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Spring 2011

The Advocate Spring 2011

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

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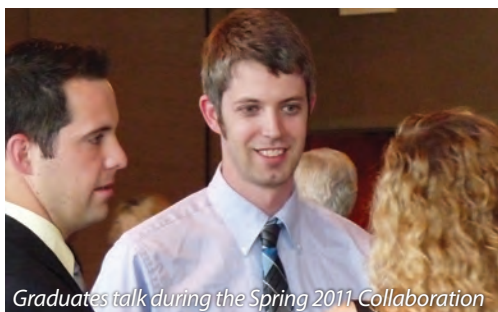
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CENTER FOR ADVOCACY
& DISPUTE RESOLUTION

*"Educating Today the
Successful Lawyers
of Tomorrow"*

Advocate

One-third of Class Graduates in Concentration



Graduates talk during the Spring 2011 Collaboration

Fifty-three members of the Class of 2011 graduated from the College of Law with an emphasis in advocacy and dispute resolution. Students completed unique courses designed to help them master the written and oral communication skills essential to advocacy and dispute resolution. In addition, each graduate in the concentration participated in either a legal clinic or an externship, giving them the opportunity to represent clients and resolve disputes in a real-life setting while under the supervision of skilled instructors or practitioners.

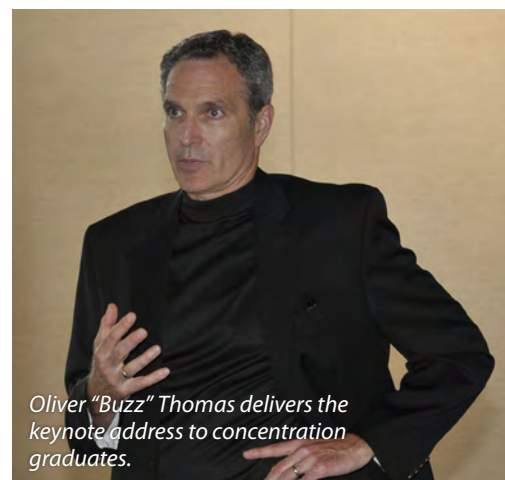
The graduates gathered on April 27—in spite of tornado warnings and flash floods—to celebrate their accomplishments and to express their gratitude to the full-time and

adjunct professors who helped them along the way. During her remarks, Penny White, director of the Center for Advocacy and Dispute Resolution, referred to adjunct faculty members as not only the “backbone of the concentration, but its life blood.”

In addition to recognizing the graduates and the faculty, the center announced the recipient of the Summers-Wyatt Trial Advocacy Scholarship. Samuel Moore, a Hamilton County native, was named as the 2011-12 Summers-Wyatt Scholar. Moore, a former grade school teacher, has already learned what many great trial lawyers know—to be a good trial lawyer, one must be a good teacher. In his application, Moore reflected on the how his background in teaching has influenced and aided his development as a lawyer.

“In my advocacy courses, I have seen that the proper presentation of a case to a jury must be both persuasive and simple enough to appeal to the sensibilities of the common juror, not a student of the law,” he wrote. “Practicing trial law is as much about teaching your jury what our law is and should be as it is arguing your specific case. Drawing on my experience as a teacher I approached [Trial Practice] as I had my classes, creating large visual aids and reducing the message of my argument to the simplest elements. The similarities of the oral technique in the courtroom and the classroom lead to my success [in my final trial]. [The jury] later said that clarity of the facts was the most persuasive and influential factor in their decision.”

Much like the scholarship’s benefactor, Jerry Summers, Moore believes in serving others. In his former work at Hickory Valley Christian School in Chattanooga, he developed and taught a hands-on science curriculum for grades four through eight, simultaneously directing an after-school program that provided outdoor activities and homework support. Moore also organized, implemented and supervised an all-day summer camp that provided educational enrichment and cultural development.



Oliver “Buzz” Thomas delivers the keynote address to concentration graduates.

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THE UNIVERSITY OF
TENNESSEE **UT** College of Law
KNOXVILLE

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Examining Moot Court in Today's Law Schools

By Penny White, UT Law Moot Court Faculty Advisor

Judge Alex Kozinski, chief judge of the Circuit Court of Appeals for the 9th Circuit, once wrote, "Moot court advocates don't sound and act like real lawyers because they are not taught to act like real lawyers. At most—perhaps all—law schools, there is too much emphasis on the 'moot' part of the moot court and not nearly enough on the 'court.' Moot court programs teach the wrong lessons and create the wrong incentives, and thus help develop the wrong skills."



The International Mediation Team. From left to right: Aaron Gentry, T.J. Hatter, and Yusuf Zia Malik.

The College of Law hosts three internal competitions, fields more than a dozen traveling teams and occasionally hosts regional competitions.

At times, we struggle to find ample resources to fund teams. The 2010-11 school year offers a good case in point. A self-funded team competed in the International Law School Mediation Tournament in Chicago, but understandably needed financial aid when they won and needed to travel to London to compete in the finals. The law school was able to assist with funding the London trip, where one of the team members, Aaron Gentry, was named best mediator in the entire competition.

But winning does have its costs. Professor Becky Jacobs and UT Law received the honor of hosting the ABA Mediation Competition because the UT mediation team won the national crown in 2009. The moot court budget had to be supplemented this academic year, not only because of the London trip, but also because the National Moot Court Team and the American Association for Justice National Trial Team won the regionals and traveled to New York and Las Vegas, respectively, for the finals. Moot court doesn't come cheaply, raising the question in light of Judge Kozinski's observations: Is it worth it?

Bluntly, yes. Larry Giordano, Knoxville attorney and long-time trial team coach, understands the judge's observations, but notes that the competitions not the moot court programs "teach the wrong lessons and create the wrong incentives."

"The rules of the competition run contrary to what an experienced advocate would do in many cases," Giordano said. "At UT

more than two decades ago we confronted the question: Do we train to advocate or do we train to score points? We opted for the former." In other words, many of us at UT think that we don't fit into the category of law schools that emphasize "moot" rather than "court."

As Giordano noted, we strive to train advocates through curricular and extracurricular experiences. For some students, participation in moot court is a way to eliminate a fear or dread of public speaking. Michael Stahl, the winner of the first-year advocacy competition, admitted afterwards that he had "always been nervous speaking in public but I knew that as a lawyer speaking to groups of people would be a regular occurrence and would be crucial for success in the field. An on-point delivery of your client's message to a jury, the judge or perhaps even the media is a powerful and necessary skill in today's legal environment."

For other students, a moot court experience raises awareness of the complexity of advocacy, while increasing their confidence.

"Many of the judges told me after the event how impressed they were with my storytelling, or how passionately I argued the facts," Nikolas Vaselopoulos, a finalist in this year's First-Year Advocacy Idol competition, said after the competition.

"The knowledge that I have the power to get people to listen to me, to be interested, and to see things my way (if even just a little) is such a tremendous feeling. I got a sense that I was defending a real person, telling his story—the real story—in a courtroom where it would be all too easy for him to lose his freedom forever."

For all of the students, moot court provides an opportunity to work as a team under the tutelage of faculty and lawyer coaches toward a common goal. That, in and of itself, is worth the investment.



The College of Law's moot court program is aided by generous donations. Michael Galligan, from Galligan and Newman, funds the First-Year Advocacy Competition. He is pictured with the 2011 finalists.



UT College of Law professors John Sobieski and Joseph Cook with (l-r) Will Perry, David Watkins, and Amy Mohan, members of the 2010-11 National Moot Court Team.

Taking New York: UT's National Moot Court Team Places Second in Nation

by Amy Mohan, Class of 2012

It began last spring with a simple paper note on the bulletin board. In typical understated Professor Joseph Cook fashion, the announcement was just one line: “this year’s National Moot Court Team will consist of David Watkins, Will Perry and Amy Mohan.” It was a proud and exciting moment, but one that also came with a lot of anticipation. I worried that I would be the weakling of the team, that we wouldn’t get along, and worst of all, that we would not live up to the expectations that come with the National Moot Court Team each season.

We all met for the first time the week before classes started for a blitz brief seminar with Professor John Sobieski. We came in as total strangers, only aware that we were all law students and now teammates. We had first-date jitters, each of us wondering where this relationship would lead, what the other was thinking about us and how this experience would end. Afterward, I told my husband that the three of us didn’t have a lot to talk about. I couldn’t believe that we faced a whole year of working together when we couldn’t spend an hour together without strange pauses and furtive glances at the clock.

I decided to take the initiative and invite them to my place for dinner. I knew it was a big step in our young courtship, but I’m glad I took the plunge. We quickly found common ground, a shared sense of humor and a shared passion for this experience. We made the promise to each other that we weren’t in this just for fun or for a résumé builder. We wanted to work hard and learn, and we were aiming way beyond the upcoming regional competition. That very night we all proposed the idea that we were going to that final round in New York, and we would do what it took to make it there. Looking back, I can’t believe that faraway dream actually came true.

When we received our case from the New York City Bar Association, we were in for a surprise—ERISA and preliminary injunctions. There’s really no way to make it sound better.

Professor Cook claimed it was among the worst issues he had seen in 40 years. Other faculty members shrugged their shoulders in the hallway and gave us sympathetic glances. We struggled to understand the massive statutory scheme of ERISA and the nuances of “probability of irreparable harm” versus the “possibility of irreparable harm.” Believe it or not, we actually started to really like the issues.

In the many hours and late nights spent in the library, agonizing over sections, sentences and many times just one word in order to make sure it was just right, we learned our true dedication to the task. It was this experience that made us yearn for victory in New York, and I think it was this that truly helped us grow as advocates and young lawyers. We also learned each other’s strengths and weakness. Will was like our fifth grade grammar teacher, telling us every time we used the wrong tense or punctuation. David was our wordsmith, somehow turning the issue of preliminary injunctions into a poetic cause for justice.

Some 75 pages, sleepless nights, burgers, wings and pizza to feed an army (and, for me, five pounds) later, we had a brief of which we were proud. A few hours after submitting the brief, we prepared for our first oral argument practice.

By this time, we were a team. Our solidarity could not have come at a better time, as we prepared to face our toughest competition throughout the entire process—the law school faculty. We practiced on our own to prepare to argue in front of the faculty. Our advisors, professors Cook and Sobieski, pointed out our flaws and coached us on how to be a more polished team. After any practice you could hear comments down the hallway of “But, she was so nice when I took her torts class,” “Pulsinelli’s questions are impossible,” and “Did Leatherman really cite a portion of the federal tax code and expect me to respond to it?”

Although it was often hard to appreciate when we were being →

grilled by three or four law professors, our rigorous schedule of five practices a week with a “hot bench” each time proved to be what set us apart from every other team in the competition. By the time we finished boot camp with the faculty, we were a well-oiled machine. There wasn’t a question we couldn’t answer or a comment we couldn’t handle.

Our regional competition in Memphis proved that the hard work was worth it. We came back undefeated, having taken the regional championship. We learned how to react to pressure. We began to understand when to concede a point in order to win another, and how to handle judges who knew nothing about our issue as well as judges who had specialized in the legal area for years. We also got a chance to revel in our victory a little, spend some quality personal time with professors Cook and Sobieski and understand a little more of how much this experience had shaped and would shape us as lawyers.

It seemed like we hardly took a breath before we came back from winter break to undertake more practice rounds with the faculty, additional coaching from our advisors and supplemental reading and researching more briefs to prepare for the final in New York.

In New York, we faced Temple University in our first preliminary round and lost by half a point. We had never experienced defeat before, and this time, it really hurt. We knew we had not performed our best. Our nerves got the best of us—we were intimidated by the scale of the competition in New York, and we had lost a bit of the focus that got us there. When Professor Cook looked at us and said “I’m still proud of you,” I had to look away and not let him see the tears in my eyes. After witnessing our professors’ dedication to making the three of us better advocates throughout this process, we knew we could not let them down. To see Professor Cook deflated after a round he knew we could have won was enough of a wake-up call to drive us to work even harder. Will, like a good basketball coach following up after bad half, gave us all a well-deserved scolding for not being on top of our game, and then an even more necessary pep talk to inspire us for the rest of the competition. We squeaked into the Sweet 16 as the 14th seed, but for the first time in National Moot Court history, the 14th seed made it to the final round of the competition. We accomplished exactly what we came there to do. Well, almost.

We had a lot of support along the way. Will’s family and friends cheered us on in Memphis, and David and my families and friends joined us in New York. Everyone knew we were the University of Tennessee because, in true Rocky Top style, we never arrived alone but always walked in with a throng of support behind us. We also had a chance both in New York and Memphis to meet members of the 1976 and 1977 College of Law teams, who regaled us with stories and gave us advice on how to succeed. It’s amazing to learn about the long tradition of the moot court program at the College of Law. The National Moot Court Team has a storied tradition, and we are honored to be a small part of this incredible legacy.

When people ask me what I learned from moot court, I often do not know where to start. I know I am a better advocate and will be a much better lawyer because of this experience. I better understand the dynamics of teamwork to reach a common goal. I know I will be ready to write a brief or argue in front of any appeals court, maybe even the Supreme Court, on my first day of practice, which I don’t think I could have said a year ago. It sounds like a bold statement, but I think our intense preparation made me really believe in myself and the ability to effectively advocate for my client through hard work, dedication and effective communication. I now understand and appreciate the journey and process of tackling complex legal issues. I’ve also learned persistence both in the short and long term. I now know what it takes to see a difficult case through for several months. I also know the importance of not giving up until the very end, even when it seems like you’ve lost a judge on the bench or you feel like you’ve been defeated.

Most of all, beyond the law, the advocacy and the competition, I think I’ll cherish the friendships we developed. That first awkward date evolved into a beautiful marriage. This was truly a team sport. We never would have been successful without the input of each other, the college of law faculty and our coaches. I’m honored to be a member of the 2010-11 National Moot Court Championship Team, and I know that someday, years from now, I’ll look back fondly on this early experience as I grasp how it shaped my legal career.

One-third of Class...*continued from page one*

Service to others was a theme that also echoed in the message of the evening’s keynote speaker. Oliver “Buzz” Thomas, attorney, author, educator, minister and community leader, spoke with the graduates about personal and professional challenges. Thomas reminded the audience “lawyers can be heroes.” He encouraged the graduates to read their law school applicant statement and remember why they chose to go to law school.

“If you are true to your vision, you will be a happy, successful, productive member of the legal profession. Your life is a story you’re writing. You’ve written a good chapter at the College of Law, but you’ve yet to write the most of your story. You should aim to make yourself a hero, and you do that by serving others.”



College of Law Welcomes New Director of Clinical Programs by Sarah Graham McGee, Class of 2011

Following a nationwide search, Professor Valorie Vojdik (“vī-dik”) has been selected to become the next director of clinical programs at the University of Tennessee College of Law. She joins a select group of individuals who have led the college’s nationally acclaimed clinical programs.

Vojdik comes to UT from the West Virginia University College of Law where she served as the deputy director of clinical law programs and as the associate dean for faculty research and development. While at WVU, Vojdik founded two new clinical programs—the Child & Family Law Clinic and a medical-legal partnership with Children’s Hospital.

Before entering academia, Vojdik practiced law for eight years as a civil litigator at Shearman and Sterling. However, she soon realized her passion for litigating cases that involved constitutional law and civil rights. Her work on the firm’s pro-bono committee ultimately led to her serving as lead counsel in *Shannon Faulkner v. The Citadel and South Carolina* (1992-97), where the male-only admission policy of the Citadel, South Carolina’s military college, was successfully challenged.

Vojdik refers to the case as the highlight of her practice, but also credits the work on the case for inspiring her commitment to social justice and informing her scholarly research agenda. In addition to her clinical work at WVU, she has taught in New York University’s lawyering program and directed the Antidiscrimination Clinic at Western New England College of Law.

She is regarded as an expert on the gendered nature of social institutions and has researched and taught in South Africa and Turkey. One of Vojdik’s most frequently cited articles entitled “Politics of the Headscarf in Turkey: Masculinities, Feminism, and the Construction of Collective Identifies,” was published by the *Harvard Journal of Law and Gender*.

Vojdik says some of her favorite clinical teaching experiences were generated in the medical-legal partnership and Child & Family Law Clinic she started in West Virginia. These clinical programs garnered much interest between medical and legal professionals who were concerned about the unmet social, legal and medical needs of children. The programs provided an exciting way for students in the legal clinic to interact with professional leaders throughout the community and state. Vojdik enjoyed the opportunity to make a difference in the lives of her clinical students and also in the lives of the children they served through these legal services.

Both the medical-legal partnership and the Child & Family Law Clinic involved engaging professionals from various disciplines in problem solving.

“I look forward to the opportunity to engage in similar work at UT, further linking the interests of our students, faculty and the university to the larger community,” she says. “I have witnessed first-hand the type of positive change legal clinics can and do make in their communities.”

As she anticipates her move to East Tennessee, Vojdik has a long list of things she is eager to experience including barbeque, hiking in the Smokies and local radio station WDVX’s “Blue Plate Special” musical performances. She also looks forward to living in a larger community, with more people and more activity, but anticipates there will be similarities to her previous place of work, including the legal issues facing low-income families and the willingness of people to go out of their way to help others. Vojdik says she is ready to dive into work with the smart, talented, fun and adventurous people associated with the College of Law.



Black Honored by Tennessee Higher Education Commission



Ask any trial lawyer who graduated from the College of Law in the last 35 years to name someone who positively influenced his or her practice, and the response will likely be Professor Jerry Black. Black is an institution in the Legal Clinic and at the College of Law. He has shepherded hundreds of students through their first court experiences in the Advocacy Clinic and has taught hundreds more Trial Practice. He has served as director of clinical programs at the College of Law four times.

The legal profession and the legal academy have long valued Black's contributions. In 2002, he received the prestigious Richard S. Jacobson Award for Excellence in Teaching Trial Advocacy, given annually by the Roscoe Pound Institute to the professor who has best "demonstrated excellence in teaching trial advocacy."

The following year, Black was honored by the Tennessee Association of Criminal Defense Lawyers for his "lifetime contribution to teaching the goals, aspirations and principles of quality criminal defense of his students, peers and friends at TACDL." In 2010, the Knoxville Bar Association bestowed its Law and Liberty Award upon him.

This year, Black was recognized in a different forum when the Tennessee Higher Education Commission named him the recipient of the 2011 Harold Love Outstanding Community Involvement Award. The Love Award, named for late state representative Harold Love, who was instrumental in passing legislation enabling THEC to develop rules and regulations for higher education, is awarded each year to five faculty and students who have demonstrated leadership and effective public service.

This fall Black will return to the Legal Clinic to teach and work with the clinic's new director, Valorie Vojdik (see story page five). As he does so, he will continue to influence the great lawyers of tomorrow. Sarah Graham McGee, a graduate of the Class of 2011, said future students will benefit, as she did, from learning from Black.

"My law school experience has been filled with the opportunity to work with unbelievable lawyers who have devoted themselves to raising the bar of representation for the criminally accused," McGee said. "It is truly a gift that I have been able to get to know and learn from Jerry Black, someone I have heard speak from the heart about his commitment to indigent defense. It is almost unreal to me that Professor Black taught my father-in-law at the UT clinic, and it makes me smile to see how things come full circle."



Jerry Black, center, talks to Jeffrey Theodore and Stephen Johnson, adjunct professors at the College of Law, during the spring Advocacy Center end of year collaboration.



CLINICAL TRAINING PROGRAM

The College of Law's clinical training program, ranked 12th in the country and sixth among public universities in newly released 2012 rankings, jumping six spots, according to U.S. News and World Report.

"We are pleased with this recognition of the continued improvement and strength of both our overall law program and our clinical offerings," said Douglas Blaze, dean of the College of Law. "The jump of our clinical programs to 12th nationally and sixth among public universities showcases the strong connection between legal theory and actual practice at UT Law. This training means that our graduates enter the legal community well prepared."

Frère Instructs Students in Elder Law



America is aging. The number of people aged 65 and older is expected to reach 70 million by 2030. That growing group of senior citizens also is living longer, with the average age expectancy up 28 years since 1900. As our nation's demographics change, the significance of legal issues affecting the general public shifts as well, requiring lawyers to master different areas of

substantive law and develop fresh skills for addressing legal problems affecting the elderly. This spring, students at the College of Law were given an opportunity to experience the complex and gratifying practice area of Elder Law.

Kelly Frère, partner in Guyton and Frère, had clear objectives for the course. She wanted students to experience a practical, real world approach to the issues confronting seniors. She wanted to bring contributions by other professionals in the senior service community to the classroom. She also wanted to send the students “into the field” to learn about long-term care facilities and senior service organizations.

After reviewing applicable federal and state laws and regulations, as well as common practices, policies, exemptions and exceptions adopted by state and federal benefits agencies, the class heard from the area ombudsman, a hospice director, the area public guardian, a medical professional from a geriatric assessment program, the director of a multi-level long term care facility, the director of Adult Protective Services and a geriatric family social worker. The presentations generated candid discussions about end-of-life decisions; the costs versus the quality and duration of care; benefits planning for non-traditional families; clients with dementia; and elder abuse. The students also were given a behind the scenes tour of the area crematory so that they might have a better understanding of the cremation process.

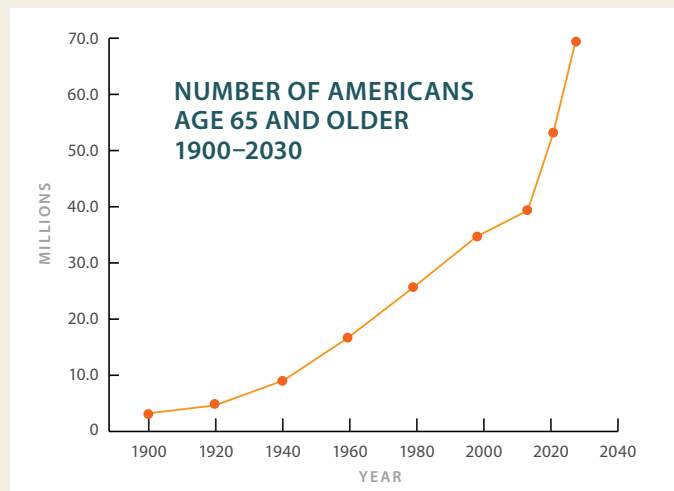
As the students visited long-term care facilities and service organizations, they compiled reports discussing the facili-

ties and organizations. These reports were later combined into a booklet distributed among the students and to the College of Law library for use by others.

As the students heard from professionals in the senior service community and visited facilities and organizations, they contemplated the needs of their own “client.” Each student was assigned a “client” whose situation developed throughout the semester. Students were required to develop a formal long-term care plan unique to each client, which included two planning options, an assessment of the consequences of each option and any necessary planning documents and forms. At the end of the course, students presented an overview of their client plan to the class, during which other students offered suggestions and insights as if in a real law firm setting.

When asked recently to evaluate the course, Frère said, “I had terrific students, we learned a lot, and we had a great time!” While her assessment is undoubtedly correct, it understates her contributions to the course. Frère is not only an elder law specialist, she is often described as the “go to” lawyer on elder law.

Frère is a member of the Council of Advanced Practitioners of the National Academy of Elder Law Attorneys (NAELA), an honor bestowed by peers on less than 2 percent of elder lawyers. She lectures and writes frequently on various aspects of elder law and gives generously of her time to the Knox County Office on Aging, the East Tennessee Alzheimer's Association and the Salvation Army. When the College of Law saw a need for a course in Elder Law, Frère was asked, once again, to give of her time. Her students are so glad she did.



Center for Advocacy & Dispute Resolution
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Upcoming Events

Trial Advocacy Series:

- Cross Examining the Government Informant. September 2011
- Cross-Examining the Criminal Accused October 2011

Negotiation and Dispute Resolution Series:

- Arbitration Skills for Trial Lawyers. September 2011
- Master of Mediation November 2011

Summers-Wyatt Symposium—

Advocacy Skills in a 24/7 News Cycle World February 24

First-Year Advocacy Competition March 14

Center Collaboration for Graduates April 25

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Director's Dicta

This issue of the Advocate is filled with stories about the people and activities of the College of Law. From the beginning of the fall semester, when we welcomed our first advocate in residence and provided students with an opportunity to argue in front of federal appellate judges, to spring when we celebrated the successes of multiple moot court teams, it really has been an unprecedented year for advocacy! In addition to self-development, our students have provided opportunities for members of the bar to improve their advocacy skills. On April 1, more than 100 Tennessee lawyers convened to discuss children's law issues at the seminar, "The Politics of Protecting Children," hosted by the center and the Tennessee Journal of Law and Policy. National child advocacy experts, local juvenile judges and government officials tackled a range of topics including the ethical duties of guardians ad litem, best practices in representing children and political and economic challenges. The Journal will publish a special symposium edition that will contain all of the symposium proceedings. To secure a copy, please call the center office at (865) 974-1477.

In the fall, we will welcome a new clinic director and several new adjunct professors, all of whom are devoted to helping us meet the challenges of educating today the successful lawyers of tomorrow. As always, we welcome your suggestions for ways to improve our work.

Penny White, Director, UT Center for Advocacy and Dispute Resolution