the Editor for inclusion in the newsletter have been added to this column.

*Get Involved in State Judicial Election Reform*, 34 J. LEGAL PROF. 145 (2009).

**Billings Jr., Roger D.** *Lincoln's Legal Ethic*, 36 N. KY. L. REV. 251 (2009).

**Blomquist, Robert F.** *The Pragmatically Virtuous Lawyer?* 15 WIDENER L. REV. 93 (2009).

**Brayley, Douglas E. and Eric S. Nguyen.** *Good Business: A Market-Based Argument for Law Firm Diversity*, 34 J. LEGAL PROF. 1 (2009).

**Bricker, Cary.** *Revisiting the Crime-Fraud Exception to the Attorney-Client Privilege: A Proposal to Remedy the Disparity in Protections for Civil and Criminal Privilege Holders*, 82 TEMP. L. REV. 149 (2009).

**Brownstein, Bettina E.** *Private Practice and Cause Lawyering: A Practical and Ethical Guide*, 31 U. ARK. LITTLE ROCK L. REV. 601 (2009).

**Buhai, Sande.** *Lawyers as Fiduciaries*, 53 ST. LOUIS U. L.J. 553 (2009).

**Burke, Alafair S.** *Revisiting Prosecutorial Disclosure*, 84 IND. L.J. 481 (2009).

**Cohen, Michael M.** *Ethics in the Multijurisdictional Practice of Admiralty Lawyers*, 32 FORDHAM INT'L L.J. 1135 (2009).

**Davis, E. Anthony.** *Regulation of the Legal Profession in the United States and Future of Global Law Practice*, 19 NO. 2 PROF. LAW. 1 (2009).

**Day, Terri R.** *Buying Justice: Caperton v. A.T. Massey: Campaign Dollars, Mandatory Recusal and Due Process*, 28 MISS. C. L. REV. 359 (2009).

**Destro, Robert A.** *Learning Neuroscience the Hard way: The Terri Schiavo Case and the Ethics of Effective Representation*, 78 MISS. L.J. 833 (2009).

**Dreyer, David J.** *Culture, Structure, and Pro Bono Practice*, 34 J. LEGAL PROF. 185 (2009).

**Evans, Maurice and Eric B. Gallo.** *Slip-ups and Safety Nets: The Procedural and Ethical Implications of Inadvertent Disclosure of Privileged or Protected Documents Under Ohio Law*, 35 OHIO N.U. L. REV. 1007 (2009).

**Fitzgerald, Patrick J.** *Thoughts on the Ethical Culture of a Prosecutor's Office*, 84 WASH. L. REV. 11 (2009).

**Flowers, Roberta K.** *The Role of the Defense Attorney: Not Just an Advocate*, 7 OHIO ST. J. CRIM. L. 647 (2009).

**Fortin, Kristin L.** *Reviving the Lawyer's Role as Servant Leader: The Professional Paradigm and a Lawyer's Ethics Obligation to Inform Clients About Alternative Dispute Resolution*, 22 GEO. J. LEGAL ETHICS 589 (2009).

**Freedman, Monroe H.** *Whatever Happened to the Search for Truth?* 60 MERCER L. REV. 851 (2009).

**Gaetke, Eugene R.** *Lessons in Legal Ethics From Reading About the Life of Lincoln*, 97 KY. L.J. 583 (2009).

**Gershowitz, Adam M.** *Prosecutorial Shaming: Name Attorneys to Reduce Prosecutorial Misconduct*, 42 U.C. DAVIS L. REV. 1059 (2009).

**Goldman, Stephen M. and Douglas A.** *Principle and the Fundamentals of Ethical Preparation of Deposition Witnesses*, 59 CATH. U. L. REV. 1 (2009).

**Goldschmidt, Jona.** *Judicial Assistance to Self-Represented Litigants: Lessons From the Canadian Experience*, 17 MICH. ST. J. INT'L L. 601 (2009).

**Grech, Andrew and Kristen Morrison.** *Slater & Gordon: The Listing Experience*, 22 GEO. J. LEGAL ETHICS 535 (2009).

**Green, Bruce A.** *Regulating Federal Prosecutors: Let There Be Light*, 118 YALE L.J. POCKET PART 156 (2009).

**Green, Bruce A. and Russell G. Pearce.** *Public Service Must Begin at Home: The Lawyer as Civics Teacher in Everyday Practice*, 50 WM. & MARY L. REV. 1207 (2009).

**Green, Bruce A. and Rebecca Roiphe.** *Regulating Discourtesy on the Bench: A Study in the Evolution of Judicial Independence*, N.Y.U. ANN. SURV. AM. L. 497 (2009).

**Green, Bruce A. and Ellen Yaroshefsky.** *Prosecutorial Discretion and Post-Conviction Evidence of Judicial Independence*, 6 OHIO ST. J. OF CRIM. L. 467 (2009).

**Green, Bruce A. and Fred C. Zacharias.** *Rationalizing Judicial Regulation of Lawyers*, 70 OHIO ST. L. J. 73 (2009).

**Greenstein, Richard K.** *Against Professionalism*, 22 GEO. J. LEGAL ETHICS 327 (2009).

**Henning, Peter J.** *The Pitfalls of Dealing with Witnesses in Public Corruption Prosecutions*, 23 GEO. J. LEGAL ETHICS 351 (2010).

**Hollenbeck, Charles J.** *Advancing Professionalism on a Shoestring Advancing Budget*, 19 NO. 3 PROF. LAW. 22 (2009).

**Holleran, Kerry and John J. Mueller.** *Advice Attorneys May Not Think to Give: The Peripheral Duty in Kentucky and Beyond*, 36 N. KY. L. REV. 349 (2009).

**Howard, Maureen A.** *Beyond a Reasonable Doubt: One Size Does Not Fit All When it Comes to Courtroom Attire For Women*, 45 GONZ. L. REV. 209 (2009-10).

**Howard, Maureen A.** *Taking the High Road: Why Prosecutors Should Voluntarily Waive Peremptory Challenges*, 23 GEO. J. LEGAL ETHICS 369 (2010).

**Hunt Federle, Katherine.** *Lawyering in Juvenile Court: Lessons From a Civil Gideon Experiment*, 37 FORDHAM URB. L.J. 93 (2010).

**Khoury, Andrea.** *Why a Lawyer? – The Importance of Client-Directed Legal Representation For Youth*, 48 FAM. CT. REV. 277 (2010).

**King, Elizabeth W.** *The Ethics of Mining for Metadata Outside of Formal Discovery*, 113 PENN ST. L. REV. 801 (2009).

**Knake, Renee Newman.** *The Supreme Court's Increased Attention to the Law of Lawyering: Mere Coincidence or Something More?* 59 AM. U. L. REV. 1499 (2010).

**Knake, Renee Newman.** *Contemplating Free Speech and Congressional Efforts to Constrain Legal Advice*, 37 RUTGERS LAW REC. 12 (2010).

**Krishnan, Jayanth K.** *Globetrotting Law Firms*, 23 GEO. J. LEGAL ETHICS 57 (2010).

**Kruse, Katherine R.** *Beyond Cardboard Clients in Legal Ethics*, 23 GEO. J. LEGAL ETHICS 103 (2010).

**Kukes, Nikki.** *The State of Rule 3.8: Prosecutorial Ethics Reform Since Ethics 2000*, 22 GEO. J. LEGAL ETHICS 427 (2009).

**Lang, Michael B.** *Patented Tax Strategies, Ethics and Circular 230: Protecting Yourself and You Client*, 50 BNA TAX MANAGEMENT MEMO 275 (July 6, 2009).

**Leubsdorf, John.** *Legal Ethics Falls Apart*, 57 BUFF. L. REV. 959 (2009).

**Long, Alex B.** *Whistleblowing Attorneys and Ethical Infrastructures*, 68 MD. L. REV. 786 (2009).

**Losey, Ralph C.** *Lawyers Behaving Badly: Understanding Conduct in E-Discovery*, 60 MERCER L. REV. 983 (2009).

**Luban, David.** *How Must a Lawyer Be? A Response to Woolley and Wendel*, 23 GEO. J. LEGAL ETHICS 1101 (2010).

**Lundberg, Donald R.** *Two Case Studies in the Exercise of Discretion in Lawyer Discipline Systems*, 2009 PROF. LAW. 107 (2009).

**Markovits, Daniel.** *A Modern Legal Ethics: Adversary Advocacy in a Democratic Age*, 54 AM. J. JURIS. 187 (2009).

**Markovits, Daniel.** *How (and How Not) to Do Legal Ethics*, 23 GEO. J. LEGAL ETHICS 1041 (2010).

**McCormack, Tracy W. and Christopher J. Bodnar.** *Honesty is the Best Policy: It's Time to Disclose Lack of Jury Trial Experience*, 23 GEO. J. LEGAL ETHICS 155 (2010).

**McDonough, Brian T.** *Recent Legal Malpractice Cases of Significance*, 34 J. LEGAL PROF. 243 (2009).

**McLucas, Molly.** *The Need for Effective Recusal Standard for an Elected Judiciary*, 42 LOY. L.A. L. REV. 671 (2009).

**McMunigal, Kevin C.** *Defense Counsel and Plea Bargain Perjury*, 7 OHIO ST. J. CRIM. L. 653 (2010).

**Minsker, Natasha.** *Prosecutorial Misconduct in Death Penalty Cases*, 45 CAL. W. L. REV. 373 (2009).

**Moliterno, James E.** *A Golden Age of Civic Involvement: The Client Centered Disadvantage For Lawyers Acting as Public Officials*, 50 WM. & MARY L. REV. 1261 (2009).

**Moore, Nancy J.** *Choice of Law for Professional Responsibility Issues in Aggregate Litigation*, 14 ROGER WILLIAMS U. L. REV. 73 (2009).

**Moore, Nancy J.** *Mens Rea Standards in Lawyer Disciplinary Codes*, 23 GEO. J. LEGAL ETHICS 1 (2010).

**Morgan, Ben and Gary Thompson.** *Furthering the Discussion of Legal Ethics by Uncommon Means: A Brief Introduction to the Christian Lawyer or the Claims of Christianity of the Legal Profession*, 28 MISS. C. L. REV. 409 (2009).

**Moroni, Michael.** *The Missouri Compensation Legal Advisor System: Can it be Resurrected Under the New Law?* 34 S. ILL. U. L.J. 117 (2009).

**Pearce, Russell G.** *Professional Responsibility for the Age of Obama*, 22 GEO. J. LEGAL ETHICS 1595 (2009).

**Pepper, Stephen.** *Integrating Morality and Law in Legal Practice: A Reply to Professor Simon*, 23 GEO. J. LEGAL ETHICS 1011 (2010).

**Perez Hurtado, Luis F.** *Content, Structure, and Growth of Mexican Legal Education*, 59 J. LEGAL EDUC. 567 (2010).

**Perlman, Andrew M.** *The Silliest Rule of Professional Conduct: Model Rule 5.2(B)*, 19 NO. 3 PROF. LAW. 14 (2009).

**Power, Robert C.** *Lawyers and the War*, 34 J. LEGAL PROF. 39 (2009).

**Querijero, Michelle.** *Without Lawyers: An Ethical View of the Torture Memos*, 23 GEO. J. LEGAL ETHICS 241 (2010).

**Renaud, Tara.** *Lincoln the Lawyer*, 33 S. ILL. U. L.J. 703 (2009).

**Rhode, Deborah L.** *Lawyers as Citizens*, 50 WM. & MARY L. REV. 1323 (2009).

**Richmond, Douglas R.** *Changing Times and the Changing Landscape of Law Firm Disputes*, 2009 PROF. LAW. 73 (2009).

**Richmond, Douglas R.** *Academic Silliness About Model Rule 5.2(B)*, 19 NO. 3 PROF. LAW. 15 (2009).

**Richmond, Douglas R.** *Lawyers' Professional Responsibilities and Liabilities in Negotiations*, 22 GEO. J. LEGAL ETHICS 249 (2009).

**Richmond, Douglas R.** *Understanding Retainers and Flat Fees*, 34 J. LEGAL PROF. 113 (2009).

**Robertson, Cassandra Burke.** *A Collaborative Model of Offshore Legal Outsourcing*, 43 ARIZ. ST. L.J. \_\_ (forthcoming 2011).

**Robbins, Ira P.** *Ghostwriting: Filling in the Gaps of Pro Se Prisoners' Access to the Courts*, 23 GEO. J. LEGAL ETHICS 271 (2010).

**Robinson, Mary T.** *The Professional Cost of Untreated Addiction and Mental Illness in Practicing Lawyers*, 2009 PROF. LAW. 101 (2009).

**Rosen, Robert and Vibeke Lehmann Nielsen.** *The Two Faces of Lawyers: Professional Ethics and Business Compliance with Regulation*, 22 GEO. J. LEGAL ETHICS 201 (2009).

**Rosenthal, Lee H.** *From Rules of Procedure to How Lawyers Litigate: 'Twixt the Cup and the Lip*, 87 DENV. U. L. REV. 227 (2010).

**Sahl, Jack P.** *Entertainment Law – The Specter of Malpractice Claims and Disciplinary Actions*, 20 MARQ. SPORTS L.J. 377–409 (2010).

**Sahl, Jack P.** *A New Era – Quo Vadis? Symposium Introduction: Lawyers Beyond Borders and Practicing Law in the Electronic Age*, 43 AKRON L. REV. 641–76 (2010).

**Schatz, Gerald S.** *Ethical Lawyering in the Protection of Human Subjects of Biomedical and Behavioral Research*, 13 MICH. ST. U. J. MED. & L. 151 (2009).

**Schmedemann, Deborah A.** *Pro Bono Publico as a Conscience Good*, 35 WM. MITCHELL L. REV. 977 (2009).

**Simon, William H.** *Role Differentiation and Lawyers' Ethics: A Critique of Some Academic Perspectives*, 23 GEO. J. LEGAL ETHICS 987 (2010).

**Sisk, Gregory C. and Pamela J. Abbate.** *The Dynamic Attorney-Client Privilege*, 23 GEO. J. LEGAL ETHICS 201 (2010).

**Smith, Lavenski R.** *Honest to God (Legal Professionals' Spiritual and Professional Duties)*, 31 U. ARK. LITTLE ROCK L. REV. 315 (2009).

**Solberg, Lauren.** *Reforming the Legal Ethics Curriculum: A Comment on Edward Rubins "What's Wrong with Langdell's Method and What to Do About It,"* 62 VAND. L. REV. EN BANC 12 (2009).

**Stern, Nat.** *Commercial Speech, "Irrational" Clients, and the Persistence of Bans on Subjective Lawyer Advertising,* 2009 B.Y.U. L. REV. 1221 (2009).

**Tarr, Nina W.** *Ethics, Internal Law School Clinics, and Training the Next Generation of Poverty Lawyers,* 35 WM. MITCHELL L. REV. 1011 (2009).

**Tennant, David H. and Lauren M. Michaels.** *Mixing Business with Ethics: The Duty to Report Malpractice by Trial Counsel,* 20 NO. 1 PROF. LAW. 3 (2009).

**Thoman, Mary J. L.** *Change – A Little Bit at a Time – A Review of that Change in the Area of Professional Responsibility,* 2010-MAR ARMY LAW. 78 (2010).

**Wald, Eli.** *Loyalty in Limbo: The Peculiar Case of Attorneys' Loyalty to Clients,* 40 ST. MARY'S L.J. 909 (2009).

**Woolley, Alice and Bradley Wendel.** *Legal Ethics and Moral Character,* 23 GEO J. LEGAL ETHICS 1065 (2010).

**Vischer, Robert.** *Conscience and the Common Good: Reclaiming the Space Between Person and State,* CAMBRIDGE UNIV. PRESS (2010).

**Vischer, Robert.** *Professionalizing Moral Engagement,* 103 N.W. L. REV. COLLOQUY (2009).

**Zacharias, Fred C.** *Steroids and Legal Ethics Codes: Are Lawyers Rational Actors?* 85 NOTRE DAME L. REV. 671 (2010).

**Zacharias, Fred C.** *Evidence Laws and Ethics Rules,* 19 NO. 2 PROF. LAW. 12 (2009).

**Zacharias, Fred C.** *Integrity Ethics,* 22 GEO. J. LEGAL ETHICS 541 (2009).

**Zacharias, Fred C.** *Rationalizing Judicial Regulation of Lawyers,* 70 OHIO ST. L.J. 73 (2009).

**Zacharias, Fred C.** *The Myth of Self-Regulation,* 93 MINN. L. REV. 1147 (2009).

**Zacharias, Fred C.** *Evidence Laws and Ethics Rules,* 19 NO. 2 PROF. LAW. 12 (2009).

**Zacharias, Fred C. and Bruce A. Green.** *The Duty to Avoid Wrongful Convictions: A Thought Experiment in the Regulation of Prosecutors,* 89 BOSTON UNIVERSITY L. REV. 1 (2009).

**Zacharias, Fred C. and Bruce A. Green.** *Rationalizing Judicial Regulation of Lawyers,* 70 OHIO ST. L.J. 73 (2009).

**Zimmerman, Nourit and Tom R. Tyler.** *Between Access to Counsel and Access to Justice: A Psychological Perspective,* 37 FORDHAM URB. L.J. 473 (2010).

## COMMENTS

Comment, *Reviving the Privilege Doctrine: The Appealability of Orders Compelling the Production of Privileged Information,* 62 ARK. L. REV. 283 (2009).

Comment, *Zero-Sum Judicial Elections: Balancing Free Speech and Impartiality Through Recusal Reform,* 2009 B.Y.U. L. REV. 481 (2009).

Comment, *Different Ethics, Different Results: How Ethical Frameworks Shape Environmental Justice Concerns*, 34 J. LEGAL PROF. 227 (2009).

Comment, *No One Likes A Tattletale: Why Alabama Should No Longer Force Attorneys to Report the Professional Misconduct of Other Attorneys*, 34 J. LEGAL PROF. 181 (2009).

Comment, *The Methodology & Manipulation of the U.S. News Law School Rankings*, 34 J. LEGAL PROF. 107 (2009).

Comment, *Muted Advocacy: Money Laundering and the Attorney-Client Relationship in a Post 9/11 World*, 34 J. LEGAL PROF. 211 (2009).

Comment, *Those Cunning Spiders, The Lawyers: In Search of an Antebellum Legal Ethos*, 34 J. LEGAL PROF. 317 (2009).

Comment, *2007 Model Code of Judicial Conduct: Are the Speech Restrictions Necessary?* 34 J. LEGAL PROF. 341 (2009).

Comment, *Alabama Ethics and LEP Clients*, 34 J. LEGAL PROF. 355 (2009).

Comment, *Discovery Audits: Model Rule 3.8(D) and the Prosecutor's Duty to Disclose*, 119 YALE L.J. 1339 (2010).

## NOTES

Note, *Bias, Batson, and "Backstrikes": Snyder v. Louisiana Through a Glass Starkly*, 70 LA. L. REV. 963 (2009).

Note, *The Choice of Rules Clause: A Solution to the Choice of Law Problem in Ethics Proceedings*, 88 Tex. L. Rev. 855 (2009).

Note, *Enslaving Paul by Freeing Peter: The Dilemma of Protecting Counsel's Constitutional Rights While Providing Indigent Defendants with Effective Assistance of Counsel*, 78 UMKC L. REV. 291 (2009).

Note, *Model Rule of Professional Conduct 3.8: The ABA Takes a Stand Against Wrongful Convictions*, 22 GEO. J. LEGAL ETHICS 829 (2009).

Note, *Advance Waivers of Conflicts of Interest in Large Law Firm Practice*, 22 GEO. J. LEGAL ETHICS 97 (2009).

Note, *Saving the Law from the Office of Legal Counsel*, 22 GEO. J. LEGAL ETHICS 845 (2009).

Note, *Advice About Immunity: Ethical Conflict in Garcetti Advice-Giving*, 22 GEO. J. LEGAL ETHICS 795 (2009).

Note, *Access to CGAs and Justice: The Impact of the Use of Computer Generated Animations on Indigent Criminal Defendants' Constitutional Right*, 22 GEO. J. LEGAL ETHICS 877 (2009).

Note, *Attorney Gatekeeper Duties in an Increasingly Complex World: Revisiting the "Noisy Withdrawal" Proposal of SEC Rule 205*, 22 GEO. J. LEGAL ETHICS 893 (2009).

Note, *Legal Hotlines: Ethical Concerns and Proposals for Regulation*, 22 GEO. J. LEGAL ETHICS 1053 (2009).

Note, *What's Yours is Ours: Making Sense of Inadvertent Disclosure*, 22 GEO. J. LEGAL ETHICS 1095 (2009).

Note, *Some of Them Want to Abuse You: A Critique of Attorney Responses to Deposition Abuse*, 22 GEO. J. LEGAL ETHICS 1135 (2009).

Note, *Aiming the Cannons at the General: How Should Traditional Canons of Legal Ethics Guide and Constrain an Attorney General*, 22 GEO. J. LEGAL ETHICS 1193 (2009).

Note, *Ethics Codes for Mediator Conduct: Necessary but Still Insufficient*, 22 GEO. J. LEGAL ETHICS 1229 (2009).

Note, *Honor or Betrayal? The Ethics of Government Lawyer-Whistleblowers*, 23 GEO. J. LEGAL ETHICS 421 (2010).

Note, *Charting the "Middle" Way: Liberalizing Multijurisdictional Practice Rules for Lawyers Representing Sophisticated Clients*, 22 GEO. J. LEGAL ETHICS 631 (2009).

Note, *Risks Inherent in Online Peer Advice: Ethical Issues Posed by Requesting or Providing Advice via Professional Electronic Mailing Lists*, 22 GEO. J. LEGAL ETHICS 715 (2009).

Note, *Reconciling the Public Employee Speech Doctrine and Academic Speech after Garcetti v. Ceballos*, 94 MINN. L. REV. 1202 (2009).

Note, *Shifting the Blame: The Dilemma of Fee-Shifting Statutes and Fee-Waiver Settlements*, 22 GEO. J. LEGAL ETHICS 761 (2009).

Note, *Ex Parte Blogging: The Legal Ethics of Supreme Court Advocacy in the Internet Era*, 61 STAN. L. REV. 1535 (2009).

Note, *Revising Model Rule 5.4: Adopting a Regulatory Scheme that Permits Nonlawyer Ownership and Management of Law Firms*, 48 WASHBURN L.J. 669 (2009).

Note, *The Attorney-Client Relationship Exploring the Unintended Consequences of Inadvertent Formation*, 86 U. DET. MERCY L. REV. 269 (2009).

## SYMPOSIUM

**Abel, Richard.** *The Paradoxes of Pro Bono*, 78 FORDHAM L. REV. 2443 (2009).

**Anand, Rakesh K.** *The Role of the Lawyer in the American Democracy*, 77 FORDHAM L. REV. 1611 (2009).

**Barkow, Rachel E.** *Organizational Guidelines for the Prosecutor's Office*, 31 CARDOZO L. REV. 2037 (2010).

**Barnes, Robin D.** *Natural Legal Guardians of Judicial Independence and Academic Freedom*, 77 FORDHAM L. REV. 1453 (2009).

**Bassett, Debra Lyn.** *E-pitfalls: Ethics and E-Discovery*, 36 N. KY. L. REV. 449 (2009).

**Bennet, Steven C.** *The Ethics of Legal Outsourcing*, 36 N. KY. L. REV. 479 (2009).

**Bohmer, Martin.** *Equalizers and Translators: Lawyers' Ethics in a Constitutional Democracy*, 77 FORDHAM L. REV. 1363 (2009).

**Burke, Alafair S.** *Talking About Prosecutors*, 31 CARDOZO L. REV. 2119 (2010).

**Carle, Susan D.** *Debunking the Myth of Civil Rights Liberalism: Visions of Racial Justice in the Thought of T. Thomas Fortune, 1880-1890*, 77 FORDHAM L. REV. 1479 (2009).

**Caudill, David S.** *Sports and Entertainment Agents and Agent-Attorneys: Discourses and Conventions Concerning Crossing Jurisdictional and Professional Borders*, 43 AKRON L. REV. 697 (2010).

**Crystal, Nathan M.** *Ethical Responsibility and Legal Liability of Lawyers for Failure to Institute or Monitor Litigation Holds*, 43 AKRON L. REV. 715 (2010).

**Cummings, Lawton.** *Can an Ethical Person Be an Ethical Prosecutor? A Social Cognitive Approach to Systemic Reform*, 31 CARDOZO L. REV. 2139 (2010).

**Cummings, Scott L. and Deborah L. Rhode.** *Managing Pro Bono: Doing Well by Doing Better*, 78 FORDHAM L. REV. 2357 (2010).

**Gathii, James Thuo.** *The Financial Action Task Force and Global Administrative Law*, 2010 PROF. LAW. 197 (2010).

**Gensler, Steven S.** *Some Thoughts on the Lawyer's E-volving Duties in Discovery*, 36 N. KY. L. REV. 521 (2009).

**Gillers, Stephen.** *Waiting for Good Dough: Litigation Funding Comes to Law*, 43 AKRON L. REV. 677 (2010).

**Greco, Michael S.** *Regulation of the Legal Profession in a Global Economy*, 2009 PROF. LAW. 65 (2009).

**Green, Bruce A.** *ABA Ethics Reform From MDP to 20/20: Some Cautionary Reflections*, 2009 PROF. LAW. 1 (2009).

**Green, Bruce A.** *Beyond Training Prosecutors About Their Disclosure Obligations: Can Prosecutors' Offices Learn from their Lawyers' Mistakes?* 31 CARDOZO L. REV. 2161 (2010).

**Green, Bruce A.** *Ethically Representing a Lying Cooperator: Disclosure as the Nuclear Deterrent*, 7 OHIO ST. J. OF CRIM. L. 639 (2010).

**Greenbaum, Arthur F.** *Multijurisdictional Practice and the Influence of Model Rule of Professional Conduct 5.5—An Interim Assessment*, 43 AKRON L. REV. 729 (2010).

**Hill, Louise L.** *An Introduction to the Financial Action Task Force and Its 2008 Lawyer Guidance*, 2010 PROF. LAW. 151 (2010).

**Landsman, Stephan.** *The Risk of Risk Management*, 78 FORDHAM L. REV. 2315 (2010).

**Levine, Samuel J. and Russell G. Pearce.** *Rethinking the Legal Reform Agenda: Will Raising the Standards for Bar Admission Promote or Undermine Democracy, Human Rights and Rule of Law?* 77 FORDHAM L. REV. 1635 (2009).

**Lobel, Orly.** *Lawyer Loyalties: Speech Rights and Duties Within Twenty-First Century New Governance*, 77 FORDHAM L. REV. 1245 (2009).

**MacDonald, Ronald J.** *Money Laundering Regulation—What Can be Learned from the Canadian Experience*, 2010 PROF. LAW. 143 (2010).

**Mark, Steve.** *Views from an Australian Regulator*, 2009 PROF. LAW. 45 (2009).

**Marks, Colin.** *The Corporate Lawyer's Role in a Contemporary Democracy*, 77 FORDHAM L. REV. 2169 (2009).

**McMorrow, Judith A.** *Professional Responsibility in an Uncertain Profession: Legal Ethics in China*, 43 AKRON L. REV. 1081 (2010).

**Medwed, Daniel S.** *Emotionally Charged: The Prosecutorial Charging Decision and the Innocence Revolution*, 31 CARDOZO L. REV. 2187 (2010).

**Moliterno, James E.** *The Lawyer as Catalyst of Social Change*, 77 FORDHAM L. REV. 1559 (2009).

**Moliterno, James E.** *Exporting American Legal Ethics*, 43 AKRON L. REV. 769 (2010).

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