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

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The Advocate

CENTER FOR ADVOCACY & DISPUTE RESOLUTION

Bright serves as Advocate in Residence

The Center for Advocacy and Dispute Resolution hosted Professor Stephen Bright as its Advocate in Residence during the fall semester. Bright, president and former director of the Southern Center for Human Rights and professor at Yale Law School, taught a seminar on the right to counsel and delivered the college's Wyc and Lyn Orr Lecture. Students in the seminar observed court proceedings and attended Bright's lecture, as well as other segments of a full-day Essential to Justice seminar focusing on issues related to the right to counsel. Students then reflected upon what they had learned about the reality of the right to counsel. Excerpts from Bright's lecture and students' reflections appear below.

Excerpts from Bright's Orr Lecture

We must recognize the complete failure to enforce the right to counsel over the last fifty years by all our institutions, from the Supreme Court of the United States on down. It is more than a crisis; it is a colossal failure to make good on the most basic constitutional right that is essential for fair trials and reliable verdicts. No right is celebrated so much in the abstract and so little in reality as the right to counsel, and every day, from the highest court in the land to the municipal courts that serve as cash cows for their communities, the right to counsel is violat-

ed day in and day out.

In many courts, people accused of crimes are processed in assembly-line fashion. When they get to court, a lawyer whom they have never seen before tells them about the prosecution's plea offer and tells them to take it or they will get a much more severe sentence. After a conversation of five to fifteen minutes, the defendant pleads guilty, the judge accepts the plea, and imposes a sentence. This "meet 'em and plead 'em" processing of people is the utter

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Professor Stephen Bright, the center's Advocate in Residence, delivers the Wyc and Lyn Orr Lecture at the College of Law.

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corruption of the courts. The judge knows, the prosecutor knows, the defense lawyer knows, the lawyers sitting around the courtroom know—everyone knows that there is no legal representation whatsoever of the defendants. It is like a fast-food restaurant, putting on a slice of lettuce and moving it on, putting on a tomato, putting on a pickle, and moving it on down the line. This is not representation.

The answer to the failure to provide [meaningful representation] is not going to come from the courts, it is certainly not going to come from judges, it is not going to come from bar associations, although it should, and it is not going to come from legislatures. It is going to come from people who graduate from law school dedicated to making the Sixth Amendment right to counsel a reality and willing to go to places where they are needed to serve people facing a loss of life or liberty. That is who is making the Sixth Amendment right to counsel a reality in this country today: public defenders and dedicated private lawyers.

The best possible guarantee against the conviction of the innocent is a competent, capable, well-resourced lawyer defending the accused. A law school graduate can make a tremendous difference as a public defender.

The question for real representation and for fairness for the accused is an enormous issue, bigger than any one of us. The struggle has gone on for generations and will never end. But as Dr. King said, we

stand on the shoulders of others so that someday others will stand on our shoulders. Those of you who are now students can make a huge difference in [people's] lives... you can get people released on bail so that they keep their jobs, their homes, and their means of transportation. You can keep them from becoming a street person. You can keep them alive.

The law is a system of oppression that masks a lot of cruelty. But [lawyers can be part of a] helping profession... people who are committed to that old-fashioned notion of practicing law—the client-oriented, the family-oriented lawyers with a good “bedside manner”—who are reaching out to people, and doing it every day, despite all the setbacks, are in some small way taming some of the savagery and the corruption of the system and making the world a little more gentle, a little more humane, and a little more decent for all God’s children.

—from 2014 Wyc-Orr
Lecture by Stephen Bright

Reflections by John Baxter, Class of 2016

As I sit down to reflect on the concept of the right to counsel and what we have learned this semester, the specter of Ferguson, Missouri, looms large in my mind. We have come a long way over the past century to ensure that every person has access to justice, but as I observe the rage and despair in Ferguson, the harsh reality emerges that we have only scratched the surface in bringing about true access to justice for all American citizens. Until we live in a world where a young black man and a white police officer are treated the same way in a probable cause hearing, we will never fully realize the promise of *Gideon*.

Reading through the opening materials in this course, particularly the account of the Scottsboro case, I was profoundly affected by the growth that we have made, as a nation. It is so easy for people of my generation to read stories like the Scottsboro case and the stories of the Civil Rights movement and feel like it was a very long time ago. But these horrific events happened within the past eighty years. Our grandparents and our parents lived through these events. We are not as far-removed from the dark periods of our country’s history as we would like to believe, and scenes like those in Ferguson bring that reality back to the forefront.

Our system of justice, premised on the Sixth Amendment and the ideals of the right to counsel, arose from the humblest of beginnings: Clarence Earl Gideon’s handwritten petition for writ of certiorari. This historic document, written in a Florida prison cell, paved the way for what would become the guarantee of representation for millions of poor criminal defendants throughout the United States. This simple plea for justice forever altered the landscape of indigent defense in this country, and reading it today, more than fifty years after its creation, it gave me chills. That such a meager document could have such a profound impact on our system of justice in America stands as a testament to the importance of never giving up hope, even

Reflections by Suzanne Carr, Class of 2016

Professor Bright’s lecture served as a call to arms for me. As he pointed out, there are no small cases for the accused. Defenders cannot just process clients; they must represent them. The answer cannot lie in our existing system, because it is the system that is failing indigent defendants today. As a law student and future lawyer, it is up to people like me to make a difference and to work to improve our system of indigent defense.

Reflections by Mattie Owens, Class of 2015

I wholeheartedly agree with Professor Bright’s sentiments that the change we need must start with students. Courts will not change the way things are because the way they are works for them. The system cannot change itself. We are responsible for returning our justice system to its true adversarial state. Isaac Newton wrote, “If I have seen further it is by standing on the shoulders of giants.” The Right to Counsel seminar exposed me to many giants. I hope that this experience will never leave me and that I will always remember that a good attorney can literally be the difference between life and death.

in the face of overwhelming odds. The resilience and fortitude that stands at the heart of Gideon's writ cannot be forgotten today. Although we have made great strides in our push for a system of justice for all, we have yet to reach the promised land. And it will take perseverance in the face of great adversity if we are to ever reach the promise of true justice for all.

Reflections by Kathryn Fraser, Summers-Wyatt Scholar, Class of 2015

I entered law school believing that providing meaningful representation to indigent defendants would impact not only the individual defendants represented, but also entire communities and cities. Soon after, I learned that the representation ordinarily provided to indigent defendants is less than ideal. I began to wonder whether it was possible to provide meaningful representation to indigent defendants at all, given continual scarcity of resources, and to question whether it is possible to sustain a career providing meaningful representation to indigent defendants.

Even those beginning their careers with the intent to serve indigent defendants may find their intentions frustrated. Indigent defenders may find that they cannot afford to serve indigent defendants. They may find that the emotional toll of representing indigent defendants is too heavy. Alternatively, indigent defenders may feel that they are not serving their clients by continually pleading indigent defendants without sufficiently investigating and researching their cases. They may find themselves processing indigent defendants instead of serving them as individuals. Some indigent defenders are unable to reconcile this with their belief that indigent defendants are entitled to meaningful and effective representation by counsel and end up leaving the field of indigent defense. Some burn out. Meanwhile, others become complacent with the system and accustom themselves to pleading clients.

When Professor Bright spoke at the Wyc and Lyn Orr Lecture, he said that a whole generation of public defenders is needed with the faith, hope, and love to serve indigent defendants. A whole generation is needed to change the status quo. This generation of public defenders may not see the systematic change for which it works, but its work has an effect client by client, case by case. Something other than legal prowess is needed to provide meaningful representation; one also needs love and compassion to sustain a life's work of providing meaningful representation to indigent defendants.

Indigent defenders are part of a bigger plan. An indigent defender's work is not the most glorious; at times, it is magnificently inglorious. But compassion for the people being helped can sustain an indigent defender day in and day out in the difficulties inherent to this work. Our love for people and understanding of where they come from allows us to contin-

ue serving them, even though others may think our clients are worthless, and our clients may think themselves worthless as well. Genuine compassion for the people one helps may sustain a career of providing meaningful representation to indigent defendants.

I used to think that sheer willpower and an iron gut sustained one through a career in indigent defense. True, a lot of other things are needed (for example, legal acumen), but if I do not first care about the people I represent, my representation will be empty. It may be legally effective, but it will not be meaningful. Genuine compassion, combined with support from people in one's life, are necessities to sustaining a career providing meaningful representation to indigent defendants.

Reflections by Carolyn Alyse Ray, Class of 2015

Professor Bright compared the criminal justice system to a fast-food restaurant that moves people down the line. This line is fueled by poverty; the only way to avoid being shuffled down the line is to have a big enough bank account to remove yourself from the line. This should not be the case. Everyone should have a fair fight when their lives and liberties are at stake. As young professionals about to enter the field, we cannot be excited about the system we are entering. We cannot accept providing the same type and quality of representation [that now exists]. Professor Bright was correct in saying that the answer is that law school graduates must say, "I dedicate my life to making the Sixth Amendment a reality."

Reflections by Folasade Omogun, Class of 2016

The reality of "fast food" representation does not have to be our reality. Though the in-and-out representation skim has been the norm, as Professor Bright noted, it will be up to the next generation to change that reality. Along with holding our institutions accountable, we must hold one another accountable. I think the first and most important step in changing the reality of indigent representation is for counsel to realize that indigent defense is not just a job, but rather a unique calling. The ultimate task of defense counsel is to humanize clients when the system has stripped them of their identity.

Lewis, Robinson win Advocates' Prize

Each year, the Moot Court Board works hundreds of hours to create a problem, attract renowned judges, and recruit students for the annual Advocates' Prize competition held during the fall.

This year, the board capitalized on a visit by former US Solicitor General Paul Clement to deliver the Rose Lecture. After securing Clement's agreement to preside over the final round of the argument, the board invited three US Court of Appeals judges and a Supreme Court advocate to round out the panel. After weeks of preparation and days of preliminary rounds, four law students—CJ Lewis, Michael Robinson, Thomas Ritter, and Samuel Strantz—presented their arguments to Clement; Judge William Pryor, Eleventh Circuit; Judge Diane Sykes, Seventh Circuit; Judge Stephanie Thacker, Fourth Circuit; and Erin Murphy, Bancroft PLLC.

The Lewis–Robinson team won the competition, and the panel named Lewis the Best Advocate.

For many, the obvious question is *why*. Why would law students take on an even heavier workload? Why would they spend dozens of hours researching two complicated legal issues, consulting and adhering to the Supreme Court rules of practice, drafting and revising an appellate brief, and presenting oral arguments before panels of experienced lawyers and judges? Four compelling answers to those questions, provided by this year's four finalists, follow.



Students Michael Robinson (left) and CJ Lewis won the 2014 Advocates' Prize competition. Lewis was named Best Advocate.

WHY?

TO GIVE ME THE OPPORTUNITY TO PUT MY SKILLS TO THE TEST.

CJ Lewis, winner, final round; Best Advocate

Competitions like Advocates' Prize always excite me because they give me the opportunity to put my skills to the test in a way that no class ever can. The adrenaline that rushes through me in the time before a competition is like no other feeling.

I also enjoyed the opportunity to work with my partner, Michael Robinson. Too often law school feels like a solo journey, and getting to partner with Michael was a pleasure. Both of us

improved dramatically by working together to shape our legal presentation over the course of the competition.

Arguing before the panel of judges was truly an honor. The questions they asked forced us to re-examine our arguments from new perspectives. In my legal career, I am excited about explaining complicated legal concepts so others understand my position. It was amazing to watch as the judges "got" my

legal arguments. I am thankful to all the judges. Their feedback was always helpful, and they provided insightful questions that helped each of us make it to the next round.

I will take with me from this competition a confidence that I can present oral arguments. Before, I often felt timid approaching the appellate arena. Now I have a taste for what is required, and I am excited to put this experience into practice.

WHY?

TO TAKE ADVANTAGE OF EVERY OPPORTUNITY TO STRENGTHEN MY ORAL ADVOCACY ABILITY.

Michael Robinson, winner, final round

As the entire auditorium hushed to a silence, we all stood as the justices entered in a slow-moving line. Painfully slow, in fact, because I had time to go over in my head what was about to happen: "I am about to argue a case on appeal to a 'mock' Supreme Court, consisting of the finest judges and advocates from around the nation. Stay calm." As the judges walked in, I thought to myself, "I still have time to run out



Former US Solicitor General Paul Clement and Judge Diane Sykes, US Court of Appeals for the Seventh Circuit, were two of five judges.

the back door.” But I stayed and completed what has been the most exciting, beneficial, and, for lack of a better adjective, “cool” experience I have had in law school.

What is so “cool” about Advocates’ Prize is that it is more than a competition; it is an event put together so well that Advocates’ Prize commands the respect of the entire law school community. Not only is Advocates’ Prize competitive among the student body, but also professors and deans attend the final round to watch the distinguished bench hear a fact pattern that will almost certainly be an actual point of contention in the near future.

As a 2L, you might imagine how nervous I was, but it was exactly for this reason that I signed up to do Advocates’ Prize. Being cognizant of my weaknesses, I knew coming into law school that I needed to take advantage of every opportunity to strengthen my oral advocacy ability. The more significant the event, the better prepared I might be in the future to handle stressful situations. A new door opened up for me after competing in Advocates’ Prize because I realized I can advocate under the pressures that a well-run and highly respected program presents. For that, I am indebted to those who make the program possible, and I look forward to helping make Advocates’ Prize available for other students in the future.

WHY?

TO PRACTICE FORESEEING AND COMBATING AN OPPONENT’S ARGUMENT.

Thomas Ritter, Best Brief; runner-up, final round

As a future litigator, Advocates’ Prize was one of the best and most rewarding experiences of my law school career. As one of the

oldest and most distinguished competitions at the College of Law, the decision to participate was a no-brainer. While my law school experience has featured various simulations in the classroom, Advocates’ Prize offered much more by providing me with intimate advice and pointers from distinguished practitioners and federal judges.

Going into the competition, I hoped to build upon what I perceived to be my strengths and weaknesses in oral advocacy. I’ve always been a confident public speaker, but the competition challenged me to be one while thinking on my feet. In the preliminary rounds, I quickly found out that reciting my prepared argument was less important than learning to quickly and calmly navigate the judges’ inquiries. Lawyers and mentors alike have told me that instrumental to the successful practice of law is one’s ability to foresee and combat an opponent’s argument. Because Advocates’ Prize requires the participants to argue both sides of the case on back-to-back nights, the competition allowed me to experience this firsthand and to contemplate an issue from more than one perspective.

As I prepared for the competition, I grew in my ability to write proficiently and speak confidently. The competition also provided a great learning opportunity to work as a team. My partner, Samuel Strantz, and I challenged each other with constructive criticism and ideas that brought out the best in both of us.

I have always believed with practice comes experience, and Advocates’ Prize only furthered that sentiment. The competition will serve me well on my journey to become a successful practitioner and will remain one of my fondest memories from my time at UT Law.

WHY?

TO ARGUE IN FRONT OF A PRESTIGIOUS BENCH AND GET FEEDBACK.

Samuel Strantz, Best Brief; runner-up, final round

In law school, law students are always seeking opportunities for real-life legal experience, which is surprisingly sparse and hard to find. Advocates’ Prize fits that bill as an opportunity to argue in front of a prestigious bench *and* get feedback. I thought the process was very authentic, in that the bench would interrupt and ask questions quite frequently. I was incredibly nervous. To be honest, my partner Thomas and I did not expect to reach the final round and we were very surprised when we did.

This competition awakened a desire in me to actually practice appellate advocacy. I find it challenging and, more importantly, very fun. Oral argument is like the athletics of the law field, and Advocates’ Prize is a way for students to experience it like no other.

Q&A: Melanie Wilson, UT Law's next dean

The university recently announced that Melanie Wilson, professor of law, associate dean for academic affairs, and director of diversity and inclusion at the University of Kansas School of Law, will become the new dean of UT Law, effective July 1. Before entering academia, Wilson clerked for a federal district court judge and enjoyed thirteen years of sophisticated law practice in the private and public sectors, including six years as an assistant United States attorney and four years as an assistant attorney general for the state of Georgia.

Recently, Wilson answered Advocacy Center Director Penny White's questions about her experiences as a trial lawyer, shared a war story or two, and provided sound advice for students who wish to follow a career path in litigation.

WHITE: Before entering academia, you served as an assistant US attorney for the northern district of Georgia. What kinds of cases did you handle in that position?

WILSON: I was formally assigned to the fraud and public corruption section within the criminal division of the office. I worked on a variety of cases in which someone defrauded an agency of the United States. For example, I worked on the prosecution of the president and financial aid director of Morris Brown College, who eventually pled guilty to participating in a financial aid fraud scheme. And although I was assigned to the fraud section, I also prosecuted a number of violent crimes involving drug conspiracies, bank robberies, and prison violence, among other types of cases.

You also served as an assistant attorney general for the state of Georgia. What kinds of cases did you handle in that position?

I handled primarily civil defensive litigation for the state of Georgia, meaning I represented the state and its various agencies once a lawsuit was filed. Most of my work involved defending the government against allegations of employment discrimination and claims that a government agent had violated someone's civil rights.

All trial lawyers have "war stories" from their days of practice.

Can you share a war story or memorable event from one of your cases or investigations? Trying cases is intellectually challenging and exciting work. There is *never* a dull trial. There are so many small but unusual and interesting happenings in trials and criminal investigations, I'm not sure how to select one event. I have prepared witnesses, even trained law enforcement officers, who are incredibly confident until they take an oath. Then, they waiver on every question asked and cannot remember any pertinent details. I have prosecuted cases involving a drug ring comprised of elderly members of the Klu Klux Klan and cases with some of the most charming "snitch" witnesses you can imagine. No two cases are alike. That makes all of them interesting.

Perhaps one of the funniest things that happened to me had



Trying cases is intellectually challenging and exciting work. There is *never* a dull trial.

nothing to do with the case I was trying. I was a new lawyer. I had just finished my opening statement. A colleague had come to the courthouse, I learned later, to lend psychological support. She had dressed in one of her finest suits, but it was, in hindsight, a little snug. As I finished my opening and headed to counsel's table to sit down, a button from my friend's suit jacket gave way to the tension of a few extra holiday pounds, shot some ten or so feet from the spectator's gallery, and struck me square in the chest. I laughed and looked back at the jury, all of whom were laughing. I knew then that I had a good chance of winning the case. The humor we shared helped warm the jury to me. (By the way, my friend and I still laugh about this.)

Take courses like pretrial advocacy, negotiation, criminal procedure, and advanced trial advocacy. Participate in clinics. These courses and experiences will ease you into the practice of law after graduation.

As a student at the University of Georgia Law School, did you take any courses in law school that you later found instrumental to your success as a trial lawyer? Looking back, I would say that every course I took helped better prepare me as a trial lawyer. To be an outstanding lawyer—especially one who tries cases—you need to think critically and anticipate testimony, objections, and problems. You need to be adept at problem-solving. You need to be clear-minded and thoughtful. You need to relate to and understand people and their motivations. You must be tenacious but diplomatic. You are also expected to understand all of the substance of the case, even subjects that require expert testimony. Law school gives you the tools to successfully build all of these skills. That said, I would urge students interested in advocacy, and especially trial work, to apply their knowledge early and often. Take courses like pretrial advocacy, negotiation, criminal procedure, and advanced trial advocacy. Participate in clinics. These courses and experiences will ease you into the practice of law after graduation.

As a practicing attorney, what qualities did you observe in other trial lawyers that you admired? Hard work and preparedness. There is no substitute for preparing your case.

What advice would you give to our students in the advocacy concentration who hope to pursue a career path as a state or federal prosecutor? You have the benefit of a tremendously talented and giving faculty at UT. Take advantage of this scarce resource. Your professors have practiced law. They have served as judges. They know what it takes to succeed. They know what skills you need to become a successful criminal defense lawyer or an ethical and just-minded prosecutor. Talk to them; watch them; ask them questions. And then work hard to land that dream job.



PROGNOSIS

EXAMINING AND TREATING THE AILMENTS
OF HEALTHCARE LAW AND POLICY

Center, TJLP to present healthcare symposium at UT Law March 6

Healthcare law is a fast-growing field of law that reaches nearly every aspect of commerce, communities, and individual lives. Its current state of change—chiefly due to the Affordable Care Act (ACA) and states' responses to the act—makes the topic a timely and essential one for UT Law's upcoming symposium, "Prognosis: Examining and Treating the Ailments of Healthcare Law and Policy."

The Center for Advocacy and Dispute Resolution and the *Tennessee Journal of Law and Policy* are co-sponsors of the symposium, to be held at the College of Law on March 6.

Jim Pyles, a Washington, DC, healthcare attorney, legislation author, and policy advocate, will deliver the keynote address. Pyles is a nationally acclaimed authority on matters of healthcare privacy, insurance coverage, and patient-centered policy. He was the principal author of the Independence at Home program, included as part of the ACA. He served six years in the Office of the General Counsel for the US Department of Health, Education, and Welfare and is a partner at the DC firm of Powers Pyles Sutter & Verville PC.

Through presentations from Pyles and other government, private, and nonprofit professionals in the medical and legal fields, attendees will benefit from learning about the most current and important aspects of today's healthcare landscape. Attendees will hear panelists with broad perspectives and deep insights discuss legal-medical interactions, best practices and cost controls, and effects of healthcare legislation in Tennessee and the nation.

The symposium will provide CLE credit. Those interested in attending may register at tiny.utk.edu/prognosis or contact CLE Director Micki Fox at mfox2@utk.edu.

FOCUS ON FACULTY

Harrington's students benefit from her judicial experience

Judge Tammy Harrington became a member of the Advocacy Center's adjunct faculty in the fall of 2014, teaching a section of Trial Practice, a class she is perfectly suited to teach. Before taking the bench in 2011, she served for more than fifteen years as an assistant and deputy district attorney general in Blount County; trying hundreds of cases in juvenile, general sessions, and circuit courts; mentoring young lawyers; and training assistant district attorneys.

In previous semesters, Harrington used her mentoring experience to supervise students in the college's judicial externship program. This fall, she drew upon her vast trial practice background, teaching one of twelve small sections of Trial Practice (see opposite page). Her students discovered what makes Harrington an excellent trial lawyer, a respected jurist, and an exceptional mentor.

Student Anna Matlock says Harrington has a "hands-on" approach to teaching the course. "For each exercise we were given feedback, both points of praise and constructive criticism," Matlock says. "If there was a subject on which we as a class were unclear, Judge Harrington used her knowledge as a former prosecutor and now as a sitting judge to fill in and provide examples and explanations...It was clear from the beginning that Judge Harrington wanted our class to have the knowledge and the skills to excel in any courtroom situation." Matlock says Judge Harrington was "always available for questions or concerns" as well as



Above, Judge Tammy Harrington (left) and students Russ Swafford and Emily Mayberry discuss their trial at the Blount County Courthouse.



Left, members of the jury are sworn in for the students' trial.

"eager to help in any area, even outside the realm of the Trial Practice class. I was thankful to have had someone that cared not only about my development as a student and future litigator, but also about me as a person."

Student Adam Duggan says the course was "capped off with a touch of reality when we were able to use Judge Harrington's courtroom [to conduct our final trials]. There were water pitchers (and thankfully, no spills), court officers, jurors, witnesses, projectors, oaths, and a robed judge. No trial practice class can fully simulate the real thing, but this experience came very close." Matlock says the "added formality made the trial more realistic

and created a powerful atmosphere we had yet to experience in the classroom."

Another benefit of the courtroom setting was the opportunity to become "comfortable in interacting with the jury, the bailiff, court officers, and others involved throughout the course of the trial," says student Russ Swafford. Swafford also benefited from "learning to control my nerves and appear confident in the presence of an actual jury."

"During our trial, Judge Harrington asked court officers and staff to serve as witnesses. As defense counsel, I was tasked with cross-examining an actual police officer," says Swafford. "It is one thing to cross-examine your

classmates...but quite another to cross-examine a uniformed officer in an actual courtroom."

Like his colleagues, Swafford is grateful Judge Harrington was his Trial Practice instructor. "Judge Harrington provided feedback and advice from her experiences as both an attorney and judge and offered guidance on what she sees practicing attorneys do well (and not so well) when they appear in her courtroom," Swafford says. "The guidance that Judge Harrington provided from a judicial perspective was invaluable. Rather than having to wait until I enter practice, I can now begin developing the kind of good trial habits that judges appreciate."

Trial Practice students improve skills, add confidence

Some people scoff at the idea of taking a trial practice class in law school, believing that a law student is better off taking and mastering courses in legal doctrine. Yet more than 100 second-year law students registered this year for Advocacy Evidence and Trial Practice, the two courses required to begin the concentration in advocacy and dispute resolution. The student demand required the Advocacy Center to find adequate resources to staff twelve small sections of Trial Practice, the most offered in the center's history.

As it turns out, students take Trial Practice for a number of very good reasons. While many students hope to learn witness examination techniques and the technical aspects of introducing evidence, many also take the course to enhance their communication skills, which boosts their confidence and enables them to feel better prepared for counseling and advising clients about legal issues.

"I was aware that one of my weaknesses was formal public speaking," says second-year student and Advocacy Center research assistant Ben Lemly. "I felt that the class could help me improve my advocacy skills." And the result? "Trial Practice surprisingly exceeded my relatively high expectations."

Lemly credits his professor, Larry Giordano, who encouraged the students to adopt a daunting but helpful practice. "Mr. Giordano strongly encouraged that the students practice and give their presentations without notes," Lemly says. "By the end of the semester, I had developed a presence. I found I could narrate various facts in a simple, straightforward manner far better than I expected initially. Going forward, I expect that Trial Practice will remain one of my most valuable law school classes. I completed the class feeling confident that I am developing the skills required to be an able advocate and a skilled counselor."

Steffen Pelletier took Trial Practice after having spent a summer as a judicial extern observing trials in Davidson County. What surprised Pelletier was how comfortable she became with public speaking and presentation. "It is certainly intimidating to practice new skills, and it is even more intimidating to practice those skills in front of your peers, but I found that I learned as much from my peers as I learned through my own presentations in the class," Pelletier says. "The Trial Practice course helped me explore my personal strengths and weaknesses, albeit in a trial environment. I learned that I was comfortable delivering a memorized opening statement but needed to spend more time preparing for less scripted exchanges. The course helped give me the confidence I will need to interact in a courtroom setting with a judge, with opposing counsel, with witnesses, and with my clients."

Pelletier's trial partner, Callie Jennings, agrees the course will be helpful to her legal career, regardless of whether she has a trial-based practice. "I am more confident and assertive because of the public speaking aspect of the course," Jennings says. "The trial practice experience made evidence class come alive for me. I saw why the rules



Anna Matlock presents arguments during a Trial Practice exercise.

mattered, what a powerful tool they can be, how they work, and the way they can seriously impact a trial."

Another dimension of the experience for Jennings was how the course resonated with her creative instincts. "Going through the trial made me appreciate the art of weaving that story that you want to show to the jury," she says. "I wrote short stories in high school, and I just loved the artistic aspect of creating the theme and letting that guide you in how you look at the facts."

Anna Matlock knew that litigation was an area she was possibly interested in, but she doubted it would appeal to her. "Public speaking had a tendency to make me very nervous," Matlock says, but she knew that was a fear she wanted to overcome. After her first assignment, preparing and delivering an opening statement, which Matlock says she "bombed," she left class "disappointed and discouraged, dreading the remainder of the semester."

However, Matlock says, "as the semester progressed and with the encouragement from my professor and classmates, I began to grow and improve in ways I did not anticipate. I took Trial Practice to learn whether the courtroom was for me. Leaving the class, I not only have begun to develop various skills necessary for the courtroom, but I have gained a confidence I did not possess before. I look forward to using what I have learned as an advocate for others."

Why they teach

Despite heavy professional workloads, adjunct professors are dedicated to legal education

What is it that makes lawyers with demanding schedules and judges with heavy dockets say “yes” when asked to teach courses in the curriculum?

Judge Tammy Harrington says her own experience as a law student taking Trial Practice affected her decision to teach the course. “Trial Practice was not only one of my favorite classes, but taking the course really changed the course of my career,” Harrington says. “I was able to do things in Trial Practice that I had no idea that I was capable of doing. It was during Trial Practice that my decision to be a trial attorney was made.”

Before being appointed to the bench in 2011, Harrington was a career prosecutor who enjoyed being in the courtroom every day. “After becoming a trial court judge, I realized that even with my previous experience, there are many aspects of trial work about which I was unaware,” says Harrington. “Within six months of taking the bench, I called Court of Criminal Appeals Judge D. Kelly Thomas (who was previously a trial court judge in my jurisdiction) and apologized for the many things that I did as a practicing attorney in his court. His response was a chuckle and a quick reply of, ‘Isn’t it a different perspective!’”

The added perspective from the bench fueled Harrington’s desire to teach the class, but committing to do so created some difficulties. “To be completely honest, I was not sure how I was going to find the time to balance a full-time judicial position, community commitments, and a busy family with three children,” Harrington says. “However, I kept thinking, I have to make this work. I have the privilege of seeing new attorneys begin the practice of law on a regular basis. I would be remiss if I missed the opportunity to hopefully pass on some of the knowledge I have gained through the years, mostly from my mistakes.”

Harrington admits to a “purely selfish reason” for taking on the challenge of juggling the course and her other responsibilities. “I love being a judge. It is challenging, rewarding, difficult, worthwhile, exciting, and an unbelievable privilege to serve my community,” Harrington says. “But at times, I dearly miss being a trial attorney. I miss the case preparation, the advocacy, and the interaction with other

attorneys. I miss the people who relied on my ability to help them navigate the legal system...Teaching Trial practice gave me the opportunity to share my passion for advocacy with the next generation of attorneys.”

Like Harrington, Brooklyn Sawyers had many reasons not to become an adjunct Trial Practice professor. Sawyers is an assistant US attorney, currently assigned to the White-Collar Unit with the eastern district of Tennessee’s US Attorney’s office. She coordinates the district’s bankruptcy and financial institution fraud prosecutions and creates and conducts local, regional, and national training programs on federal wiretaps. She is also solely responsible for the district’s Project Safe Neighborhood program. So why would she agree to teach a course in Trial Practice at UT Law?

“It was a privilege to return to my alma mater as an adjunct professor and work with my former professors and current colleagues in helping to develop my future colleagues,” Sawyers says. “I am a racial minority who has been troubled by the lack of racial diversity within the law school student body, faculty, staff, and Knoxville legal community. I hoped that by saying yes to this teaching opportunity, my mere presence and, in some instances, mentorship would encourage racial-minority students to stay the course and not give up on East Tennessee. I hoped that my students would see that people who look like them have opportunities at every level of the legal profession and some even remain in the Knoxville community. That being said, saying yes came at a high price. As a practicing attorney, single mother, board member, and so on, time is priceless and quite scarce.”

Nevertheless, Sawyers says the high price was well worth it in the end. “I had great moments with my students, including the moment that one of the less strong oral advocates delivered a flawless closing argument and I ran to the lectern to give him a congratulatory hug, and the final trials when the entire semester’s work came together beautifully,” Sawyers says. “Overall, I enjoyed seeing the students grow in ability and, more importantly, confidence. Every student showed some level of improvement over the semester and almost all significantly improved their oral advocacy skills. It was a great career accomplishment to play some role in that improvement.”



Adjunct professor Bauknight named bankruptcy judge

The Center for Advocacy and Dispute Resolution congratulates adjunct professor Suzanne Bauknight, who was recently confirmed as a bankruptcy judge for the eastern district of Tennessee. Judge Bauknight has taught both Advanced Trial

Practice and Trial Practice.

As one of her students notes, Bauknight fortunately plans to continue to teach. “Our in-class simulations felt more like a real courtroom experience [because they were] taught by a real judge,” says student Alex-

andra Woolf. “Judge Bauknight held our arguments and objections to a similar standard of quality as in her real courtroom. My experience as a student in her class was invaluable and will serve me well for the rest of my career.”

DIRECTOR'S DICTA

Entering the College of Law from the front, one sees the words “Equal Justice Under Law” inscribed on the building. Helping individuals acquire equal justice is a most worthy goal for any law school, but UT Law flanks that goal with its most essential element, etched above the college’s White Avenue entrance: “To Have the Assistance of Counsel.” This edition of *The Advocate* is dedicated to the right to counsel.

Most lawyers are familiar with the Sixth Amendment’s guarantee of the right to counsel, but a strong core of UT Law students now have a working understanding of the stark contrast between the right in principle and the reality in practice as a result of a special course, a stirring professor, and an engaging symposium. In our Right to Counsel course, students were inspired by Professor Stephen Bright, who demonstrated week after week, through anecdotes and examples, that no other fundamental constitutional right is “celebrated so much in the abstract and so little in reality as the right to counsel” (see page 1). At the Essential to Justice symposium, a packed room of students, lawyers, and policymakers listened as Ndume Olatushani shared the travesty that occurred in his life when he was sentenced to death for committing a murder in Memphis—a city he had never visited. Despite the decades he spent in prison after his wrongful conviction, Mr. Olatushani told the audience that he was a “fortunate man” and encouraged students and lawyers to always see their clients for who they are and not just as “cases on paper.”

In some small way, I hope that the stories in this newsletter remind you of the role that lawyers must play in reaching the ultimate goal of equal justice. The stories include student reflections on the right to counsel, our new dean’s thoughts on the importance of advocacy, and adjunct professors’ explanations of why they teach. Collectively, the stories demonstrate that vision, dedication, and passion can lead us closer to that front-door inscription, the promise of “Equal Justice Under Law.”



Penny J. White
Director





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COLLEGE OF LAW

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2015

UPCOMING EVENTS

MARCH 6

**Prognosis: Examining and
Treating the Ailments of
Healthcare Law and Policy**

Symposium sponsored by *Tennessee
Journal of Law and Policy* and Center for
Advocacy and Dispute Resolution

MARCH 9-11

Jenkins Trial Competition

MARCH 25

**First-Year Advocacy Idol
Competition**

APRIL 16

**Center's Annual
Collaboration**