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The Advocate Summer 2012

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

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CENTER FOR ADVOCACY
& DISPUTE RESOLUTION

"Educating Today the
Successful Lawyers
of Tomorrow"

the Advocate

Summers-Wyatt Symposium Addresses Advocates' Skill Needs in 24/7 News World

What skills will tomorrow's advocates need to serve their clients in our current media-saturated world? Or as some pose the question: What must a lawyer do differently when her client is being tried not only in court, but also in the court of public opinion? To discuss these and related questions, the center partnered with the Tennessee Journal of Law and Policy to host this year's Summers-Wyatt Symposium addressing "Crisis, Coverage and Communication: Advocacy in a 24/7 News World."

The symposium, held at the College of Law in March 2012, drew a large crowd of lawyers, journalists, students, professors and other professionals who discussed legal advocacy and legal and media ethics in the world of 24/7 news coverage. The event utilized a varied format—blending information and opinion in order to stimulate diverse viewpoints on a variety of topics

Lawyers are often faced with the question "to comment or not to comment," particularly when they represent high-profile clients or handle high-profile cases. Pamela Mackey, lawyer for NBA star Kobe Bryant, and Joe Cheshire, who represented a member of the Duke lacrosse team, kicked off the symposium with a discussion of the topic.

In addition to describing counsel's ethical responsibilities, Mackey and Cheshire shared their somewhat different personal philosophies about handling the media onslaught that accompanies high-profile cases. For the discussion that

followed, author and journalist Mark Curriden; author, journalist, and Poyntner Institute senior faculty member Al Tompkins; and former journalist and district attorney Kim Helper discussed the tension between what a reporter needs in order to tell a story and an attorney's obligations to the client as well as the ethical challenges

for both journalists and lawyers.

Famed newsman John Seigenthaler, who spent more than 40 years as an award-winning journalist and retired as editor of the *Tennessean*, gave his perspective on justice and journalism and his vision of the future for news coverage of legal events. He was then joined by Joie Chen, former CNN anchor and CBS White House and Capitol Hill correspondent; James Duff, president and CEO of the Freedom Forum; and Cynthia Moxley, CEO of Moxley Carmichael, who provided journalism cross-training for the lawyers in the audience and explained how news cycles work, how sto-

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THE UNIVERSITY OF
TENNESSEE  College of Law
KNOXVILLE

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The Advocacy Center Celebrates Graduates and Adjunct Faculty

More than a third of the Class of 2012 celebrated completion of the advocacy and dispute resolution concentration at the center's Year-End Collaboration held on April 25. In addition to celebrating the graduates, the Collaboration honors the concentration's adjunct faculty.

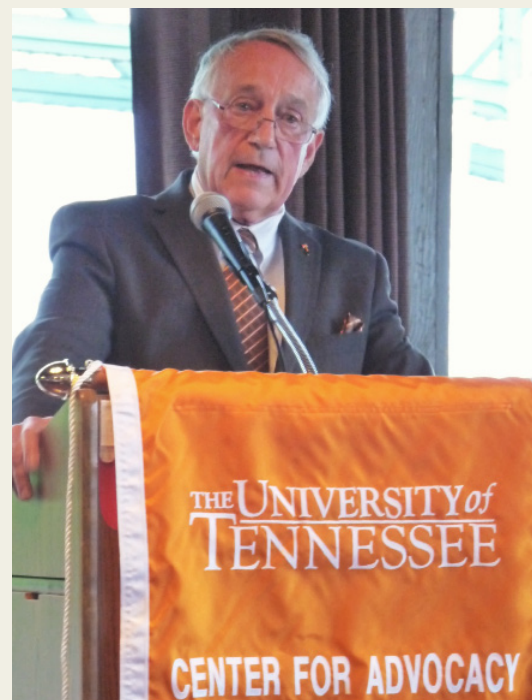
Center Director Penny White announced that in the next academic year, 37 members of the legal profession, who have combined experience in excess of 850 years, will instruct concentration students in a host of subjects ranging from trial practice to pretrial litigation and legal crisis communication.

Chattanooga attorney Jerry Summers, one of the center founders and chair of the recent successful capital campaign, delivered the event's keynote address and shared some experiences from his remarkable 43-year legal career. Summers, who has pursued cases all the way to the United States Supreme Court on two occasions, talked to the students about his "do's and don'ts," which includes the motto, "thank everyone who helped you get this far."

Summers' Chattanooga law firm, Summers and Wyatt, created the Summers-Wyatt Trial Advocacy Endowment, which funds an annual trial advocacy scholarship. Its recipient is selected by a committee of distinguished legal leaders in the state of Tennessee, including the presidents of the Tennessee Bar Association, the Tennessee Association for Justice, the Tennessee Association of Criminal Defense Lawyers and the senior member of the Tennessee Supreme Court, who is a UT College of Law graduate.

The scholarship is reserved for a student who is committed to pursuing a career as a trial attorney, but the committee gives special consideration to students who are descendants of attorneys who were members of the respective organizations. Moreover, the scholarship aims to award deserving students who are descendants of graduates of Central High School in Chattanooga, the University of the South at Sewanee, the University of Tennessee at Chattanooga and residents of Hamilton County.

This year, the Summers-Wyatt Trial Advocacy Scholarship was awarded to Jennifer Dusenberry, a mathematics and



political science graduate of the University of the South at Sewanee, who noted that even though her two undergraduate majors were on the opposite ends of the spectrum, “the two disciplines managed to tease out both my passions and my skills and taught me the benefit of diligent preparation and also the need to think on your feet,” she said.

Dusenberry has participated in trial and appellate moot court competitions, clerked for judges and criminal defense lawyers and credits her advocacy classes and work experiences with deepening her interest in practicing criminal defense law.

The second Summers-Wyatt scholar, Carrie Summers O’Rourke, ties her desire to be an advocate to witnessing young soldiers facing difficult legal situations arising as a result of their deployment and military service.

“What I wish to achieve in my legal career is to right wrongs, to help others who are in need of legal services,” she said. Carrie also has found her commitment to trial work strengthened by her law school experiences—particularly her work with the Innocence Clinic, which she describes as “teaching me about the thoroughness and professional standards that lawyers must adhere to in advocating a client’s cause.”



2012–2013 Summers-Wyatt scholars Jennifer Dusenberry and Carrie Summers O’Rourke flanked by Dean Doug Blaze (left) and center founder Jerry Summers.



Attendees at the 2012 Summers-Wyatt Symposium listen to a discussion about the media’s role in high-profile cases.

ries are pitched, what goes into the reporting of a story, what journalists expect from lawyers when covering legal issues and how reporting is affected by standards of journalism ethics.

At the end of the day, the symposium turned more specifically to counsel’s role in dealing with the court of public opinion. Judge Harry S. Mattice, Jr., U.S. District Judge for the Eastern District of Tennessee, led a panel of leading experts in a discussion about lawyers as crisis communicators. Attorneys Adam Goldberg, special associate counsel to President Bill Clinton; and Josh Galper, senior advisor to U.S. Labor Secretary Robert Reich in his gubernatorial bid; joined media communications consultant Tom Griscom, press secretary to Senator Howard Baker and assistant to President Ronald Reagan, to talk about their experiences helping clients identify and manage legal, political and reputational risks and crises. Judge Mattice will teach a course that further explores the topic of crisis communication at the College of Law during the fall semester 2012.

Public Interest Lawyering: The Education Law Practicum

The Education Law Practicum is a yearlong course that deals with truancy, the school-to-prison-pipeline and a myriad of educational issues, including special education. Practicum student Travis Copen discusses work handled on a daily basis by use of a representative client who, for privacy, is referred to as “John.”

John was raised in an inner city Knoxville public housing project. He has a single mother who, in the last few years, has gone back to school and received her GED. For several years, his family didn't have a car and had to rely on public transportation and friends to get around. John has two younger sisters who are doing well in school with no truancy issues and an older brother who is currently taking classes to get his GED.

John was determined to be eligible for special education services under the Individuals with Disabilities Education Act (IDEA) when he was in fourth grade. He received these services for his reading disability through middle school. Prior to middle school, the school system decertified him. When John entered high school, he began missing school regularly. After he had accumulated a number of absences, the school system filed a petition with the juvenile court initiating juvenile prosecution for the “unruly” offense of truancy.

This is the crucial time. The Education Practicum believes that these absences should alert the school to the need to determine what is going on with a child. Schools need to be willing and committed to an early and proactive investigation and provision of services to children with many absences. Without such an approach, the problem will persist. Solving the problem may require that the schools have someone whose specific job is to address and investigate truant absences. This person could effectively determine the best course of action to assure that the student will still receive the education he or she deserves.

At juvenile court, John pleaded guilty without a lawyer. For unruly status offense violations such as truancy, juveniles have no right to have a lawyer present with them when they are in court. Following this plea, the juvenile court conducted a series of hearings. After one of these hearings, John was put into locked detention for several days. After his detention, the Education Law Practicum began representing him.

This punitive approach did not actually address the problems behind John's truancy. In fact, there is no evidence-based research or studies that show that a punitive approach is effective in getting students back to school. However, the school system possesses the necessary expertise and resources to determine how to re-engage a student in school.

Since the Practicum has been working with John, we have uncovered a plethora of reasons for his school absences. John had physical health problems that were causing major sleep disturbances. He also was experiencing men-

tal health problems including depression, extreme anxiety and other related issues. These problems were not isolated incidents, but rather were documented as pervasive in his life. While physical and mental health issues are manageable, they can become quite problematic when they are coupled with other problems like difficulty in securing medication and finding reliable sources of transportation. Because John has a single mother who works full time, the issues are all the more complicated.

While John was missing school and struggling with these very real issues in his life, the school system needed to have a guided systematic and structural approach. Their goal should be to get John back into an educational program. While this seems to be an obvious goal of the educational system, the reality of policy implementation can frustrate the basic goal of providing an education to the student. Often, through a more punitive approach, blame is placed on the parents and child. This creates a frustrating cycle of blame and punishment that replaces the search for a more meaningful way to deal with the underlying issues that are the cause of the truancy.

Under Tennessee's new education plan, the state is committed to being the "First to the Top." In order to accomplish such a goal, students must be engaged in educational programs and actively learning. Each day that a student misses is critical to their development. To meet its commitment, Tennessee schools must develop a tailored response to student absences.

The Practicum suggests a structural approach in which schools would investigate absences and attempt to find solutions to the underlying causes, before the causes escalate and result in truancy petitions and court proceedings.

This twofold approach should curb the number of truants in the state as well as identify the problems that are causing truancy. By identifying and rooting out these problems, schools can address them as soon as truancy starts. In the end, students, schools and communities will benefit tremendously. The schools—by having a structural, problem solving, supportive approach to addressing truancy—should see a decline in the quarter of a million Tennessee students who were labeled as "truant" last year. The Practicum has already made solid headway in reducing the number of students who are prosecuted for truancy. Since 2008, there has been a 70 percent reduction in the number of truancy petitions filed in juvenile court.

The Education Law Practicum has worked with the school system to develop a flexible approach aimed at getting John, and other students like him, the educational services they need and deserve. John is now working online at a neighborhood community center. While, realistically, John has too few credits to graduate, the Practicum can help John and students in similar situations to work toward and earn their GED. By helping students who were once prosecuted as truants and had no hope of graduating to complete GED programs, the Education Law Practicum aids students in achieving their lives goals and avoiding the school-to-prison pipeline.



Professors Cook and Sobieski Honored with Lacey Award: Lessons of Life and Law Against a National Moot Court Team Backdrop



Professors Joe Cook and John Sobieski have been honored with this year's Forrest Lacey award. Selected by student representatives of the moot court teams, the award recognizes College of Law faculty who have demonstrated a longtime service to the college's moot court program.

Cook and Sobieski have coached the moot team for 46 and 30 years, respectively. That combined three-quarters of a century dedication has led the College of Law National Moot Court team to national championships and high-place finishes, but more importantly, Professors Cook and Sobieski share a passion for maintaining the excellent reputation of the UT team and ensuring that each team reaches its full potential.

In presenting this year's award, Amy Mohan, 2011-12 Chair of the Moot Court Board, member of the National Team and winner of the 2012 Haynes Prize, McClung Medal and Devitt Award, shared the "lessons I cherish most from them and those that I will take beyond moot court and into my life as a lawyer and just as a person." Below are some of Amy's remarks about those lessons in life and law.

Remember who you are fighting for.

During oral argument and when writing an appellate brief, you are fighting for a client. It's really easy to forget that sometimes when you are dealing with complex statutes like ERISA or major policy issues, but these professors reminded us of why we wanted to be lawyers in the first place—to be able to advocate for a person.

Always face a challenge head on and never try to dodge it.

In my first tryout for the National team, I walked out sweating like I had just been running. And, I think it's because I was running from Professor Sobieski's questions—scared to death. Through many practices, these coaches have taught us to take the challenge head on, no matter how difficult, answer the question and move on. It's a lesson that I think goes well beyond moot court in facing and conquering difficulties that lie ahead.

Don't forget those who have come before you.

These professors have shared many stories of those who have served on the team before us. Whenever we went to a competition, we were met with welcoming and supporting arms of former mooters. The continued dedication that these alums demonstrate is a testament to Professors Cook and Sobieski, and it instills in us an appreciation that others have paved the way and that we, too, should give back to those who come after us.

You are not awesome until you are awesome.

As many of you know, Professor Cook is a man of few words. So, often he will sit in practice with his head back, his hand on his forehead, his eyes closed, looking worried. I now realize that the look expresses a variety of emotions—satisfaction, great joy, deep frustration or just contemplative thought—but it's all the same look! Professor Cook does not speak with unnecessary praise. One day after practice last year, a professor told us "you guys are awesome." As soon as that professor left, Professor Cook stated emphatically, "I want to assure you, you are not awesome." It's important to continue to strive for a better performance. Of course by the

time we got to regionals last year, we got those few cherished words from Professor Cook: “now you are awesome.” Coming from Professor Cook, that is a huge deal. When he tells you, “you were smoking,” you might as well retire.

Win with grace, lose with grace.

Professor Cook instructs us with these words at every competition. It’s the UT way, it’s the National Moot Court way and it’s just the right way.

Take time for good food, good friends and good wine.

I have developed quite the expensive palate thanks to the moot court team. These coaches have taught us that as much blood, sweat and tears that we put into this, it’s good to sometimes sit back and just relish the moment. Their more than 30-year friendship is a testament to the fact that you can work hard but cherish those around you, take time to appreciate the moment and toast with some good wine.

Amy completed the presentation by talking about the inevitable—what would happen to the National Moot Court team when Professors Cook and Sobieski retire. She related their response when she put the question to them: Professors Cook and Sobieski laughed, invoked an image of being wheeled around “like a team mascot” and humbly predicted, “things will go on.”

In this, Amy found another lesson of life and law imparted by her moot court coaches. Humility. Although the coaches subscribe to a formula of “90 percent team and 10 percent coaching,” Amy noted that the formula is all wrong. The passion, hard work and dedication of Professors Cook and Sobieski to the College of Law’s moot court program are invaluable.



CENTER HOSTS LEGAL SERVICES TRIAL TRAINING PROGRAM

The Center for Advocacy and Dispute Resolution joined with the ABA Section of Litigation Legal Services Training Committee to provide 36 legal services lawyers from around the Southeast a three-day trial training program at the College of Law.

Lawyers from legal services organizations in Tennessee, Kentucky, North Carolina and the District of Columbia benefitted from the program entitled “Critical Trial Skills for Legal Services Attorneys,” taught by judges and lawyers from Miami, Illinois, D.C. and Tennessee. Judge Mark Drummond of Quincy, Illinois, led the faculty, which included

Magistrate Judge Patrick White, Southern District of Florida; Amy Furness from Carlton Fields, Miami; Chinh Le, Legal Aid Director, the District of Columbia; and Dina Biblin, a senior attorney with the FDIC. Faculty members from Tennessee included Gordon Bonnyman, Tennessee Justice Center; Gary Housepian and Theresa-Vay Smith, Legal Aid Society of Middle Tennessee and the Cumberland; Deborah Yeoman and Jane Morris, Legal Aid of East Tennessee; and Dean Doug Blaze, Wendy Bach, Bill Mercer and Penny White, UT College of Law.

Each student delivered an opening statement and closing argument and conducted various witness examinations in the hypothetical case—provided by NITA—which included allegations of excessive child discipline. In addition to on-the-spot critiques, each student received one-on-one feedback from a faculty member while watching a DVD of his or her performance.

One participant described watching herself on camera as “cringe worthy” but described the opportunity to be under the microscope and receive so much one-on-one attention from a faculty of exceedingly competent trial attorneys to be both challenging and inspiring. The center plans to continue to host similar training programs to benefit public interest lawyers and their clients.

LEARNING BY DOING

One student's experiences embracing the challenges brought about by his individual cases and the added challenge of making sure that everyone followed the law.

Written By Brennan Wingerter



While many College of Law students receive the opportunity to complete an externship with a public defender or prosecutor's office or a field placement with a private law firm or governmental agency, few students can say that after completing a semester-long externship they were asked to return the following semester. Recent graduate Alex Lynch,

however, can say just that. Lynch is one of the few students who had the enviable chance to spend a full year in one position, working with the same cases, in the same court, with the same supervisors.

In fall 2011, the Knox County Public Defenders selected Lynch as an extern and placed him in Knox County Juvenile Court. At first, Lynch was hesitant about his new externship because he had never worked in a juvenile court before. While Lynch's course work and his prior internships with the Memphis Public Defenders had given him a good base of knowledge in criminal law and procedure, he knew that working with kids would be different. He worried that it would be difficult to watch his clients struggle with less-than-perfect parents and not be able to help them. He worried that it would be difficult to maintain his role as an attorney and not try to be a "life coach" for his clients. He worried that the rules of juvenile court would challenge him to learn new procedure and new law. Despite these worries, Lynch accepted the externship and all the difficulties that he knew would come with juvenile court.

The difficulties began almost immediately upon Lynch's arrival, when one of the defense attorneys in juvenile court was transferred to the misdemeanor division. Lynch recognized the need for help and did not hesitate to step up and fill the gaping hole. He pored over files, interviewed clients and witnesses and researched the often-elusive issues of juvenile law and procedure. He investigated the allegations against his clients, filed motions and prepared cases for trial. Lynch characterizes his work during the fall semester as "all learning," but the public defenders recognized that his trial preparation, client interactions and work ethic had provided an invaluable service to their of-

fice. When the fall semester neared an end, they knew they wanted Lynch to return for the spring.

While most students were enjoying winter break, Lynch was preparing for his first big trial. On the first day of class in the spring, Lynch walked into Knox County Juvenile Court as lead defense counsel in a DUI and vehicular assault case. Although his supervising attorney had reviewed the case and helped with objections, Lynch handled most of the trial on his own. Fortunately, all of his hard work and trial preparation from the previous semester paid off. After teaching himself DUI law, and after extensive research, Lynch focused his defense on the fact that the smell of alcohol alone does not prove that a driver is impaired. Putting into practice what he had learned in the fall, Lynch argued in his motion for acquittal that the state had failed to carry its burden of proving impairment under the DUI statute. After requiring additional briefing on DUI law, the judge agreed with Lynch that the statutory requirements were not met and dismissed the DUI and vehicular assault charges. Imagine, as a third-year law student, winning your first trial. Now imagine, as a third-year law student, winning your first trial and then being asked to do it again.

The judge who dismissed the DUI and vehicular assault charges simultaneously decided that Lynch's client had to be guilty of some lesser-included offense. This meant that after winning an acquittal on the actual charges, Lynch had to convince the judge that his client also should not be found guilty of any other crimes. When the judge unilaterally ruled that Lynch's client was guilty of reckless driving—an uncharged crime and not a lesser-included offense of DUI or vehicular assault—Lynch wrote an emergency appeal of sorts. He found that the Rules of Juvenile Procedure are often ambiguous, and the appellate process is even more unclear. He admits that he spent most of his time trying to figure out what he was actually doing. The rules provide no clear procedure for emergency and interlocutory appeals from juvenile court, and motions to reconsider cannot be filed after an acquittal on the merits.

After much debate on the proper route to take, a second juvenile court judge reviewed Lynch's "emergency appeal," which asked the court to vacate the unilateral finding of guilt for reckless driving. The second judge agreed that Lynch's client could not be convicted of reckless driving, but the judge ordered a new trial on the original merits of the DUI and vehicular assault case. Lynch was perplexed at how that didn't violate double jeopardy. He knew that a new trial was not the correct remedy because his client could not possibly appeal his own acquittal. Nonetheless, the second judge was correct that the statute providing for juvenile appeals did not seem to provide any option other than a *de novo* trial.

Frustrated but not defeated, Lynch knew that his only

remaining option was to try and get the case heard by a criminal court judge. Lynch's supervising attorney knew from previous situations that they would have to file a *writ of certiorari* asking the criminal court to correct what had happened in the juvenile court, while also filing a *writ of supersedeas* to stop the juvenile court proceedings. Lynch set off to research both of those writs, leading him to seek the guidance of several local attorneys and Professor Jerry Black. Finally, about two months after the original trial in which his client was acquitted, Lynch filed the writs in criminal court. At that point he was still not completely sure that he had followed the correct procedure, but he diligently continued to push his client's interests in the best possible way.

Lynch must have selected the proper procedure because within a week a criminal court judge signed both of the writs and granted a hearing in the criminal court. Amidst all of the confusion, the district attorney eventually learned of the situation and agreed to drop the state's appeal if Lynch would withdraw his writs from criminal court. Although Lynch was excited about the possibility of arguing the case in criminal court, he knew that the state's proposal was the best outcome for his client. After months of hard work, Lynch was finally able to tell his client that his acquittal would be given full effect. Imagine, as a third-year law student, winning your first trial as lead counsel, defending your acquitted client against a looming re-trial and ultimately succeeding in restoring your client's freedom.

During the spring, Lynch tried two additional cases. While neither of those cases involved as much drama as his first case, they each presented their own unique challenges. In one case, Lynch was denied the opportunity to present his closing argument. In the other, Lynch learned firsthand the difficulty of retaining an expert witness when your client is poor.

Lynch's client was arrested without any alcohol in her system, although her blood test revealed low levels of Xanax and cough medicine. The crucial element of the DUI statute at issue was driver impairment. After meeting with the Tennessee Bureau of Investigation's lab technician who analyzed the client's blood test and explained the results, Lynch was confident that the state would not be able to prove impairment without an expert. In anticipation of the state's expert proof, Lynch located an expert forensic toxicologist for the defense. Unfortunately, however, defense experts require approval by both the juvenile court and the administrative office of the courts. Lynch filed a motion for expert funding, which the juvenile court approved, but the administrative office refused to match the requested amount for payment. Faced with a significantly lower payment, the expert toxicologist declined to help with the case.

Left without an expert witness just one week before the trial, Lynch had an uphill battle to prove that his client was not impaired when she was arrested. After closing arguments, the judge commented that it was a close case and could go either way. For defense counsel in juvenile court, that in itself is often considered a win. Although the judge ultimately ruled in favor of the state, Lynch succeeded in getting diversion for his client, and his client did not lose her license. For defense counsel in juvenile court—on a DUI case without an expert—that is definitely considered a win.

In addition to the challenges brought about by his individual cases, Lynch felt the added challenge of making sure that everyone followed the law. While he was often frustrated by ambiguous and contentious juvenile court rules, Lynch remained an ethical attorney and never played games or resorted to tricks. Undeterred by relentless opposition, he simply asked the judges to apply the law, even when that meant he was the one who ended up researching, briefing and explaining the law in open court. In the end, many of Lynch's arguments were rejected, but he at least knew that the law justified everything he said or did.

Fortunately, not all of Lynch's legal arguments went unheard, and he won several pre-trial motions that resulted in dismissals or reduced charges for his clients. In one case, Lynch had very little to go on but managed to present a persuasive argument that resulted in the district attorney dropping seven of the charges and allowing Lynch's client to plead to a less serious offense. In another case, the district attorney called Lynch to tell him that she completely agreed with all of the arguments in his motion and that she would dismiss all of the charges against his client. Those were some of the most rewarding times of Lynch's year with the Knox County Public Defenders, and his hard work left an indelible impression on his supervising attorneys.

Overall, Lynch says the time he spent in juvenile court was one of the most edifying and rewarding experiences of his life. He credits his supervising attorney, Christina Kleiser, with making him a better lawyer, and is grateful to her for being such an inspiration.

In May of 2012, Lynch wrapped up his field placement with the public defenders and graduated from the UT College of Law with High Honors, proving that a student can pay attention to real-life lawyer opportunities and his classes at the same time. After studying for the Tennessee bar exam, Lynch is headed back to Memphis to pursue a career in public defense. He knows that he may face even greater obstacles there, given the size of the community and the demands on its courts but, as always, he is prepared to accept yet another challenge.

Trial Practice a Perennial Favorite; Chancellor Weaver—Simply the Best!

The Honorable Patrick E. Higginbotham, a judge on the United States Court of Appeals for the Fifth Circuit, in his article “The Disappearing Trial and Why We Should Care,” notes growing evidence that the trial “enshrined as part of the fabric of the American legal system” is disappearing.

He cites statistics that suggest that less than 2 percent of civil cases are disposed of by trial. Why is it that in the face of this unquestionable trend that more than 75 percent of the students at the College of Law take Trial Practice? One answer may be that Trial Practice is a hands-on, sometimes daunting, sometimes exhilarating, enjoyable class. But that answer begs another question. Why is Trial Practice such an enjoyable class? For many, the answer to that question is Chancellor John Weaver.

Despite the demands of being one of three chancellors in one of Tennessee’s most respected and productive Chancery Courts, Chancellor Weaver has been teaching Trial Practice for more than a decade. He brings to the classroom his formidable legal experiences as well as the same respectful, professional tone that he brings to this courtroom. Students are moved by his concern for their success and are uniformly grateful for his caring and compassionate teaching methods.

Blake Garner, a student in a recent Trial Practice class taught by Chancellor Weaver, described the course as many students do—as one of the most enjoyable classes he had in law school. Blake found that Chancellor Weaver’s approach to instructing, while at the same time remaining approachable and open to questions, created a unique class environment. Garner said that learning from an actual judge was invaluable, particularly because of this judge’s singular focus on making the students better lawyers.

In addition to providing an enjoyable class experience, Trial Practice gives some students their first experience on their feet and in the spotlight. For some, this can be an intimidating prospect. Chancellor Weaver’s students, however, are gratified by his approach, which they describe as patient, constructive, unintimidating. He continuously works to instill confidence in the students which frees students to choose their own style or method. As a result, students often credit the course and Chancellor Weaver with giving them the confidence to go into their first real trial. As one student said, “I feel like I have had a practice run through all of the critical skills.”

This fall, 100 law students will begin their practice run, learning all of the critical skills that are taught in the College of Law’s Trial Practice course. Though the number of cases they try may be fewer than it was for past generations of lawyers, they will benefit from the skill set and from the opportunity to be mentored by Trial Practice instructors like Chancellor John Weaver.





What Do We All Do Every Day? **Negotiate!** Joe Christian Helps Students Master the Requisite Skills of Negotiation

Contributed by Laurielle Campbell

We all negotiate countless times each day. We negotiate big-item purchases like cars and houses, as well as important quality-of-life issues like salary and time off. But we also negotiate with our partners—“if you’ll fold the laundry, I’ll do the dishes.” With our children—“why do you need an iPhone?” And with our friends—“we ate their last week, can we go someone new!”

Lawyers negotiate even more frequently, setting fees, resolving scheduling conflicts and settling cases. Because negotiation skills are not innate, but are capable of being taught, the College of Law offers a hands-on course in Negotiations and Dispute Resolution as part of its advocacy and dispute resolution concentration. The class serves as a compliment to the college’s robust dispute resolution program led by Professor Becky Jacobs.

As is customary for the concentration, we seek experienced lawyers to teach our skills-based courses and the Negotiations course is no exception. Fortunately, we found an experienced negotiator serving as employer relations and recruitment coordinator at the College of Law. Following a career at Lewis, King, Krieg & Waldrop, PC, where he practiced in several areas—including commercial litigation, trademark, copyright, and bankruptcy—Joe Christian joined the Bettye B. Lewis Career Center in 2010.

During the spring of 2012, some of Professor Christian’s students described the class and commented on the value of his tutelage.

“With the help of Professor Christian, I was able to improve and refine my negotiation skills. During the semester, we were assigned to represent a party and paired against another classmate. All students reviewed a general information packet containing the issues and facts surrounding the case, but each student was also provided with confidential information given by our client to which our opponent did not have access. We would face the challenge of deciding whether and how to disclose the information during our simulated negotiations. Once we reviewed the material provided, we prepared a pre-negotiation analysis (PNA), which outlined what we expected to achieve in the negotiation and what plan of action we would take in order to achieve those goals.”

“Professor Christian reviewed our PNA and met with us individually in advance of our negotiation. He offered suggestions about our approach and sometimes expressed different viewpoints that we had not considered. After our conference with Professor Christian, we conducted and recorded our negotiation, enabling us to observe ourselves firsthand and allowing Professor Christian to review and evaluate our approach. After each negotiation, we constructed a post negotiation report, which allowed us to contemplate what we might do differently and whether our strategy and techniques proved successful.”

“In addition to these major exercises, we also simulated negotiations and mediations in each class, which gave us the opportunity to practice and improve the new skills we were learning. Professor Christian kept the class interactive and entertaining, so much so, that I looked forward to attending class to see what challenging assignments he had in store for us each day. Because of Professor Christian, I know when to engage in different negotiation styles and how to build rapport with opposing counsel. His knowledge and guidance has helped me to be a better negotiator and mediator, which will help me better serve my future clients.”

Center for Advocacy &
Dispute Resolution
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Upcoming Events

September 5

Tennessee Supreme Court
Docket Day

October 17-19

Advocates' Prize Moot Court
Competition

March 5-7, 2013

Jenkins Trial Competition

March 13, 2013

First-Year Advocacy Competition

April 24, 2013

Advocacy Center Year's End
Collaboration



Director's Dicta

The Center has had another great year, thanks in large part to founder Jerry Summers, who led the law school's capital campaign and continued to provide support to the center for its activities and scholarships. We are so grateful for people like Jerry who believe in the power and importance of advocacy training.

The fall semester will find us in a new location on the third floor of the College of Law, where we will be busily preparing for what is going to be an exciting fall semester. Dean Blaze has announced that Justice Elena Kagan will visit the College of Law as a Jurist in Residence during October 2012. While at the law school, Justice Kagan will deliver the Rose Lecture and participate in the Moot Court Board's Advocates' Prize competition. We are thrilled that we will be able to welcome Justice Kagan to East Tennessee during the fall.

If you have questions or ideas as to how we might do our jobs better, please be in touch.

A handwritten signature in black ink that reads "Penny White". The signature is fluid and cursive.

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