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Fall 2006

### **The Advocate Fall/Winter 2006-2007**

University of Tennessee College of Law

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Fall 2006

## The Advocate Fall/Winter 2006-2007

The University of Tennessee College of Law's Center for Advocacy & Dispute Resolution

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# The Advocate

“educating today the successful lawyers of tomorrow”

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## Revised Curriculum Provides Flexibility for Advocacy Students

The College of Law's Concentration in Advocacy provides second- and third-year students the option of pursuing a course of academic study geared toward preparing them for a career in advocacy and dispute resolution. The Concentration builds on the College of Law's strong lawyering skills curriculum and clinical programs.

In the first semester of their second year, students in the Concentration study Evidence and Trial Practice simultaneously, using both a civil and criminal case file. This integrated instructional method requires students to learn important legal principles and to experiment with applying those principles in context. Following this experience of combining doctrine with practice, the students choose between many other courses, based on their particular interests. Many of the courses are traditional doctrinal courses, including Adjudicatory or Investigatory Criminal Procedure, Administrative Law, Complex Litigation, Conflicts of Law, Federal Courts, Jurisprudence, and Remedies. Other courses are more practice-oriented courses, including Interviewing and Counseling, Negotiation and Dispute Resolution, Pretrial Litigation, and Advanced Trial Practice. In addition, the students participate in one of UT's many clinical offerings, including the Advocacy Clinic, the Mediation Clinic, the Business Clinic, the Domestic Violence Clinic, the Prosecutorial Externship, or the Public Defender Externship. By combining doctrinal and practice-oriented courses, with a clinical experience, students are able to get a running start on their careers.

## College of Law Increases Number of Clinical Offerings

While the UT Legal Clinic has played a significant role in legal education for almost sixty years, never before have law students at UT had more clinical offerings from which to choose. This spring, in addition to the Advocacy Clinic, in which students represent clients in housing and juvenile matters, students can choose from six other clinical offerings. The Domestic Violence Clinic allows students to represent victims in Order of Protection matters in Circuit Court. The Mediation Clinic engages students in mediating disputes in the General Sessions Courts and in agencies, such as the Equal Employment Opportunity Commission. In the Public Defender and Prosecutorial Externships, students appear in court under the direct supervision of assistant public defenders and district attorneys. Students in the Business Law Clinic represent for-profit and non-profit organizations that are in need of legal representation and under-served by the private bar. A clinic, offered for the first time this Spring, will be the Death Penalty Clinic, in which students will research and write a Petition for Certiorari to the United States Supreme Court for a death-sentenced inmate whose death sentence has recently been affirmed by the Tennessee Supreme Court. Professor Jerry P. Black, Jr. is presently serving as Interim Director of the UT Legal Clinic. Black previously served as Director from 1981-1986, as Acting Director in 1990 - 1991 and again, as Director, in 1993 and 2002.

## Newest Addition to Clinic Faculty Professor Mae Quinn



Professor Mae Quinn

*“There’s nothing theoretical about representing indigent individuals — particularly those facing a loss of liberty. So for me, rolling up my sleeves, working closely with students, and encouraging them as they help real, live clients with real legal problems is the ideal way to teach.”*

**Just what is an adjunct professor?**

Students at UT College of Law are privileged to have Professor Mae Quinn prepare them for careers in advocacy. Professor Quinn joined the faculty in 2005, following invaluable personal and professional experiences that shape her unique perspective on the criminal justice system. After being the first person in her family to attend college, Quinn went on to graduate from the University of Texas School of Law and to be selected for the prestigious E. Barrett Prettyman fellowship at Georgetown University Law Center. As she worked toward completing her LL.M. at Georgetown, Professor Quinn clerked for the Honorable Jack Weinstein, United States District Court, Eastern District of New York.

Professor Quinn dabbled in private practice with a prominent, white-collar criminal defense firm, but returned to public service as a director for the Center for Court Innovation,

the research and development arm of the New York state court system where she studied the implications of problem-solving courts. This experience has recently spilled over into Professor Quinn’s research, as she has written and published articles dealing with specialized criminal courts.

Quinn also worked as a trial level public defender with the Bronx Defenders and then joined Appellate Advocates, serving as an appellate level public defender. While working with Appellate Advocates, Professor Quinn began teaching as an adjunct professor at Benjamin Cardozo Law School. It was this experience that led Professor Quinn to realize that she wanted to teach full time and to integrate her practical background with her teaching experience.

Professor Quinn joined the faculty at the University of Tennessee College of Law in the Fall of 2005, teaching in the

UT Legal Clinic. Professor Quinn sees a connection between theory and practice and brings an energy and enthusiasm to her students that is both appreciated and envied. She stresses the importance of learning by doing.

In the spring, Professor Quinn will return to the classroom, teaching a course on problem-solving courts. Students will benefit from the significant research that Quinn has done on the topic, as evidenced by her scholarship in the area.

In her spare time, Quinn enjoys running, has completed one marathon and hopes to complete a second this year. The Center welcomes Professor Mae Quinn, a dynamic addition to the College of Law family.

Chloe Akers, Class of 2008, contributed to this article

### Why we Value our Adjunct Professors

Officially, according to the UT College of Law Adjunct Handbook, adjunct faculty “have been asked—and have been willing—to assume an even greater role in the education of law students, particularly in advanced and specialized offerings.” Un-officially, according to Interim Dean for Academic Affairs and former Director of the UT Legal Clinic and the UT Center for Advocacy and Dispute Resolution Doug Blaze, “we couldn’t do it without them. They are an essential and integral part of the education process at the College of Law.”

Whether you subscribe to the official or unofficial version, the bottom line is simple: adjunct professors are an invaluable part of the advocacy curriculum at the UT College of Law. Not only do they bring a wealth of varied experiences to the classroom, they make it possible for the law school to offer the expanded curriculum that it does. This year in the Advocacy Concentration alone, more than two dozen individuals will spend thousands of hours instructing students about interviewing, counseling, and negotiating, as well as about pretrial, trial, and appellate advocacy. Our adjuncts come from the Bench and the Bar, from the public and private sector, from traditional law firms and legal services programs, and from prosecutor’s and public defender’s offices. Join us in thanking our 2006-2007 adjunct professors.

**Adjunct Faculty:  
And Time to Teach . . . .  
Newest Adjunct van Tol is Parent to Five**

Can you imagine having five three-year olds . . . and a dozen or so second-year law students? Meet Shannon van Tol, lawyer, adjunct professor, and mother of Tennessee’s first quintuplets. van Tol received both her undergraduate and law degree from the University of Tennessee, graduating from law school in June 1995. While in law school, Shannon clerked at the General Counsel’s office at UT, but upon graduation, she began clerking for Judge Joe Tipton on the Tennessee Court of Criminal Appeals. Three years later, she joined Lewis, King, Krieg, & Waldrop, in their commercial litigation division.

Lawyer van Tol traded in the Infinity for a minivan, when she learned she was pregnant with quintuplets in the summer of 2003. This, she described, as an “easy decision. There are not too many times in life when you have a defining moment and you recognize it as a defining moment. With having the children, I knew that it was a defining moment for me and some of my priorities would have to change.”

Potty training five toddlers at once may seem daunting, but Professor van Tol considers her life blessed. Every day is a party for her children and she cherishes their bright outlook on life. Naptime often consists of stripping the sheets from the beds and making slides with the mattresses. The children love to surprise her by attempting to dress in each other’s clothes, wearing them inside out and backwards. Despite her busy schedule, Professor van Tol began teaching Pretrial Litigation as an adjunct professor at the law school this fall. Teaching allows van Tol to utilize the skills that she learned and enjoyed as a lawyer, while helping ease the students’ transition into practice by providing them with a solid foundation on the practical aspects of litigation.

van Tol says she is proud of the direction in which UT College of Law is heading, noting, “We were in the old building and we didn’t have an advocacy track [when I was in school]. I think it’s wonderful that there is a Concentration now and that it helps prepare students for the practice of law in a more practical way.” We agree, and are honored to welcome Professor van Tol to the adjunct faculty.



From left to right, the van Tol children are Willem, Meghan, Ashley, and Sean; seated is Isabella.

Melissa Franklin, Class of 2006, contributed to this article

**Fall 2006 Adjuncts**

Judge Kerry Blackwood	Steve Oberman
Don Bosch	Robbie Pryor
Peter Foley	Michael Sayne
Elizabeth Ford	Jeffrey Theodore
Larry Giordano	Shannon van Tol
Robert Jolley	William Wallace
Ashley Lowe	Chancellor John Weaver
Leslie Nassios	Judge Curwood Witt

**Spring 2006 Adjuncts**

Rodd Barckhoff	Diane Lashmit
Heidi Barcus	William Lockett
Paul Drozdowski	Francis Lloyd
Ruth Ellis	Barbara Maxwell
Peter Foley	Greg McMillan
Mike Galligan	Tim Priest
Deborah House	Angela Smith

## Judge C. Clifford Shirley, Jr., Ten-Year Veteran as Adjunct Faculty

The Honorable C. Clifford Shirley, Jr., United States Magistrate Judge for the Eastern District of Tennessee, brings almost thirty years of experience to his Trial Practice and Advanced Trial Practice students at the College of Law. Judge Shirley, who has been teaching at the College for almost a decade, came to the classroom because he was concerned that too many young attorneys were losing the art of lawyering. He saw teaching as an opportunity to share his many years of experience with budding attorneys and to, hopefully, be part of the solution.

After practicing in insurance defense for over twenty years, Judge Shirley was appointed to the

federal bench in early 2002. He hasn't looked back. He finds the best part of the magistrate's job to be being in court everyday. In his courtroom, Judge Shirley sees a wide range of civil and criminal cases, which has prompted him to compare the magistrate's office to the "emergency room of the federal courts," because of the constant variety of the issues presented. Judge Shirley sees the job of judge as requiring excellent time management skills, with flexibility and discipline being the key to running an efficient docket.

In addition to serving as an adjunct professor, Judge Shirley

participates in the College's judicial externship program, coordinating the externship program in the federal courts. In this environment, the judge and student interact daily, with the student extern benefiting from the insight, camaraderie, and experience of assisting the magistrate with legal research and opinion drafting.

As his appointment to the bench and the respect of his students attest, Judge Shirley is a well-regarded, personable, and genuine asset to the legal community and to the Center for Advocacy and Dispute Resolution as well.

*"The dedication of professionals like Judge Shirley goes a long way in teaching students how not only to think like lawyers, but to act like lawyers as well."*

Comments by Scott Griswold, Class of 2007, and extern to Judge Shirley.

The Advocacy Center excitedly welcomes Barbara Dyer and her energetic commitment to education advocacy. As a parent, a lay person, and now an attorney, Ms. Dyer truly deserves the title of "advocate."



CAN-LEARN is an acronym for the Children's Advocacy Network - Lawyers Education Advocacy Resource Network. It's new staff attorney has been recognized for her outstanding work with children with disabilities by the National Down Syndrome Congress with their President's Award in 1998 and by The Association for Persons with Severe Handicaps (TASH) with their Collaboration Award.

## CAN-LEARN Project Welcomes New Staff Attorney

A child experiencing problems in school usually knows one reliable person to turn to for help: parents. After wading through a quagmire of meetings with teachers and other education professionals, parents may turn to a lay advocate for advice or assistance, and may ultimately find that they need an experienced attorney. Learning disabled children have been turning, directly and indirectly, to Barbara Dyer as parent, lay advocate, and attorney for over two decades. It is quite fitting that Ms. Dyer will serve education advocates in all of those roles in her new position as staff attorney for the UT College of Law CAN-LEARN Project.

Dyer's education advocacy started when her oldest child needed assistance in school due to dyslexia. Ms. Dyer's family more painfully confronted the persistent prejudice against children with disabilities when a group of ill-informed parents sought to have her daughter with Down Syndrome ejected from her mainstream classroom. Recognizing that "active parental participation in the educational process was imperative" to protect disabled children from perceptions brought on by fear and ignorance, Ms. Dyer indeed became active. She began accompanying other parents to Individual Education Plan meetings to advocate for their children, formed a local parent organization, and became involved with national groups. She later testified before the IDEA Working Group of the 104<sup>th</sup> Congress to successfully mitigate language included in the Act's reauthorization which would have permitted removal of children from classrooms due to any behaviors vaguely defined as "disruptive" with no opportunity for input by the child's parents. Ultimately, Dyer pursued a law degree at UT, graduating in 2002. She now brings her considerable experience and background to the position of staff attorney for CAN-LEARN.

The CAN-LEARN Project began at UT in 2003 under the leadership of Director Dean Rivkin and Equal Justice Works Fellow (and current Dean of Students), Dolores Whithers. CAN-LEARN addresses the gap between sparse availability of legal representation for students and their growing need for access to legal advocacy. It is especially geared toward serving low-income students, students of color, and rural students. Over the past few years, Professor Rivkin and Dean Whithers have assembled a statewide support network for solo, small firm, and public practitioners whose child clients encounter a range of educational challenges. CAN-LEARN has also sought to broaden the base of attorneys practicing in this underserved area by publicizing the availability of attorney fee recovery under the Individuals with Disabilities Education Act (IDEA), by connecting clients with competent counsel, and by assisting counsel with research and litigation planning.

Shauna Boyd, Class of 2008, contributed to this article

## Students Gear Up For Moot Court Competitions



In addition to multiple classroom offerings that enhance advocacy and dispute resolution skills, the College of Law has dozens of moot court teams that allow the students to engage in trial, appellate, and mediation advocacy. Students are selected for the traveling teams based on their writing achievement and the oral advocacy skills that they demonstrate during a selection process. In addition to the many traveling teams, the Moot Court Board of the College of Law organizes two intramural moot court competitions that take place each spring semester.

The intramural competitions include the Ray H. Jenkins Mock Trial tournament, a trial competition, and the Advocate's Prize Moot Court, an appellate competition. Students competing in the 2007 Ray H. Jenkins Mock Trial competition will try a criminal case. In each round, the participants will perform opening statements, direct and cross-examinations, and closing arguments. The competition will culminate with the final round, judged by active state and federal judges, during the week of March 26, 2007. Students who wish to participate in the 2007 Advocates Prize Competition must write an appellate brief on a selected case. In addition, participants will present oral argument before a panel of state and federal judges. The semi-final and final rounds of the Advocates Prize Competition will be held during the week of April 9, 2007. These intramural competitions are open to all second- and third-year students.

Keisha Moses, Class of 2007, contributed to this article

### Experiences of a Third-Year Law Student : Eric Lutton

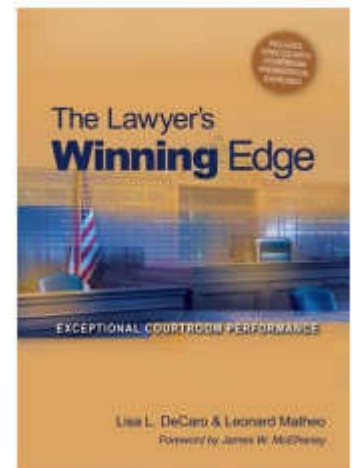
"Because of a scheduling conflict, I attended my individual session with Len Matheo and Lisa DeCaro before the evening group session. This meant that my individual session was truly individual. I was the only student in the session.

I found the individual session extremely valuable. I am very comfortable on my feet in front of people. I do not get nervous before I speak in front of people and can usually compose on my feet fairly effectively. However, I have a tendency to speak at a fairly rapid pace even in my daily conversations. The session helped me to be more cognizant of my rate of speech.

I also learned to better connect with jurors with more effective use of eye contact. I have always spoken with no notes or just a bare outline. As a result I am usually looking at my audience (or jury). However, I learned that I was straying around the room, not usually stopping to make an individual connection with the different people in the audience. This is fine when one is speaking in front of a few hundred people. However, when facing six or twelve on a jury it is important that you make a meaningful connection with each person.

The other tool that I have added to my oral presentations as a result of the individual session with Matheo and Decaro is that I now add strategic pauses. [Len Matheo gave a specific example of how to use pauses and inflections during the lecture, based upon the opening statement in a homicide case.] The example "and shot and shot and shot and shot and shot" with the different voice inflections was a powerful example of how different a picture the same words can paint with a little adjustment to one's voice. "

**Eric Lutton** is a third-year law student, whose concentration is in advocacy. Eric has a background in criminal justice and describes his ambition "to be a District Attorney." Eric knows his strengths—"I have no difficulty speaking in front of a group of people [or] composing arguments on my feet while under pressure." Eric attended the lecture on "The Lawyer's Wining Edge" and picked up some pointers, but it was his private audience with the lecturers that provided him with solid tools for improving his oral presentation skills. His experience is chronicled, in his own words.



### Advanced Trial Practice Students Benefit from Actors' Lessons

Returning for a command performance, Actors Lisa DeCaro and Len Matheo presented group and individual programs for advanced trial practice students. The topic was lessons that trial lawyers can learn from trained actors. De Caro and Matheo are professional actors and directors, who authored the book "The Lawyer's Winning Edge." They speak at continuing education programs and law schools around the country.

Professor James McElhane, a respected trial advocacy professor, said this about the DeCaro/Matheo book:

***They ought to cover this book with old oak barrel staves and bind it with black iron straps because it's a treasure chest and gems inside are real.***

McElhaney also calls the book one of the most remarkable books for trial lawyers he has seen.

Retired Judge Riley tells students about his top five pet peeves as a judge, which includes what he calls "gladiator" lawyers.

The Advocacy Center began a Skills for Successful Advocates series during the fall semester with speakers on courtroom technology, office software solutions, medical malpractice, criminal defense, and a special program on "How to Avoid Driving Judges Crazy."

## Center Practice Series a Success

More than one hundred students attended the various programs in the Advocacy Center's Skills for Successful Advocate Series. The programs included Judge Joe G. Riley's top pet peeves as a Tennessee jurist of more than a quarter of a decade. Judge Riley characterized the lawyers that drive him crazy as a judge as, among others, gladiating lawyers, rude lawyers, lying lawyers and He candidly talked with the audience about what not to do when appearing before judges in state and He also reminded the would-be lawyers who appear before Judge Riley now serves as the Tennessee Disciplinary Counsel for the Court of the Judiciary, the part to the Board of Professional Responsibility. In that role, Riley incal complaints against judges. He reminded the audience that lawyers are obligated to report judicial ethical violations and to cooperate if contacted by his office about alleged unethical conduct by a judge.



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In two other of the programs, the students heard perspectives from practicing lawyers. John Day, Branham & Day, Nashville, addressed the topic of taking depositions in medical malpractice cases. Dozens of first-year tort students marveled when Day told them that depositions of the defendant doctor in a medical malpractice case "is not about discovery. It's not about finding out information. It's about setting up the witness for trial."

Those interested in pursuing careers in criminal law were able to hear Tom Dillard, of the law firm of Ritchie, Dillard & Davies, Knoxville, talk about the ethical issues he encountered first, as a prosecutor, and now as a criminal defense attorney. Dillard discussed the importance of establishing mutual respect and trust with clients, particularly those accused with criminal offenses.



Tom Dillard talks candidly about why he wants his clients to be one hundred percent honest with him.

A fourth program was presented by LogicForce, a Nashville firm that specializes in technology solutions for the legal market. Philip Hampton, company founder, demonstrated litigation technology and law office management software. Students were amazed at the tools that technology brings to the practice of law. Hampton and Nashville attorney William Ramsey, class of 1981, will present another program for the law school, which they refer to as "Sixty Gadgets in Sixty Minutes, on April 20, 2007.



## Art Department and Center Join for Panel Discussion on Women in Prison

Sue Coe, acclaimed British-born artist, and Dean Allen Ault, E.K.U., addressed issues of women in prison at a collaborative discussion sponsored by the UT School of Art and the Center for Advocacy and Dispute Resolution. Coe has been described as a “social and political activist whose body of work often gives voice to the weak and disenfranchised in society.” Her current work chronicles the lives of HIV-infected women prisoners. While visiting UT for its Artist in Residence program, Coe joined with Dean Ault, former Chief for the National Institute of Corrections and former warden for maximum security prisons in three states, to discuss the special problems that plague women in prison. The discussion was moderated by Center Interim Director Penny J. White.



One of Sue Coe's portraits of a woman in a Texas prison.



Dean Allen Ault, Dean of the College of Justice and Safety at Eastern Kentucky University, explains the difficulties encountered by women in prison to Penny White, center, and Sue Coe, right.

The LA Times describes Sue Coe's Art this way: “Sue creates artwork that isn't easily forgotten. That's her goal. She's spent decades depicting cruelties and foibles — not to show but to educate, influence and hopefully inspire change.” Coe acknowledges: “I think the best that can happen is that you can open a dialogue.”

### Spring Skills Series Schedule includes:

Dumaka Shabazz on Flying Solo—Jan. 17

Charles Becton on Using Theme in Advocacy—Jan. 31

Pam Reeves on Mediation Advocacy—Feb. 7

Phil Hampton & Bill Ramsey on Gadgets for Lawyers—April 20

All at 12:20 at the College of Law

Programs to be announced

Dr. William Bass



Charles L. Becton, Becton, Slifkin & Bell, P.A., Raleigh, North Carolina, will present a lecture on advocacy at the law school on January 31, 2007, at 12:20 p.m.

## Charles Becton, Distinguished Trial Lawyer, Heads Up Spring Skills Series

Charles Becton's resume suggests a man of many interests and much talent. Take for instance advocacy. Becton has received the Outstanding Trial Advocate Award from the North Carolina Academy of Trial Lawyers; the Justice William J. Brennan, Jr. Trial Advocacy Award; the Charles L. Becton Trial Advocacy Award; and the Roscoe Pound Foundation's Richard S. Jacobson Award. He is also listed in The Best Lawyers in America.

Becton is also a talented teacher. He serves as the John Scott Cansler Lecturer in Trial Advocacy at the University of North Carolina School of Law and as a Senior Lecturer in Law at Duke University School of Law. He has also taught trial advocacy skills nationwide for the National Institute of Trial Advocacy (NITA), who has bestowed upon him the prized Robert Keeton Trial Advocacy Teaching Award. Becton has written extensively on advocacy-related issues and is published in several law reviews and trial practice journals. He will talk to UT students about the use of theme in advocacy on January 31, 2007, at 12:20 p.m. Lawyers, judges, and others who are interested are welcomed to attend.

## Director's Dicta:

The first six months as Interim Director has been a whirlwind! I have "blazed" a path daily to Doug's office, and he, Jerry Black, and Ramona Armstrong, have been a tremendous help.

*I owe a debt of gratitude to Doug, Jerry, Ramona, and to the Center's Founders, who are Donna Davis, Sid Gilreath, T. Robert Hill, Bryan E. Larson, Robert G. Pryor, John T. Milburn Rogers, Gerald H. Summers and Thomas R. Prewitt, Jr. Thank you.*

I have been most pleased with the students' response to the Skills Series. The Series will continue in the Spring with programs provided by a number of lawyers, judges, and other professionals speaking on topics of interest that arise in the practice of law. (For a schedule of the events already planned, see the bar on page 7.) As always, there is an open invitation to Friends of the Center. That includes **YOU** if you are receiving this newsletter.)

In addition to the Series, the Center will proudly host famed trial lawyer, professor, scholar, and activist **MICHAEL TIGAR**, in the Fall of 2007, at a date to be announced soon. Tigar is perhaps most famous for representing Terry

Nichols, but his contributions to the art of advocacy began decades ago. He has authored dozens of books, plays, and articles on the subject. He is passionate about teaching students to be good lawyers. In his book, *The Theory and Skill of Persuasion* Tigar notes that "I believe good lawyering can be taught. . . . Good lawyering is not a game of chance, or luck, even though both of these may play a role. Day in and day out, in the tournament of trial, skill wins out." His most recent book, *fighting Injustice*, shares his own experiences about fighting injustice and championing individual rights and challenges lawyers to realize the opportunities they have to do justice.

Asked recently what the focus of legal education should be, Tigar replied, "I think we must

offer students hands-on opportunities to see how legal rules work in the real world so they can see how law moves from the tableau of ritual rules into the lives of people to whom it is applied. Only then can they see how lawyer behavior affects people. Only then can they see what "legal ethics" are really about." Tigar's quote captures the very essence of the Center and the Advocacy Concentration.



In the coming months, watch for updates on the Center, which will be detailed on our soon-to-be revised webpage. We also hope to unveil the Center's recruitment brochure, designed to introduce prospective law students to the many advantages of choosing the University of Tennessee College of Law and the Advocacy Concentration. We value your input, so let us hear your comments and suggestions.

*Penny J. White  
Interim Director,  
UT College of Law*

*Center for Advocacy and Dispute Resolution*



## Center for Advocacy & Dispute Resolution

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