

Fall 2015

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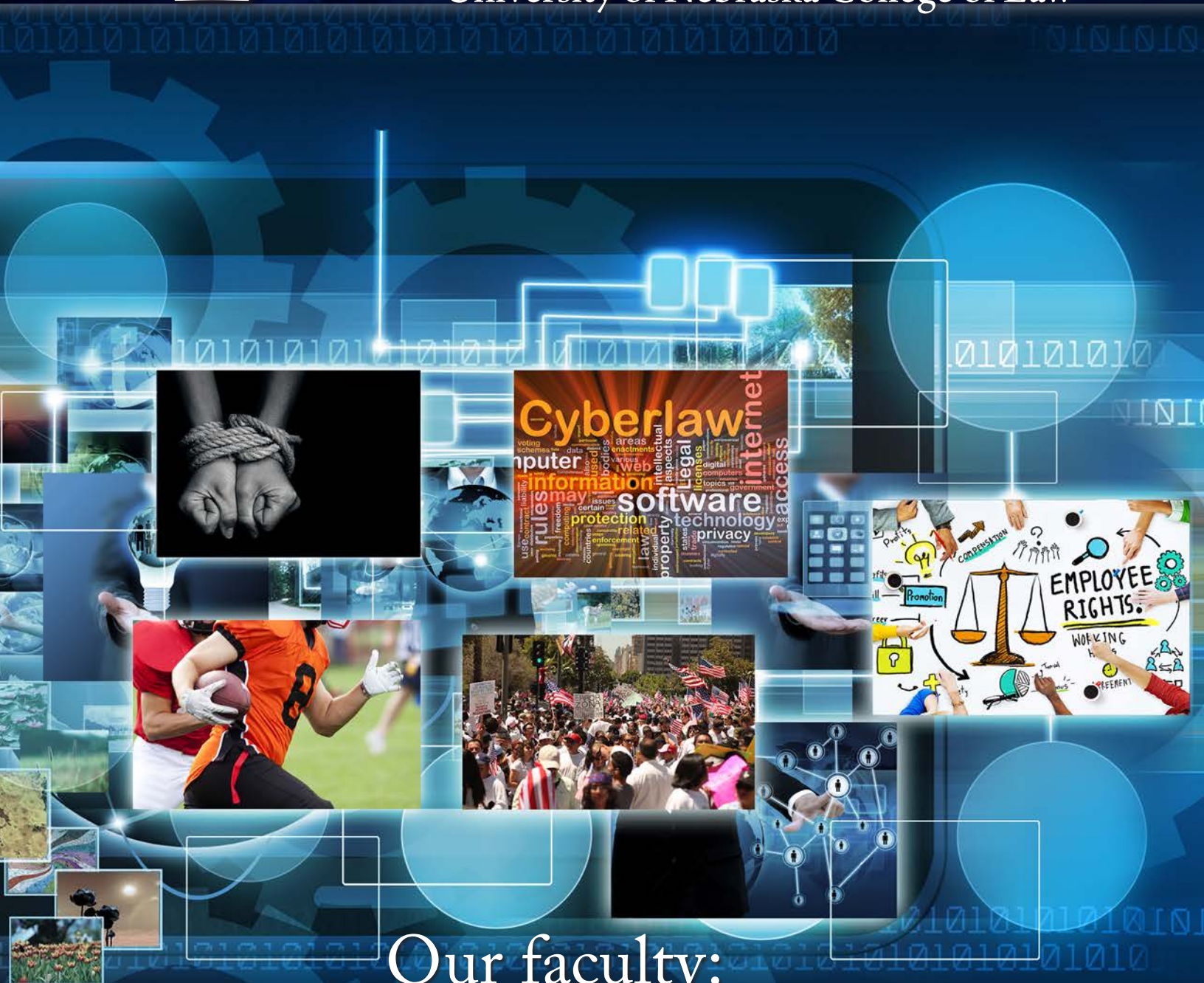
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Nebraska TRANSCRIPT

University of Nebraska College of Law



Our faculty:
Leading the way on issues of today

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McCollum Hall: Celebrating 40 years

College hosts International Client Consultation Competition

Yale Law professor Cristina Rodriguez delivers Lane Lecture



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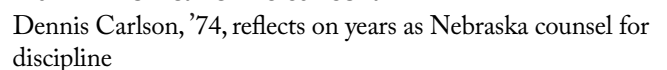
Professors Josephine Potuto, Steven Willborn, Kevin Ruser, Anna Shavers, Sandra Zellmer and Eric Berger share some of their latest scholarship in this edition.

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Nebraska Transcript Fall 2015



Welcome to another edition of THE NEBRASKA TRANSCRIPT. The semester is off to a great start with a new class of students who hail from 19 different states and Canada, as well as 44 different undergraduate institutions. Our returning students are coming back from experiences clerking for firms in Nebraska and around the country, doing law-related work and attending summer abroad programs all over the world in places like Uganda, Japan and the United Kingdom. Because of the generosity of some law firms and several individual donors, we have doubled the number of students we can support doing public interest work in the summer. Last summer, some of our Nebraska Public Interest Law fellows provided legal assistance at local public interest organizations like Lincoln and Omaha Legal Aid, Nebraska Appleseed

to fulfill our mission of offering a wide variety of courses and programs at the highest level and serving those in our community who cannot otherwise afford legal services. The construction began in August and will be completed by November 2016.



“A small but mighty group of donors have made it possible for us to build this addition so that all of our clinics can be housed in the same place, in a state-of-the-art facility that will be more welcoming to clients and more functional for our faculty and students. ”

and the Center for Legal Immigration Assistance, while another worked on alternative dispute resolution issues in Chicago and another went to the public defender's office in Colorado.

The big excitement around here as we begin the new academic year is the start of the construction for an addition to our building that will house our clinics. A small but mighty group of donors have made it possible for us to build this addition so that all of our clinics can be housed in the same place, in a state-of-the-art facility that will be more welcoming to clients and more functional for our faculty and students. In this day of increased emphasis on learning practical skills in law school, this addition to our facility will help us continue

In addition to covering news and events from the past six months, with this issue we go back to basics, back to the core of who we are and what we do, by providing a sampling of the scholarship that our faculty is producing. These excerpts demonstrate the depth, breadth and relevance of the work in which the faculty at the College are engaged, work that has had an impact on law and legal systems around the country and the world. As you know, the Nebraska Law faculty take tremendous pride in their teaching and their service to the bar as well as to national organizations involved in legal education, legal issues and law reform. These are their more public pursuits, and they take a huge amount of time and effort. Yet along with all of this activity, the faculty are also deeply engaged in scholarly pursuits of



all kinds, on issues that are both highly topical, but also fit into timeless American legal and social debates. In this edition of the *TRANSCRIPT*, we have provided excerpts from the work of six faculty members writing on a wide variety of important and topical legal issues. I invite you to read this interesting and important work and remember that it represents only a few members of the faculty and thus the tip of the iceberg in terms of faculty scholarship and the impact that it is having on the law and our society.

As always, thank you for your loyalty to and support of the College of Law.

Susan Poser

A handwritten signature in black ink that reads "Susan Poser". The signature is fluid and cursive, with the first name "Susan" and last name "Poser" clearly legible.

Dean and Richard & Catherine Schmoker Professor of Law

Desire to serve others motivates Ruser in his role as clinical programs director



When examining Professor Kevin Ruser's legal career, a thread runs through its entirety: the desire to serve others. A 1979 graduate of the College of Law, Ruser began his service to the legal profession with Legal Aid of Nebraska, spending two years in its Grand Island office before moving to Scottsbluff in the fall of 1981.

"I loved this work," said Ruser. "Making a move was not easy because I loved where I was and what I was doing so much."

So, what drove the decision to leave a more traditional law practice for a career at the College of Law? "I saw an ad in the Advance Sheets, so I called Peter Hoffman, who was running the clinic at the time, and said, 'Let's talk.'"

Through this brief conversation, Ruser learned that the legal work that was being done in the Civil Clinic was the same work he was doing for Legal Aid with the addition of teaching law students along the way. The position was funded through a National Legal Services Corp. grant. After that one phone conversation, Ruser was offered the job.

"Like every important decision, this one was made on the way to the grocery store," said Ruser. "It didn't seem like an important decision at the time, but it turned out to be the best decision of my life."

In June 1985, Ruser joined the Law College faculty where he has continued to serve clients and teach students since. In the late 1980s, his position was moved from a grant-funded position to a permanent faculty line.

Over the years, the College's clinical programs have grown and blossomed under Ruser's oversight and direction.

Currently, the College of Law offers not only the Civil Clinic, but an Immigration Clinic, Criminal Clinic and Entrepreneurship Clinic as well. Ruser oversees all clinical programming and teaches the civil and immigration clinics.

Growing the clinical programs and teaching have presented challenges along the way, but Ruser points out, “None of the challenges that I face compares to the challenges my clients face every day.

“I do have to reinvent myself and the course because students change. The way that students learn changes.”

Adapting to how students think about things and process things as a result of technology poses the greatest challenge. “This is what we, as lawyers, must do, though. We must be able to adapt to changes in the law and changes in the practice.”

In addition to serving clients and students, Ruser serves the profession through his research and writing. “I think the scholarship I am proudest of are the things I have written to help practitioners in their daily practice, such as my ‘Crimmigration’ Guide and the Chapter 7 consumer bankruptcy manual that I wrote.” In addition to these works, Ruser has written practice manuals in the areas of landlord and tenant law, guardianships, conservatorships, advance directives and consumer credit sales.

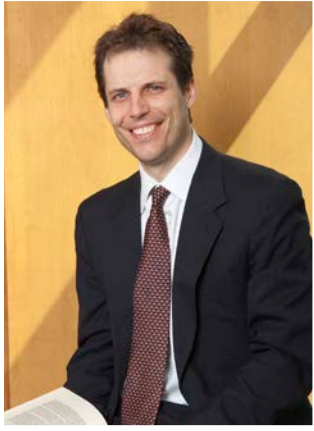
In talking with Ruser about this work, he again returns to his motivation of service. “My writing has, by and large, been motivated by the incredibly interesting issues my students and practicing lawyers work on every day. If my publications have been some help in those areas, I consider that to be a great success.”

Ruser tries to instill his love of the law and service to the profession in each of his students. He wants his students to leave the Civil Clinic with some sense of obligation to the profession, clients and community.

“The people that we serve are good folks who are just in need of some help. It’s powerful to be in a position to help them. You can alter the course of someone’s life with the stroke of a pen. That’s powerful.”



Faculty



Eric Berger:
Professor of Law

Professor Eric Berger published “The Rhetoric of Constitutional Absolutism,” 56 *William and Mary Law Review* 667. He also published “The Executioners’ Dilemmas,” 49 *Richmond Law Review* 731. This piece was a contribution to the University of Richmond Law Review Allen Chair Symposium on “Lethal Injection, Politics, and the Future of the Death Penalty.” He also contributed several shorter pieces on contemporary legal issues for non-academic audiences, including in *Jurist*, the *Omaha World Herald* and *CNN*. Berger offered a CLE at the Law College on current issues in lethal injection litigation. He also presented a work in progress, “Constitutional Law and Fact on the Roberts Court,” at the Law and Society Annual Meeting in Seattle, Washington. Berger was promoted from associate professor to full professor in 2015.



Kristen M. Blankley:
Assistant Professor of Law

Professor Kristen Blankley’s article, “Impact Preemption: A New Theory of Federal Arbitration Act Preemption,” has been published at 67 *Florida Law Review* 711. Her upcoming article, “A Uniform Theory of Federal Court Jurisdiction Under the Federal Arbitration Act” has been accepted for publication by the *George Mason Law Review*. Blankley spoke in Lexington, Nebraska, on the topic of “Ethical Issues in Multi-Generational Representation.”



Brian H. Bornstein:
**Professor of Psychology, Courtesy Professor of Law and
Director of Law-Psychology Program**

Professor Brian Bornstein gave a talk at the University of Nevada-Reno Criminal Justice Department on “Estimating the Impact of Eyewitness Estimator Variables.” With his graduate students, he presented several papers at meetings of the American Psychology-Law Society, the Association of Psychological Science and the American Psychological Association. He recently published a book, *Motivating Cooperation and Compliance with Authority: The Role of Institutional Trust* (with Tomkins) and has two other edited books forthcoming, *Interdisciplinary Perspectives on Trust: Towards Theoretical and Methodological Integration* (with Shockley, Neal and Pytlik Zillig) and *The Witness Stand and Lawrence S. Wrightsman, Jr.* (with Willis-Esqueda). His most recently published journal articles are “The Role of Semantic Relatedness in the Revelation Effect: A Test of the Global Matching Model,” 27 *Journal of Cognitive Psychology* 207 (with Robicheaux and Elliott) and “Age and Lineup Type Differences in the Own-Race Bias,” 21 *Psychology, Crime & Law* 490 (with Wylie, Bergt, Haby and Brank).

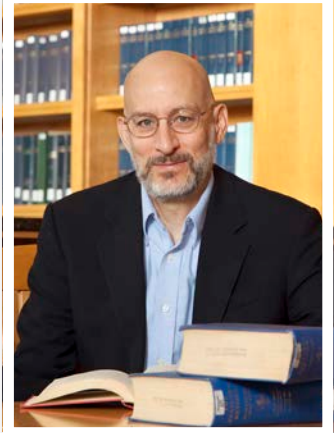
Faculty Notes

Follow the faculty at law.unl.edu/faculty-administration

C. Steven Bradford:

Earl Dunlap Distinguished Professor of Law

Professor Steve Bradford published “The Liability of Crowdfunding Intermediaries for the Fraud of Others,” 83 *University of Cincinnati Law Review* 371. He also gave a presentation, “How to Ruin a Presentation with PowerPoint,” at the CALI Annual Conference on Law School Computing, in Denver, Colorado.



Eve M. Brank:

Associate Professor of Psychology and Courtesy Professor of Law

Professor Eve Brank with colleagues from other universities has an empirical article in press with *Deviant Behavior* that examines lawyer misconduct and ethics violations. The study examined more than 200 attorney misconduct complaints filed in one fiscal year with the Florida Bar. It found both legal and extra-legal factors to be influential in both the staff’s decision to send a case forward to the grievance committee as well as the grievance committee’s recommendation about sanctioning the lawyer.



Robert C. Denicola:

Margaret R. Larson Professor of Intellectual Property Law

Three articles written by Professor Rob Denicola were featured in “Lost Classics of Intellectual Property,” an essay written by University of Pittsburgh professor Michael Madison. The essay was intended to provide information to junior scholars about the most important intellectual property articles written before 1985. In total, 73 articles made the list. Among them were one trademark and two copyright articles written by Denicola: “Copyright and Free Speech: Constitutional Limitations on the Protection of Expression,” 67 *California Law Review* 283 (1979); “Applied Art and Industrial Design: A Suggested Approach to Copyright in Useful Articles,” 67 *Minnesota Law Review* 707 (1983); and “Trademarks as Speech: Constitutional Implications of the Emerging Rationales for the Protection of Trade Symbols,” 1982 *Wisconsin Law Review* 158.



Faculty



Marcia L. Dority Baker:

Associate Professor of Law Library and Access Services Librarian

Professor Marcia Dority Baker attended the “AALL Hackathon: Connecting Legal Information” at the American Association of Law Libraries (AALL) 2015 annual conference in Philadelphia, Pennsylvania. She was part of the winning team of law librarians and programmers from Rutgers Law Library and Villanova Law Library and the only team to create a finished project; P.Law.G or the Public Law Timeline of the Popular Names Table, <http://lawevents.rutgers.edu/restricted/popnames/>. The goal of the team’s project was parsing Table 3 of the Statutes at Large by showing the “weight” of a public law by the amount of legislation it has. Dority Baker also presented at the Cool Tools Café Dive Deep conference program on using Google Forms. Dority Baker received tenure and was promoted to associate professor of law library in 2015.

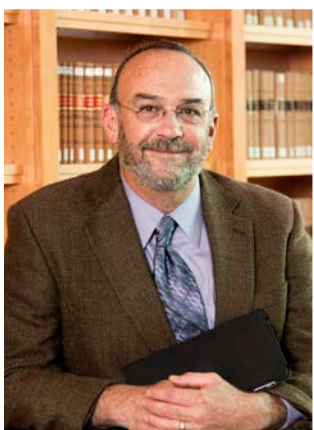


Justin (Gus) Hurwitz:

Assistant Professor of Law

Professor Gus Hurwitz’s recent work has continued to focus on matters before the Federal Communications Commission and other issues related to law and technology. In addition to articles in press with the *Iowa Law Review* and *Michigan State Law Review*, he has placed an article examining commonly held assumptions in communications policy with the *John Marshall Journal of Technology and Privacy Law*. In recent months he has presented working papers that look at the role of local television in the contemporary, largely Internet-based, video marketplace and that look at the relationship between law and technology.

Hurwitz gave a keynote address discussing recent federal communications policy at the Nebraska Telecommunications Association’s annual meeting and provided commentary on a speech by FCC Commissioner Michael O’Rielly in which O’Rielly announced a new procedure reform initiative. Hurwitz has been a guest on *This Week in Law* twice to discuss recent developments in law and technology and has presented or commented on work or given talks at the University of Mannheim, the NCTA Cable Show Academic Workshop, Loyola University of Chicago’s annual Antitrust Colloquium, Santa Clara University College of Law’s Internet Law Works-in-Progress and the University of Pennsylvania School of Law.



Richard A. Leiter:

Director of Schmid Law Library and Professor of Law

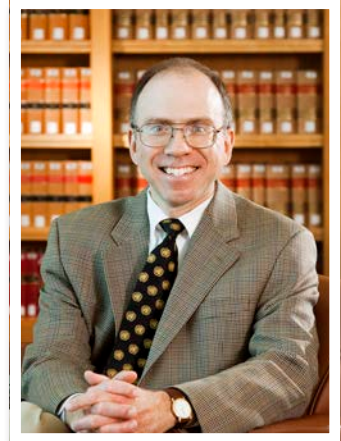
Professor Richard Leiter completed the seventh edition of *National Survey of State Laws*, which is a standard reference work. The new edition will be published by Wm S Hein & Co., which will also produce a database from the book for Hein Online. Leiter also presented three live radio show/podcasts.

Faculty Notes

Brian D. Lepard:

Harold W. Conroy Distinguished Professor of Law and Director of the LL.M. in U.S. Legal Studies Program

Professor Brian Lepard published a book review in the *Oxford Journal of Law and Religion*. The review was of the book *Islamic Law and International Human Rights Law: Searching for Common Ground?* by Anver M. Emon, Mark S. Ellis and Benjamin Glahn, and published by Oxford University Press. He also published a chapter entitled “A Global Ethic and Global Law: The Role of Fundamental Ethical Principles in International Law and World Religions” in *The Global Ethic and Law: Intersections and Interactions*, edited by Bradley Shingleton and Eberhard Stolz, and published by Nomos.



Colleen E. Medill:

Robert and Joanne Berkshire Family Professor of Law

Professor Colleen Medill was among 24 participants selected to attend the Workshop on the Economics of Public Pension Reform in Palo Alto, California. The workshop, which was sponsored by George Mason University’s Law & Economics Center, featured speakers from Stanford University and Harvard Business School. The purpose of the workshop was to foster interdisciplinary research on the looming financial problems facing state and local pension systems. Medill spoke at the Southeastern Association of American Law Schools Conference in late July on skills training for first-year and upper-division law students. Medill’s presentation focused on the skills exercises and formative assessment techniques she has successfully incorporated into her Property and Real Estate Transactions courses at the College of Law. Medill was the College’s first recipient of the Schmoker Faculty CLE Grant. As part of the terms of the grant, she traveled to North Platte, Kearney, Omaha and Norfolk to present a one hour CLE program for College of Law alumni on new developments concerning the ongoing regulatory implementation of the Affordable Care Act, with an emphasis on issues affecting employers in Nebraska. She also presented a STIR talk in March for College of Law students and faculty on “The Supreme Court and the Future of the Affordable Care Act.”



Matthew S. Novak:

Associate Professor of Law Library and Reference Librarian

Professor Matt Novak co-authored with Professors Stefanie Pearlman and Sandy Placzek “Nebraska Secondary Resources.” This CALI lesson can be accessed by CALI members at <http://www.cali.org/lesson/16306>.



Faculty



Stefanie S. Pearlman:
Professor of Law Library and Reference Librarian

Professor Stefanie Pearlman co-authored with Professors Matt Novak and Sandy Placzek “Nebraska Secondary Resources.” This CALI lesson can be accessed by CALI members at <http://www.cali.org/lesson/16306>. Pearlman has been elected vice-chair/chair-elect of the Social Responsibilities-Special Interest Section of the American Association of Law Libraries.



Harvey S. Perlman:
Chancellor of the University of Nebraska–Lincoln and Harvey and Susan Perlman Alumni Professor of Law

Chancellor Harvey Perlman was appointed as a special consultant to the Roundtable of the Council of Confucius Institutes, a 22 member international advisory council to the director of Hanban, the sponsor of the Confucius Institutes. Perlman announced that he will step down as chancellor of the University in June 2016 and, after a sabbatical year, return to teaching at the Law College.



Sandra B. Placzek:
Associate Director and Professor of Law Library

Professor Sandy Placzek co-presented a program on the strategic integration of e-books and digital content in law libraries with a New York City law firm librarian at the American Association of Law Libraries annual convention in Philadelphia, Pennsylvania. Placzek also co-presented a program on selecting and using CALI lessons at the CALI Annual Conference on Law School Computing in Denver, Colorado. She co-authored the CALI lesson “Nebraska Secondary Resources” with Professors Matt Novak and Stefanie Pearlman. This CALI lesson can be accessed by CALI members at <http://www.cali.org/lesson/16306>. Placzek co-authored “The Mentoring Family Tree: How Intergenerational Concepts Can Inform and Improve Our Mentoring Relationships,” *AALL Spectrum*, July 2015, at 25, with Michelle Hook Dewey and Candle Wester.

Faculty Notes

Susan Poser:

Dean and Richard C. & Catherine Schmoker Professor of Law

Dean Susan Poser travelled to Norway in April with a small delegation from UNL as part of a trip organized by the Institute of International Education to begin the process of forging relationships between U.S. and Norwegian universities. She visited the three law schools of Norway in Oslo, Bergen and Tromsø and met with faculty and administrators. Discussions are underway about how to bring Norwegian law students to the Law College's new LL.M. Program in U.S. Legal Studies and possibly allow Nebraska Law students and faculty to study and teach in Norway. Similar efforts are underway in Brazil and other countries. Poser recently completed service on the NSBA Bar Admissions Committee, appointed by the president of the Nebraska State Bar Association to review aspects of the bar exam admissions process in Nebraska and provide recommendations. Last spring, Poser was reappointed to another five-year term as dean of the College of Law.



Kevin L. Ruser:

Hevelone Professor of Law and Director of Clinical Programs

Professor Keven Ruser presented a STIR talk in April for College of Law students and faculty entitled "Is a Sock a Gateway Drug? *Mellouli v. Holder* and the Categorical Approach in 'Crimmigration' Cases." Ruser also conducted a day-long training on legal issues in long-term care settings for the Nebraska Health Care Association in Lincoln and gave a half-day presentation on various issues arising out of the *Padilla v. Kentucky* decision for NCLE in Omaha.



Matthew S. Schaefer:

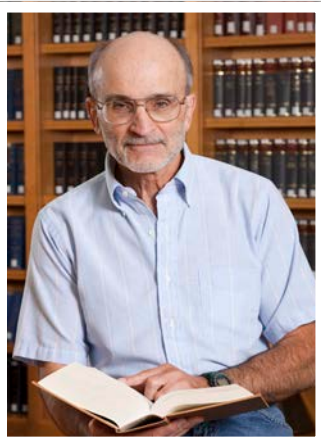
Law Alumni Professor of Law and Director of Space, Cyber and Telecommunications Law Program

Professor Matt Schaefer was inducted as a corresponding member of the International Academy of Astronautics (IAA) at an IAA regional meeting at SpaceX facilities in Hawthorne, California. He was recognized for his contributions to the establishment of the USA's first degree-bearing program in space law (combined with cyber and telecommunications law) and his outreach to government and the private sectors on matters of importance to the space sector.

Schaefer submitted a letter to the U.S. Representatives showing why the Space Resource and Utilization Act (HR 1508) is fully consistent with the United States international obligations under the Outer Space Treaty, contrary to the arguments of some that it was not. Adjunct Professor of Law Dennis Burnett,'73, also submitted a letter. The letters were quoted on the floor by Rep. Posey (R-WA) and placed in the



Faculty



Congressional Record on May 21, 2015, at page H3518 et seq. Another bill passed by the House that day had a provision that would extend the promise of government indemnification for third-party liability claims exceeding the Maximum Probable Loss until 2025. Schaefer's White Paper for Nebraska Law's Sixth Annual DC Conference (Nov. 2013) and his accompanying article in the *Berkeley Journal of International Law* recommended a long-term extension of the promise of government indemnification if a pure liability cap was not enacted. Schaefer also presented a paper on the Roberts' Court treatment of international agreements at the Law & Society Annual Conference in Seattle on a panel in which Professor Eric Berger also presented a paper.

Robert F. Schopp:

Robert J. Kutak Professor of Law, Professor of Law and Psychology and Professor of Philosophy

Professor Bob Schopp published "Retribution and Revenge in the Context of Capital Punishment" in Volume 50, Issue 5 of the *Criminal Law Bulletin*. His article, "Competence for Execution, Human Dignity, and the Expressive Functions of Punishment," has been accepted for publication in the *Criminal Law Bulletin*. Schopp presented "Psychological Impairment and Capital Punishment" at the annual meeting of the American Psychology-Law Society in San Diego and "Therapeutic Jurisprudence, Police Power Interventions and Human Dignity" at the International Academy of Law and Mental Health in Vienna, Austria.

Jessica A. Shoemaker:

Assistant Professor of Law



Professor Jessica Shoemaker's article, "Emulsified Property," was accepted for publication in the *Pepperdine Law Review*. She also presented this work as an invited participant at the Tulane Law School and Tulane University Murphy Institute's Property Roundtable and at an interdisciplinary colloquium hosted at Birmingham City University in the United Kingdom. This spring, Shoemaker traveled to England and Wales as part of an international research team on a Knowledge Exchange Opportunities Grant from the United Kingdom's Economic Social Resource Council. As part of this project, Shoemaker presented at several international workshops on scenario-based planning tools for land use decision-making and participation, highlighting her work on the U.S. simulation game called "Plainsopoly." Shoemaker gave a keynote message at a Transdisciplinary Conversations event co-hosted at UNL Morrill Hall by the University of Nebraska Rural Futures Institute and Robert B. Daugherty Water for Food Institute. She was also invited to moderate a panel on Cultural Property Issues at the Great Plains Studies Symposium co-hosted by the Center for Great Plains Studies and Nebraska Commission on Indian Affairs. In May, she presented a new work-in-progress article on complexity in American Indian land tenure at the Association for Law, Property and Society annual meeting held at the University of Georgia.

Faculty Notes

Brett C. Stohs:

Assistant Clinical Professor of Law and Cline Williams Director of the Entrepreneurship Legal Clinic

Professor Brett Stohs has been pursuing research interests in the application of mind mapping software to clinical legal education. His particular interests relate to using mind mapping techniques to optimize client assignments to student participants in a live-client clinic. In addition to preparing an article on the topic, Stohs recently gave presentations at the 2015 AALS Conference on Clinical Legal Education and the 25th Annual CALI Conference for Law School Computing. The latter presentation is available on YouTube at <https://youtu.be/fUEI7UIqXLA>.

In addition to pursuing these research interests, the Entrepreneurship Legal Clinic, which Stohs directs, continues to impact the lives of law students and business owners throughout the State of Nebraska. Through the Spring 2015 semester, over 70 clients have been provided direct legal services in connection with starting their enterprises and over 50 clinic alumni have graduated from the Law College. The Clinic continues to make contributions to local business communities through student-driven presentations on legal issues, including recent presentations at the Women Entrepreneurs Conference in Grand Island, the Hormel Entrepreneurship Competition in McCook and the recently-opened Lincoln Nonprofit Hub. Stohs also serves on the Faculty Advisory Committee for Nebraska Innovation Campus.



Adam Thimmesch:

Assistant Professor of Law

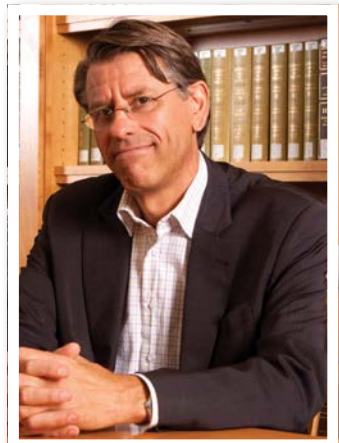
Professor Adam Thimmesch had two articles selected for publication this spring. "Testing the Models of Tax Compliance: The Use-Tax Experiment" will appear in the *Utah Law Review* and "Taxing Honesty" will appear in the *West Virginia Law Review*. Together those works broadly evaluate the current defects in the state use tax and how states could reform that tax. Thimmesch also presented a new work "Transacting in Data: Tax, Privacy, and the New Economy" at the Junior Tax Scholars Workshop, at the Annual Meeting of the Southeastern Association of Law Schools and for the faculty at the Law College.



Frans G. von der Dunk:

Harvey & Susan Perlman Alumni/Othmer Professor of Space Law

Dr. Frans von der Dunk was appointed senior advisor in space law and policy with the newly established United Arab Emirates Space Agency, with the support of the A.T. Kearney consultancy group. The UAE Space Agency is developing a national space policy and strategy, as well as national space legislation, addressing such varied space activities as an incumbent mission to Mars and future private commercial sub-orbital spaceflight by companies such as Virgin Galactic and XCOR. Having been one of the original signatories of the "100x



Faculty Notes



Asteroid Declaration” last November, von der Dunk remotely contributed to the celebration of Asteroid Day on June 30 at Morrill Hall, organized by Elsbeth Magilton, executive director of the College’s Space, Cyber and Telecommunications Law Program. Von der Dunk also published “About the New PCA Rules and their Application to Satellite Communication Disputes” in *Dispute Settlement in the Area of Space Communication* 93-125.

Steven L. Willborn:
Judge Harry A. Spencer Professor of Law

Professor Steve Willborn made the following presentations: “Indirect Threats to the Wages of Low-Income Workers: Garnishment and Payday Loans” at Stetson University College of Law in Gulfport, Florida; “Privacy” to the Labor Law Research Network, Hugo Sinzheimer Institute in Amsterdam, The Netherlands; and “Reasonable Accommodation in the United States” at the University of Leuven in Leuven, Belgium.



Sandra B. Zellmer:
Robert B. Daugherty Professor of Law

Professor Sandi Zellmer taught Disaster Law at Pepperdine Law School and enjoyed the many amenities of Malibu and the Santa Monica Mountains Recreation Area, while on sabbatical during the Spring 2015 semester. She served as UNL’s trustee for the Rocky Mt. Mineral Law Foundation at the annual meeting in Anchorage, Alaska, and delivered several presentations: “The Role of Law in Disaster Management,” at the World Water Congress in Edinburgh, Scotland; “Unnatural Disasters: How Law Hurts, How Law Can Help,” with Christy Klein (Florida) at Yale Law School; and “Takings, Givings, and the Inherent Restrictions of Vulnerable Properties,” at Stanford’s Center for the American West and at the University of Denver College of Law. As for publications, she and Adell Amos (Oregon) completed *Water Law in a Nutshell* (West 5th Edition 2015), and she and Jan Laitos completed *Natural Resources* (Hornbook Series) (West 2015).



Brian Striman, formerly professor of law library and head of technical services of the Schmid Law Library, has retired. He joined the law library as an assistant professor of law library in 1982. In a feature article about Striman in the Fall 2014 issue of THE NEBRASKA TRANSCRIPT, he explained what he liked most about his job: “The best part of being a law librarian as opposed to another kind of librarian is being able to interact with all the students on a daily basis. Schmid Law Library is an integral part of the law school experience for students, and it creates a community atmosphere that makes it unique among libraries.” Among his other activities in his retirement, Striman will no doubt continue to play his guitar and ride his Harley.

Professor Matt Schaefer inducted as corresponding IAA member at ceremony at SpaceX headquarters



In a ceremony on May 8 that featured the induction of SpaceX Founder Elon Musk as a full member of the International Academy of Astronautics (IAA), Professor Matthew Schaefer and two others were inducted as corresponding members of the IAA at an IAA regional meeting at SpaceX facilities in Hawthorne, California. The IAA was founded in 1960 through the efforts of legendary rocket developer Theodore von Karman. Schaefer was recognized for his contributions to the establishment of the USA's first degree-bearing program in space law (combined with cyber and telecommunications law) and his outreach to government and the private sector on matters of importance to the space sector. He presented a paper on commercial space liability at the conference prior to the IAA's Heads of Space Agency Summit in Washington, D.C. in January 2014.



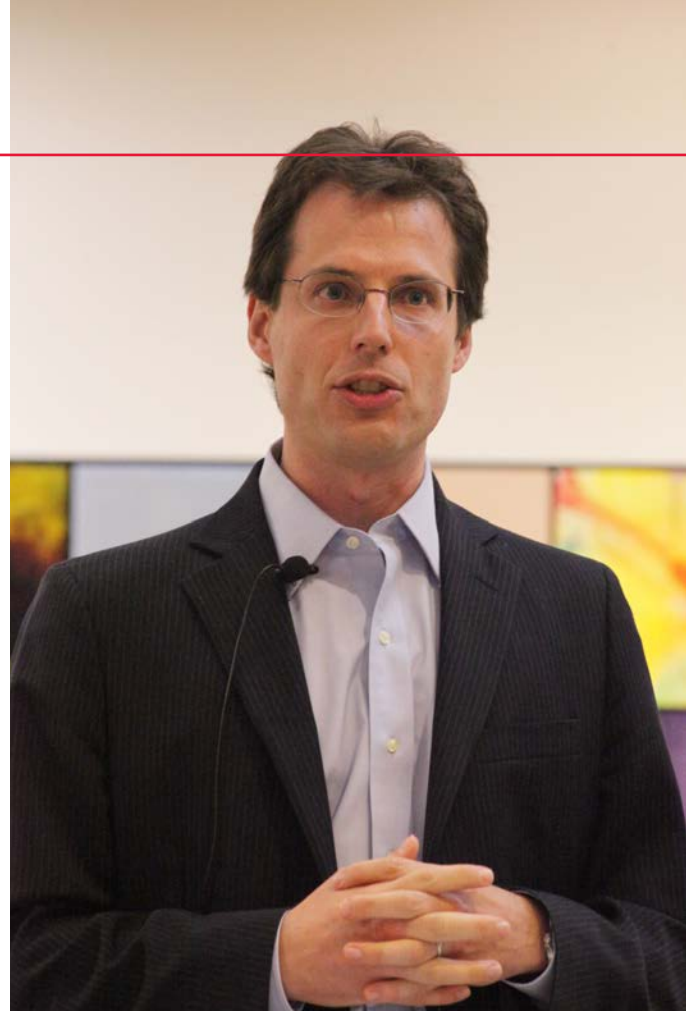
Eric Berger promoted to full professor

By Loguen Blazek, '16

Professor Eric Berger was promoted to full professor effective August 2015. Berger joined the faculty in 2007 and teaches Constitutional Law I and II, Statutory Interpretation, Federal Courts and Constitutional History. Berger received his B.A. with Honors in History from Brown University and his J.D. from Columbia Law School, where he was a Kent Scholar and an articles editor on the *Columbia Law Review*. Following law school, Berger clerked for the Honorable Merrick B. Garland on the United States Court of Appeals for the District of Columbia Circuit. Afterwards, Berger practiced at Jenner & Block in Washington, D.C., where he worked on litigation in several state and federal trial and appellate courts, including the United States Supreme Court. Those cases involved issues such as lethal injection, same-sex marriage, the detention of foreign nationals at Guantanamo Bay and internet obscenity. A student favorite, Berger received Professor of the Year in 2008, 2010, 2012 and 2015. He has also received the College's Distinguished Teaching Award.

"I feel so fortunate to have this job. I love teaching and getting to know students and engaging with them about important legal issues," said Berger. He also loves researching and writing about constitutional law issues. Berger's scholarship has explored judicial decision making in constitutional cases, with special attention to deference and other under-theorized factors driving constitutional outcomes. His article, "Individual Rights, Judicial Deference and Administrative Law Norms in Constitutional Decision Making," 91 *Boston University Law Review* 2029 (2011), was named the 2011 winner of the American Constitution Society's Richard D. Cudahy Writing Competition on Regulatory and Administrative Law.

While Berger clearly loves the work that he does, he acknowledges that it does come with challenges. According to Berger, the biggest challenge is balancing the various parts of the job, which include teaching, scholarship and service that is both internal and external to the University. "In a given week, I may prepare several



classes, teach several classes, meet with students, work on my scholarship, offer suggestions on colleagues' scholarship, attend Law College committee meetings, attend university committee meetings, do projects for those committees, grade exams, read recent court decisions and scholarship in my field to keep abreast of recent developments, help plan scholarly conferences, discuss legal issues with attorneys or state legislators and more," said Berger. He added, "Of course, I rarely do all of these things in the same week, but most weeks I do many of them, and it's sometimes hard to find enough hours in the day to give each part of the job the attention it deserves." Berger reiterated that he absolutely loves being a law professor, but balancing all these competing obligations can sometimes be challenging. "Of course, life as a practicing lawyer involves similar challenges of balancing different matters at the same time, so most lawyers are well prepared for the competing demands of a professorship!"

Though Berger enjoys teaching all of his classes, of the five he teaches, he started teaching Federal Courts most recently, and it is probably the richest and most challenging, for student and professor alike. "A professor of mine in law school once quipped that after Federal Courts, everything else in law school seems easy, and I think there's some truth to that," he said.

Our faculty: Leading the way on issues of today

The Nebraska Law faculty is committed to being leaders in the field through various types of research and scholarship. In this edition of *THE NEBRASKA TRANSCRIPT*, we provide the reader with a few examples of the outstanding work of the faculty.

The works provided are varied both in the subject matters they explore and their format — ranging from a blog post to excerpts of law review articles to a work-in-progress.

Global Water, a Resource for Development: Opportunities, Challenges and Constraints

By Sandra Zellmer, Robert B. Daugherty Professor of Law

Editor's Note: The following is a blog post written by Professor Sandra Zellmer about the XVth World Water Congress in Edinburgh, Scotland, in May 2015.



The World Water Congress, organized by the International Water Resources Association (IWRA), is one of the most important global events in the water field. Held every three years since 1973, the Congress provides a forum for experts in water-related fields from around the world, and allows participants to share experiences and to present new knowledge, research, and developments related to water resources. In this way, the Congress places water-related issues at the forefront of international policy and management.

Just under 1,000 professionals attended the XVth World Water Congress, held in Edinburgh, Scotland, gathering from more than fifty nations and five continents. Additionally, the Congress featured a distinct “law” track with eight panel programs, as well as an additional dozen or so special sessions and side events organized around law/policy topics.

The XVth Congress focused on the opportunities, challenges, and constraints facing global water resources. We call upon our freshwater resources to promote development, reduce poverty, and conserve the environment and hundreds of thousands of plant and animal species, but at both the national and sub-national levels, water is often scarce, polluted, mismanaged, and misallocated. Water management is at a critical juncture in our increasingly complex world. The Congress organizers recognized, “A main handicap has been that water management has often been considered as an end by itself, and not as a means to an end, the end being to achieve overall development, economic prosperity, improvement of quality of life and environmental conservation. In spite of its relevance, water is often not regarded as a key determinant for development, absent from many political agendas.”

The University of Nebraska College of Law and Water for Food Institute enabled me to participate as a delegate at the Congress, where I explored an array of issues related to water as a global resource for economic, social, and environmental development and conservation. Three of the panels at the Congress were of particular interest to me. I spoke on the first.

1. *Global Challenges in Water Governance: Vulnerability Assessments.* Dr Roy Middleton of Scottish Water, the publicly owned drinking water supplier in Scotland, served as our moderator and also spoke about sustainable urban drainage systems in the built environment. Mark Wilkinson of the James Hutton Institute in Aberdeen, Scotland, turned our attention to the rural landscape, where intensive farming practices often increase local runoff rates, resulting in water quality issues and local

flooding. Dr. Wilkinson explained the potential for agriculture to become part of the solution, rather than being part of the problem, with the support of European Union policies that attempt to reduce flooding and improve water quality through preserving, enhancing, or reinstating natural processes and features. He demonstrated how agricultural Runoff Attenuation Features (RAFTs), such as edge of field disconnection bunds, offline ponds, and wetlands, promote the storage, slowing, and infiltration of runoff at the source.

I addressed Floods, Coastal Losses, and the Role of Law in Disaster Management, drawing from my book with co-author Christine A. Klein, *Mississippi River Tragedies: A Century of Unnatural Disaster* (NYU Press 2014). Storms may well be natural phenomenon, but humans have demonstrated an uncanny ability to exacerbate their own vulnerability to them by shortsighted engineering projects, undue faith in technology, improvident development activities that cause the loss of coastal wetlands and barrier islands and poor decision-making processes that encourage development in the floodplain. These are often compounded by an array of government incentives, such as subsidized crop and flood insurance. The acknowledgement of our own responsibility for unnatural disasters can lead to blame and finger-pointing, but it can also prod us to confront the consequences of our actions, leading to the knowledge necessary to avoid future disasters. This, in turn, can lead to a liberating sense of possibility and opportunity — melding our own social and economic aspirations with the environmental imperatives of water and waterbodies. If we acknowledge that at least some disasters are unnatural, not uncontrollable “acts of God,” then we have a fighting chance at making better laws and better decisions in the future. Potential legal reforms include fine-tuning or eliminating subsidies that create perverse development incentives, redefining landowners’ expectations and property rights in coastal zones and floodplains, adjusting our approaches to navigation and channelization of flood-prone rivers, preserving wetlands and barrier islands and restoring degraded riparian and coastal ecosystems.

2. *Water Allocation Among Competing Urban and Agricultural Uses.* This session addressed the topic of water markets and the allocation of agricultural and urban water rights, with an eye toward the question: will agricultural production be reshaped in the future by the demand for and supply of scarce water resources? Laura Schroeder and Therese Ure, of Portland, Oregon, assessed several case studies in the Western United States where water was moved out of agriculture production to urban uses. First, California’s Imperial Irrigation District faced the problem of scarcity in the face of drought head on by negotiating contracts with its agricultural producers to fallow certain fields, thus leaving water available for urban uses. By contrast, in Nevada, movement to take water from agriculture and restructure river systems modifying federal decrees was seen through federal litigation and modification of delivery contracts. The speakers recognized a clear and present trend in the Western United States to move water out of agriculture to urban and municipal uses, with a definite impact on food and fiber production. They posed the question: at what point will we prioritize agriculture to ensure sustainable food production without increased reliance on imports. They emphasized that cooperation must be prioritized in lieu of spending resources in litigation.

3. *Getting the Best Out of Global Water Conventions.* The entry into force of the UN Watercourses Convention in August 2014 and the opening up of the UNECE Water Convention to all UN member states mark two major milestones in the evolution of international law relating to transboundary watercourses. This panel assessed how these two global framework instruments can play a critical role in strengthening the equitable and sustainable management of the world’s transboundary waters. It aimed to deepen our understanding of the role and relevance of these conventions, and the benefits of having them both in operation and alongside other existing global legal instruments. Speakers included Ms. Zaki Shubber, UNESCO IHE Delft, Dr Marian Patrick, Stockholm International Water Institute, Dr. Christina Leb, World Bank, Professor Gabriel Eckstein, Texas A&M University, and Dr. Salman Salman, IWRA Fellow and former Legal Counsel, World Bank.

For those that would like further information, a short video of the XVth World Water Congress is available at: <http://worldwatercongress.com/video/>.

Editor's Note: The following is an excerpt from the 2012 edition of "The Nebraska Criminal Law Practitioner's Guide to Representing Non-Citizens in State Court Proceedings" by Professor Kevin Ruser.



D. General Issues Facing Counsel Representing Non-U.S. Citizens in Criminal Proceedings.

2. Case Law — Duty of Courts and Counsel to Advise.

Before examining the Supreme Court's decision in *Padilla v. Kentucky*, it is useful to take a look at some of the federal and state jurisprudential history of the statutory and constitutional obligations of courts and counsel to advise defendants of potential immigration consequences of guilty pleas.

The case law in Nebraska has thus far focused on three questions when it comes to possible immigration consequences of criminal proceedings: (1) does a trial court have a constitutional duty to inform a criminal defendant of the possible immigration consequences of criminal proceedings; (2) what are the parameters of a court's duty to give to defendants entering *nolo* or guilty pleas the statutory advisement found in Neb. Rev. Stat. § 29-1819.02 and what remedies are available to defendants if the statutory advisement is not given properly; and (3) what are the contours of criminal defense counsel's *Padilla* obligations?

a. Constitutional Duty of Courts to Advise.

The Nebraska Supreme Court has held that trial courts have no constitutional obligation to advise criminal defendants entering *nolo* or guilty pleas of the immigration consequences of those pleas. In *State v. Yos-Chiguil*,¹¹² the Court cited to a 2010 post-*Padilla* decision of the Georgia Supreme Court in support of this conclusion. That decision, *Smith v. State*,¹²³ expressly held that, even in the wake of the *Padilla* decision, immigration consequences of criminal proceedings remain collateral consequences. The Georgia Supreme Court defined "collateral" consequences as those that do not lengthen or alter the sentence imposed by a trial court. In the Georgia Supreme Court's view, *Padilla* did not convert immigration consequences into direct consequences of criminal proceedings – it simply held that the Sixth Amendment requires trial counsel to advise clients of potential immigration consequences because prevailing professional norms require such advice by

¹¹² 281 Neb. 618, 626, 798 N.W.2d 832, 840 (2011).

¹²³ 287 Ga. 391, 697 S.E.2d 177 (2010).

effective defense counsel.

With all due respect to the Georgia Supreme Court, both its characterization of immigration consequences as “collateral” and its conclusion that courts have no constitutional duty to advise as to immigration consequences are questionable. Given the language of *Padilla*, there no longer a legitimate question about whether the collateral/non-collateral distinction survives, at least in the context of immigration consequences of guilty pleas – it does not:

The Supreme Court of Kentucky rejected Padilla’s ineffectiveness claim on the ground that the advice he sought about the risk of deportation concerned only collateral matters, i.e., those matters not within the sentencing authority of the state trial court. In its view, “collateral consequences are outside the scope of representation required by the Sixth Amendment,” and, therefore, the “failure of defense counsel to advise the defendant of possible deportation consequences is not cognizable as a claim for ineffective assistance of counsel.” 253 S.W.3d, at 483. The Kentucky high court is far from alone in this view.

We, however, have never applied a distinction between direct and collateral consequences to define the scope of constitutionally “reasonable professional assistance” required under *Strickland*, 466 U.S., at 689, 104 S.Ct. 2052. Whether that distinction is appropriate is a question we need not consider in this case because of the unique nature of deportation.¹³⁴

Outside of the immigration context, the distinction between collateral and direct consequences of criminal cases has been adopted by most courts, presumably in reliance on language in the Supreme Court’s 1970 *Brady* opinion:

The standard as to the voluntariness of guilty pleas must be essentially that defined by Judge Tuttle of the Court of Appeals for the Fifth Circuit:

“(A) plea of guilty entered by one fully aware of the direct consequences, including the actual value of any commitments made to him by the court, prosecutor, or his own counsel, must stand unless induced by threats (or promises to discontinue improper harassment), misrepresentation (including unfulfilled or unfulfillable promises), or perhaps by promises that are by their nature improper as having no proper relationship to the prosecutor’s business (e.g. bribes).”¹⁴⁵

But, at least for purposes of a Sixth Amendment analysis, *Padilla* eliminated the collateral/direct dichotomy where immigration consequences are concerned. There is language in *Padilla* that leads to the conclusion that immigration consequences are direct consequences of criminal proceedings. And if they are, then courts, under *Boykin* and *Brady*, have a constitutional duty to assure that criminal defendants are aware of those consequences.

The argument goes like this. *Padilla* says that immigration consequences are actually part of the penalty faced by non-citizens in criminal proceedings:

¹⁴ *Padilla v. Kentucky*, 559 U.S. at 364-365 (internal footnotes omitted).

¹⁵⁶ *Brady v. U.S.*, 397 U.S. 742, 755 (1970).

In 1996, Congress also eliminated the Attorney General's authority to grant discretionary relief from deportation, 110 Stat. 3009–596, an authority that had been exercised to prevent the deportation of over 10,000 noncitizens during the five year period prior to 1996. Under contemporary law, if a noncitizen has committed a removable offense after the 1996 effective date of these amendments, his removal is practically inevitable but for the possible exercise of limited remnants of equitable discretion vested in the Attorney General to cancel removal for noncitizens convicted of particular classes of offenses. Subject to limited exceptions, this discretionary relief is not available for an offense related to trafficking in a controlled substance.

These changes to our immigration law have dramatically raised the stakes of a noncitizen's criminal conviction. The importance of accurate legal advice for noncitizens accused of crimes has never been more important. These changes confirm our view that, as a matter of federal law, deportation is an integral part — indeed, sometimes the most important part — of the penalty that may be imposed on noncitizen defendants who plead guilty to specified crimes.¹⁵⁶

The Court later elaborates on this point:

We have long recognized that deportation is a particularly severe “penalty”; but it is not, in a strict sense, a criminal sanction. Although removal proceedings are civil in nature, deportation is nevertheless intimately related to the criminal process. Our law has enmeshed criminal convictions and the penalty of deportation for nearly a century. And, importantly, recent changes in our immigration law have made removal nearly an automatic result for a broad class of noncitizen offenders. Thus, we find it “most difficult” to divorce the penalty from the conviction in the deportation context. Moreover, we are quite confident that noncitizen defendants facing a risk of deportation for a particular offense find it even more difficult.¹⁶⁷

At the federal level, courts have a duty to make certain a defendant entering a guilty plea is aware of the possible maximum and minimum penalty he faces.¹⁷⁸ At the state level, Nebraska common law imposes this requirement on trial courts.¹⁸⁹ *Padilla* suggests this requirement is of constitutional dimension. If, at least in the immigration context, immigration consequences are indeed part of the penalty faced by non-citizen criminal defendants, then under the rationale of *Boykin*, courts receiving guilty pleas have a constitutional obligation under the Due Process clause to insure that defendants have been advised of such a penalty, in order to ascertain that a guilty plea has been entered voluntarily and understandingly. So there is a plausible argument that Nebraska trial courts are compelled not only by Neb. Rev. Stat. § 29-1819.02 to inquire into a defendant's awareness of possible immigration consequences, but are also constitutionally compelled to make such an inquiry.

¹⁵⁶ *Padilla*, 559 U.S. at 363–364 (internal citations and footnotes omitted; emphasis supplied).

¹⁶⁷ *Id.* at 365–366 (internal citations and footnotes omitted; emphasis supplied).

¹⁷⁸ Fed. R. Crim. P. 11(b).

¹⁸⁹ *State v. Hays*, 253 Neb. 467, 476–477, 570 N.W.2d 823, 829 (1997).



Editor's Note: Below is a summary of Professor Willborn's recently published law review article.

College Athletes as Employees: An Overflowing Quiver

69 University of Miami Law Review 65 (2014)

By Steven L. Willborn, Judge Harry A. Spencer Professor of Law

Kain Colter, a former quarterback at Northwestern, has filed a petition with the National Labor Relations Board (Board) to recognize the College Athletes Players Association (CAPA) as the union representative of football players at Northwestern. Since the National Labor Relations Act (NLRA) governs only “employees,” the Board will have to determine whether Northwestern football players fit within that category as it decides whether to proceed with Colter’s petition. He won the first skirmish when a regional director for the Board found that the players were employees and ordered a union election. The Board itself is now reviewing the regional director’s decision; federal court review may be available later (although there are complicated procedural issues).

Colter’s petition threatens the long-standing position of the National Collegiate Athletic Association (NCAA) that college athletes are students, not employees. That contention is a fundamental feature of the structure of college athletics; if it fails, the organizational structure of all college athletics would have to be changed in many important ways. Perhaps most significantly, a decision that college athletes are employees would likely mean that the entire financial structure of college athletics would have to be re-thought and re-constructed.

Despite its significance, Colter’s petition is quite narrow. It raises the issue in one narrow circumstance – whether football players at a major private university are “employees” under the NLRA. This is one arrow in Colter’s quiver but, if he ultimately loses on this claim, he has many other arrows in reserve. The number of arrows in the quiver means that, if pursued persistently, Colter (or others) is likely to get some college athletes labeled as employees for some purposes, somewhere, sometime.

College Athletes as “Employees” – Many Arrows

The employment relationship is regulated by literally thousands of different local, state, and federal laws. Kain Colter’s claim is only one of many possible situations in which a college athlete can claim protection under an employment statute. Consider some of the other possibilities:

- A college athlete might claim minimum wages and overtime premiums under federal or state law. Even if athletes are paid more than the minimum wage (in his case, Kain Colter estimated that he received annual benefits from Northwestern of about \$75,000), universities don’t pay overtime and they make no attempt to comply with the record-keeping requirements of these laws.
- A college athlete might challenge the form in which she is paid under a state wage payment statute. Most states have wage payment statutes that require wages to be paid in cash (rather than script or employer credits, for example), on a regular basis, with only specified deductions, etc. If college

athletes were classified as employees under these statutes, university practices would conflict with a number of these requirements.

- A college athlete might seek damages from the university for discrimination. For racial or sexual harassment, the athlete could also seek recourse under Title VI or Title IX, but the liability and damages rules are more favorable under the employment discrimination laws. For other types of discrimination (such as discrimination on the basis of sexual orientation), state or local employment law may provide the only protection available.

- A college athlete might seek workers compensation benefits for injuries suffered in a game or practice. Interestingly, this issue could also arise with the parties switching sides on the issue of whether the college athlete is an employee. If a college athlete filed a tort action against a university claiming that his injuries were the result of university negligence (say in protecting him from concussions), then the university might *defend* by claiming that the athlete *was* an employee. If successful, this would mean the university would be liable to the athlete for workers compensation, but it could avoid much higher tort damages.

This is by no means a comprehensive listing of the possibilities. But each presents an opportunity for a college athlete to raise the issue of whether they should be classified as an employee. In total, even on this limited list, there are hundreds of independent opportunities to raise the issue—under separate state laws in each area (and almost all states have laws in all these areas), as well as under federal laws for wage-and-hour or discrimination claims.

So Are College Athletes Employees?

A foundational question for all these potential arrows is whether the college athlete is an employee. Since there are many possible laws at issue, there are also many potential answers to the foundational question. No uniform definition of employee exists across all these statutes, so I will not (cannot) survey all the possibilities here. But I can give a flavor of the nature of the argument.



The starting point for determining who is an employee is the common-law test, sometimes known as the right-to-control test. The American Law Institute has recently considered all the case law and restated the common-law test. The main part of the test asks whether the employer exercises control over the physical details of an individual's work. College athletes meet this test as they are subject to highly detailed control over how they perform. A second part of the test says that volunteers are not employees. But volunteers are defined as individuals who render services without a material inducement and the inducements for college athletes are quite material (again, in Colter's case, he testified that his inducements exceeded the equivalent of \$75,000 per year).

[Although the full article provides many more details,] the important point here is that for all the possible situations in which a college athlete might claim to be an employee, the common-law rule cuts in the direction of employee status. College athletes may not be employees under some statutes, because of specific exclusions or peculiarities of the particular statutory definition, but with so many possibilities for claiming employee status and with the general definition cutting in that direction, it is inevitable that, if they keep trying, college athletes will be found to be employees under some statutes for some purposes.

But Are College Athletes Special?

Even though college athletes are likely to be classified as employees under the most common definition, universities and the NCAA will claim that college athletics is different. They will claim that even if the normal rules indicate coverage, applying those rules to college athletes would create such havoc that special exceptions should be carved out.

Under antitrust law, the NCAA has had some success in forwarding the claim that it is special. In the leading case, *NCAA v. Board of Regents*, 468 U.S. 85, 101 (1984), the Supreme Court explained that the NCAA is entitled to special treatment under the antitrust laws because sometimes collaboration is necessary. The case notes at least three types of necessary collaboration for college sport. First, on issues like the size of the field and the number of players on a team, basic agreement must be reached to "create and define the competition." Second, collaboration may also be necessary to ensure good and fair competition—to create a level playing field. Third, collaboration may be necessary to preserve the particular product being marketed, a product tied to the academic tradition—college football as opposed to minor league baseball.

The first aspect is the easiest to dispense. Nothing - or at least almost nothing - in employment law limits the ability of the NCAA to establish rules that "create and define the competition." We know this because many sports leagues with employees exist and they manage to create and define their competitions just fine. The major professional leagues - such as the National Football League and Major League Baseball - would be examples of this. But even if it were possible to identify an employment law somewhere that would interfere with this interest, it may justify exemption from that one employment law, not a global exemption from all employment laws.

Collaboration may also be necessary to create a level playing field. But, of course, there are many possible level playing fields. Again, we know from the professional leagues that level playing fields can be created in athletics even if the athletes are employees. In general, application of employment laws has no necessary effect on this. If all Big Ten universities are required to pay college athletes the minimum wage, then there is a level playing field just as there is if all are restricted to providing scholarships and stipends.

The third aspect of the collaboration rationale is the most difficult. College athletics is, without question, a particular product that is created and molded by the NCAA and its complex set of rules. And it is true that application of some employment laws may interfere with the maintenance of that particular product. But even this claim does not justify a global exclusion from employment laws. Some laws – like the minimum wage – may well interfere with the product. Classifying college athletes as employees under other laws, however – such as the NLRA – has no necessary effect on that product. More pointedly, employment laws often limit the products that can be offered. A league defining its product as offering only White players would undoubtedly be acting illegally no matter how central the league claimed that feature was to its product.

Even beyond these particulars, the analogy to antitrust law as a basis for an exemption from employment laws is weak. These rationales under the antitrust laws are not really “exceptions”; instead, they are applications of antitrust law. The claim is not that the NCAA is exempt, but rather that the NCAA’s rules do not violate the basic prohibitions of the Act. For employment laws, the claim would be for an exception.

But if the antitrust analogy is inapt, what should we make of the claim on its own merits that the NCAA should not be covered by employment laws because it would upend the entire NCAA regulatory structure. The first cut, again, should be to investigate the consequences of each particular claim of employee status. While coverage under some employment laws would have large effects on the NCAA regulatory structure, coverage under others would not. A global statement that any finding of employee status anywhere will upset the whole apple cart is simply incorrect.

Having said that, however, coverage under some employment laws clearly would conflict with the NCAA regulatory structure. How should we think about those situations? The claim, considered in a broad context, is a weak one. First, the sets of laws we are talking about are very central to American society. Laws protecting collective labor rights, wage-and-hour laws, and wage-payment laws are current-day products of enormous social upheaval and discussion in the first half of the 20th century. Other laws – such as discrimination laws – are also central pillars of the social contract we have constructed over the past half century. Creating new exceptions to these important laws should be done very cautiously, and not by courts creating special, ad hoc exceptions.

Second, problems complying with employment laws are not unique to the NCAA and college athletics. Compliance is complicated and expensive for everyone. For better or worse, we as a society have decided that those complications and expenses are worth it. Again, carving out exceptions to avoid these complications for college athletics should be done (a) cautiously and (b) individually for each employment statute. A global exemption from all employment laws is many steps too far.

Conclusion

The main thesis of this article is that, if there is a persistent effort, college athletes are likely to be classified as employees sometime, somewhere. The main reason for this is that there are simply so many arrows in the quivers of college athletes seeking employee status. There are literally hundreds of different statutory claims that could be made by thousands of potential plaintiffs. A secondary reason is that the doctrine in each of the major areas of employee rights leans in favor of classifying college athletes as employees. These decisions are not likely to be driven by doctrine alone and doctrine can be modified, especially in the face of powerful forces. But doctrine is unlikely to be overridden under every statute in every jurisdiction.



Therapeutic Jurisprudence Used as Protection and Prevention in Sex Trafficking

By Professor Anna Shavers

Editor's Note: This excerpt is from a work-in-progress that Professor Shavers presented this summer at the interdisciplinary conference, The Slavery Past, Present and Future Project: 1st Global Meeting, at Oxford.

Adult trafficking victims should have access to pre-conviction and post-conviction prostitution diversion programs which are specifically created for sex trafficking victims.¹ The idea of diversion for adult prostitution has not been advocated for or subjected to the same analysis and critiques applied to programs for minors.² Pre-court programs are preferred by many victim/survivor support organizations. It is asserted that upon arrest and law enforcement "[I]earn[s] that a woman has been in prostitution [this] should create a presumption that she is a trafficking victim."³ The victim would then be assessed to determine if she qualifies for a diversion program.

Using pre-court diversion enables law enforcement to intervene on a victim's behalf, diverting them to community-based, victim-centered programs instead of pushing them through the criminal justice system. It's not just about punishment and consequences. It's about finding cost-effective, efficient, and lasting solutions to end sex trafficking and prostitution.⁴

These programs should take into account the factors above such as the circumstances of an individual entering commercial sex activity. Although an individual may be charged with an offense when they are an adult, an effort should be made by trained police officers or affiliated NGOs to determine how the circumstances of entry. Some studies show that the many of those engaged in prostitution entered the sex industry as children and the majority entered before the age of 25.⁵



¹ A broader understanding of the term "sex trafficking victim" can lead to the inclusion of individuals who might otherwise be excluded. In addition, many sex workers may benefit from the programs even though they do not consider themselves sex trafficking victims.

² See generally, Marc L. Miller, Samantha Caplinger, Prosecution in Arizona: Practical Problems, Prosecutorial Accountability, and Local Solutions, 41 Crime & Just. 265, 286 (2012) (most community based diversion programs are only offered to minor offenders, and not to adults.)

³ Lawyer's Manual on Human Trafficking: Pursuing Justice for Victims <http://www.courts.state.ny.us/ip/womeninthecourts/LMHT.pdf>

⁴ Breaking Free available at http://breakingfree.net/the_john_school.asp.

⁵ Janice G. Raymond, & Donna M. Hughes. (2001). SEX TRAFFICKING OF WOMEN IN THE UNITED STATES INTERNATIONAL AND DOMESTIC TRENDS. Coalition Against Trafficking in Women; Kotrla, K. (2010), Domestic minor sex trafficking in the United States. Social Work, 55 (2), 181-187.)

Evidence of drug addiction or drug abuse should not definitively determine that diversion, if available, should be through a drug court. While some do enter prostitution to support their drug habits, even though they may be addicted to drugs when they enter the legal system, most sex trafficking victims often do not.⁶ An approach which focuses on the drug abuse of the victim may place them in a drug court proceeding or diversion program, overlooking the entry into prostitution as a child. There is some evidence that victimization may be a stronger factor than drug abuse which explains the entry into prostitution and the characteristic which should be focused on in a treatment or diversion program.⁷ The availability of diversion programs for sex trafficking victims in pre-conviction settings are more desirable than post-conviction programs that are available only after the victim has been convicted of illegal activity.

Since most prostitution charges are made under state and local laws, diversion programs should be created at that level. There are a number of pre-court and pre-conviction diversion programs being developed for survivors, which seem to have carefully considered the principles of therapeutic jurisprudence in their development. A pre-court diversion program permits law enforcement to divert victims to community-based, victim-centered programs. Such programs can become cost-effective, efficient, and lasting solutions to end sex trafficking and prostitution. The impetus for these programs can be the judiciary, the legislature or NGOs, which often have survivors of sex trafficking involved. Two diversion programs in Texas have attracted attention. The first is the Reaching Independence through Successful Empowerment (RISE) program, which was created in 2010 in Tarrant County,

Texas by state District Judge Brent Carr.⁸ While the program, like other similar programs does not appear to be limited to individuals who entered prostitution when they were a minor, it does appear to take into consideration factors such as childhood sexual abuse which may have triggered the entry into prostitution.⁹ Judge Carr has noted that most of the participants have previously served time in prison and were drug addicts.¹⁰ Nevertheless, he has observed that they could almost all be considered victims and have some mental challenge that needs to be addressed. An overwhelming majority of the participants have a mental illness diagnosis and the others often suffer from depression or PTSD. Judge Carr has observed that most participants are in the 40 to 50 age range with younger offenders preferring to take a short jail sentence over the two year diversion program. The participants are placed on probation and assigned a team made up of social workers, attorneys, probation officers and the judge. Even with all of these personnel and services, the program has been described as cost efficient, costing about \$2 a day instead of the \$137 a day it costs to imprison a person with mental health issues.¹¹ The second program in Texas is the Dallas Police Department's Prostitution Diversion Initiative. This program was started in 2007 and has been considered so successful¹² that the Texas legislature passed a bill in 2013 that would require counties with 200,000 population or more to create prostitution prevention programs if they are able to receive sufficient state or federal grants.¹³ The bill was subsequently signed into law. Under the 2013 law,¹⁴ Texas' largest counties are required to start prostitution diversion programs.¹⁵

⁶ McClanahan, S.F., McClelland, G.M., Abram, K.M. & Teplin, L.A. (1999). Pathways into prostitution among female jail detainees and their implications for mental health services. *Psychiatric Services*, 50 (12), 1611 noting that some researchers have found that drug abuse is as likely to follow the onset of prostitution as to precede it, citing Silbert MH, Pines AM, Lynch T: Substance abuse and prostitution. *Journal of Psychoactive Drugs* 14:193-197, 1982; James J: Prostitution and addiction: an interdisciplinary approach. *Addictive Diseases* 2:601-618, 1976; Goldstein PJ: *Prostitution and Drugs*. Lexington, Mass, Lexington Books, 1979

⁷ McClanahan, S.F., McClelland, G.M., Abram, K.M. & Teplin, L.A. (1999). Pathways into prostitution among female jail detainees and their implications for mental health services. *Psychiatric Services*, 50 (12), 1606-1613. (the authors examined three pathways into prostitution: childhood sexual victimization, running away, and drug use.)

⁸ Star Telegram.com Aug. 31, 2013 Tarrant diversion program gives prostitutes chance to start over <http://www.star-telegram.com/2013/08/30/5121570/tarrant-county-diversion-program.html#storylink=cpy>

⁹ Id.

¹⁰ Id.

¹¹ Id.

¹² Report released by the Texas Criminal Justice Coalition, *Effective Approaches for Reducing Prostitution in Texas: Proactive and Cost-Efficient Strategies to Help People Leave the Streets* at 9 <http://www.pdinewlife.org/wp-content/uploads/2013/04/TCJC-Effective-Approaches-Reducing-Prostitution-2013.pdf>

¹³ <http://www.dallasnews.com/news/politics/state-politics/20130605-texas-bill-on-prostitution-diversion-modeled-on-dallas-county.ece>

¹⁴ S.B. 484, 83rd Leg., Reg. Sess. §169A.0055 (Tex. 2013). victims with social service referrals, Sept. 25, 2013 http://www.abajournal.com/news/article/new_prostitution_courts_will_aim_to_help_sex-trafficking_victims_with_social/



Editor's Note: The following is an excerpt from Professor Eric Berger's recently published law review article,

Lethal Injection Secrecy and Eighth Amendment Due Process

55 Boston College Law Review 1367 (2014).

(Citations Omitted)

By Eric Berger, Professor of Law

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Michael Taylor's execution date was just days away in February 2014 when he won what appeared to be a significant legal victory. Taylor, a death row inmate in Missouri, had sued the Apothecary Shoppe, an Oklahoma compounding pharmacy that had allegedly contracted to supply Missouri with compounded pentobarbital for use in its lethal injection procedure. Taylor's lawyers alleged that "compounding injectable pentobarbital outside an FDA approved facility poses a substantial risk that the purity, efficacy, and sterility of the drug will be compromised such that a tortuous death will result." The allegation was hardly fanciful. On the contrary, experts had identified the dangers of compounded pentobarbital, and recent executions using that drug in other states had gone awry. Perhaps recognizing that litigation may be expensive and attract bad publicity, the Apothecary Shoppe settled, agreeing not to provide drugs to Missouri.

Taylor's victory did not last long. Shortly after the settlement, Missouri Governor Jay Nixon announced that the State would proceed with Taylor's execution anyway. Nixon refused to specify the drugs his State would use, but he cryptically suggested that Missouri had access to lethal chemicals from another source. Taylor, who had filed suit against the State as well, moved to stay his execution on the grounds that Missouri could not substitute a new drug at the last minute. The next day, Missouri disclosed that it still planned to use pentobarbital in Taylor's execution but again refused to disclose the drug's source.

Viewed in the abstract, Taylor still seemed to have viable Eighth Amendment and due process arguments. Missouri had acknowledged that it planned to use pentobarbital, but the only company manufacturing injectable pentobarbital available in the United States had prohibited sale of its drugs for use in executions. Because injectable pentobarbital's shelf life is limited, Missouri almost certainly planned to use compounded pentobarbital, which, at least arguably, creates serious risks that manufactured pentobarbital does not. Given these concerns and eyewitness accounts of problematic executions using compounded pentobarbital elsewhere, Taylor had a strong argument that the State should disclose its execution procedure details for closer inspection. Perhaps further inquiry would demonstrate the "safety" of Missouri's drugs and procedures, but Taylor had raised colorable claims that the State's planned execution created a substantial risk of serious pain in violation of his Eighth Amendment right against "cruel and unusual punishment."

The courts rejected Taylor's arguments. The federal district court in Missouri denied his motions, the U.S. Court of Appeals for the Eighth Circuit affirmed, and the U.S. Supreme Court denied certiorari

and the application for a stay of execution. Collectively, these orders prevented Taylor from learning crucial details about Missouri's execution procedure. While the Eighth Circuit's Judge Bye did issue a stinging dissent, arguing that a stay should be granted so that Taylor "be allowed access to information and testing so he could determine whether his constitutional rights were to be violated at the time of his death," the two appellate courts rejected Taylor's contentions without even explaining their rulings. (Justice Ginsburg, joined by Justices Sotomayor and Kagan, did issue a brief dissent saying that she would have granted the stay for the reasons "well stated by Judge Bye.") On February 26, 2014, Missouri executed Michael Taylor.

The State and courts' approaches to Taylor's case were hardly anomalous. On the contrary, in recent years, states have become increasingly secretive about their lethal injection procedures. Although states typically make some information available, they often withhold vital details that directly affect the likelihood that the inmate will suffer excruciating pain. Courts, for their part, often turn a blind eye to these state practices, usually rejecting inmates' requests to learn this crucial information. These state practices and judicial responses are deeply entrenched, but they are also wrong. Indeed, courts in these cases have repeatedly misunderstood both the law and the facts. Judicial sanction of lethal injection secrecy ignores important due process principles and abdicates the courts' duty to ensure that states do not violate the Constitution. Courts also ignore a history of botched executions that belie their common assumption that lethal injection is unproblematic. To be sure, some execution procedures, upon closer examination, may be safe and constitutional, but some certainly are not, and courts have no way of distinguishing the safe from the dangerous without inquiring into the details of the procedure. To this extent, courts have repeatedly blessed risky execution procedures without bothering to examine them.

This Article argues that courts confronted with Eighth Amendment challenges to lethal injection procedures should require states to provide inmate plaintiffs with details bearing on the risk that they will suffer serious pain. As an initial matter, civil plaintiffs enjoy broad access to discovery, with which state privilege laws cannot interfere in federal question cases. From this perspective, inmates bringing Eighth Amendment lethal injection challenges under 42 U.S.C. § 1983 are entitled to information about the state's execution procedures under the ordinary rules of civil discovery without even having to assert a due process claim.

Due process arguments make this right to discovery even stronger. Death row inmates unquestionably possess an Eighth Amendment right protecting them against methods of execution that create a substantial risk of serious harm. A state, then, violates the Constitution when it employs an execution procedure creating such risk. This right, however, only has force if courts enforce it ex-ante—that is, if courts enjoin dangerous execution procedures and require states to adopt safer ones before executing an inmate. Nevertheless, many states, like Missouri, typically conceal crucial details of their execution procedures from inmates as well as the public, thereby effectively preventing inmates from safeguarding their Eighth Amendment rights. This secrecy not only violates the condemned's constitutional rights but also heightens the risk that executions will cause excruciating pain. Indeed, in recent years, there have been several instances of botched executions, often involving grisly accounts of inmates convulsing or crying out from the gurney.

Without access to information about execution protocols, the inmate's Eighth Amendment protection against unconstitutional executions evaporates, because the state can conceal details of its execution procedure, thereby insulating it from judicial review. To safeguard the inmate's Eighth Amendment right, then, courts should require states to disclose all material details of their execution procedures. This right likewise should encompass a right to know the state's last-minute material changes to its procedure. The question of whether inmates possess a constitutional right to know how they will be executed has recurred frequently in the lower federal courts and will continue to arise. The issue has received prominent attention in the mainstream media and even from Stephen Colbert. Nevertheless, the U.S. Supreme Court has ducked the issue repeatedly, most recently denying certiorari in a pair of cases in April 2014. The legal academy also has neglected to examine the issue so far. Deborah Denno has discussed state secrecy in her excellent, comprehensive study of recent developments in lethal injection, but scholars have not yet examined whether state secrecy in lethal injection violates inmates' due process rights.

The question, however, is an important one that deserves more careful exploration. To the extent lower courts have addressed the issue, they usually reject the asserted right to information without adequately wrestling with the constitutional norms involved. Indeed, courts' analyses to date emphasize only the state's interests in proceeding with its execution and shortchange the inmate's constitutional interests.

Were courts to consider the question more carefully, they would see that the Supreme Court has emphasized that due process and basic fairness demand that litigants receive notice of the state's plans for them and an opportunity to challenge those plans. The Court has similarly recognized a right to information where an individual needs such information to protect a threatened constitutional right. The Court has also recognized that protection of a substantive right often depends not only on the contours of the right itself but also on whether the government's procedures are sufficiently sensitive to the right in question.

Nonetheless, concerns driving lower courts' rejection of these arguments are understandable. For instance, courts often worry that increased scrutiny of lethal injection procedures may unmask the identities of the execution teams. Courts similarly worry that examination of the drug sources will pressure pharmacies to stop supplying chemicals used in executions. These concerns reflect legitimate state interests, but they also overstate the problem. Courts are fully capable of fashioning procedures, such as neutral chemical testing, that grant inmates evidence needed to evaluate the safety of execution procedures while guarding against public dissemination of sensitive information, such as executioner and pharmacy identities.

Importantly, judicial recognition of an Eighth Amendment due process right is not only consistent with basic constitutional principles but would also result in safer executions. States often create their lethal injection procedures in secret without oversight or transparency. Little incentive therefore exists for states to ensure that executions do not cause pain, especially when they can either conceal an inmate's pain (through the use of a paralytic in the three-drug protocol) or argue that apparent pain is not what it seems. The result can be execution procedures that create far more risk of pain than they should. In fact, recent botched executions may have been avoidable had the state disclosed important details.

Beyond the execution procedures themselves, these cases also implicate more fundamental notions of good governance. When state officials operate behind closed doors and are accountable neither to the public nor to elected officials, they effectively act without democratic legitimacy. This lack of accountability is troubling, but it is perhaps justifiable where administrative agents possess an expertise that makes them uniquely suited to handle sensitive matters. When it comes to lethal injection, however, responsible state officials often lack not only political accountability, but also a basic understanding of the drugs and their risks. Far from deserving judicial deference, these kinds of governmental actions are precisely the kinds that warrant closer judicial scrutiny. Courts, however, have effectively turned a blind eye to state practices, thereby letting these political process failures fester.

Justice Felix J. Frankfurter once noted that “[t]he history of American freedom is, in no small measure, the history of procedure.” From this perspective, courts’ repeated deference to even the most secretive and suspicious practices should concern not just opponents of capital punishment, but all of us. Society has an interest in knowing whether the government abides by the Constitution when it carries out its most solemn task. To this extent, courts should recognize that lethal injection cases implicate core American norms, including fair process and transparent, accountable government.



Editor's Note: The following is an excerpt from Professor Jo Potuto's recently published law review article,

The NCAA Student-Athlete Reinstatement Process: Say What?,
63 Buffalo Law Review 297 (2015)
(Citations Omitted)

*By Josephine (Jo) R. Potuto, Richard H. Larson Professor of Constitutional Law†
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INTRODUCTION

Oklahoma State wide receiver Dez Bryant met with former NFL player Deion Sanders and then lied about it to the National Collegiate Athletic Association (NCAA). He lost a season of competition eligibility. Johnny Manziel, the Texas

A&M Heisman Trophy-winning quarterback, reportedly received thousands of dollars from broker-dealers to autograph memorabilia; a picture surfaced showing him signing an autograph for one of the dealers. He lost the first half of A&M's 2013 season-opening game. In the same month in 2014, information surfaced suggesting that Todd Gurley, the Georgia Heisman candidate running back, and Jameis Winston, the Florida State Heisman-winning quarterback, both sold autographs for cash. Gurley lost four games; Winston continued to play. The father of Cam Newton, the Auburn Heisman-winning quarterback, attempted to shop him to Mississippi State for several thousand dollars. Newton never stopped playing. Georgia wide receiver A.J. Green sold the jersey he wore

in the 2009 Independence Bowl for \$1000. He lost four games. Ohio State football players sold football gear and memorabilia, and traded game tickets for free or reduced-cost tattoos. The value per player ranged from \$1000 to \$2500. They also competed while ineligible. They lost the first five games of the 2011 season but not the Sugar Bowl game that ended the 2009 season. At least sixty-one Florida State student-athletes in ten sports committed academic fraud; many if not most competed while ineligible. They lost thirty percent of their season's games. For the football players that meant four games, including the Music City Bowl, which ended the 2007 season. So what is going on here?

Seeming inconsistencies in reinstatement decisions partially are explained by what can be proved rather than what the media report. Todd Gurley admitted his conduct; Winston and Manziel did not. Reinstatement decisions also partially are explained by different approaches to the quantum of evidence needed to reach a decision, particularly when a decision relies on reasonable inferences from information. Competing as an ineligible student-athlete is an NCAA violation. Reinstatement decisions may differ based on how violation-risk averse a university is, as well as how reluctant it is to penalize a student-athlete when information is ambiguous. Reinstatement decisions also partially are explained by technicalities in what NCAA bylaws prohibit. Had money actually been paid to Cam Newton's father, there would have been a violation. Had Cam Newton attended Mississippi State, where the offer to pay was made, there would have been a violation even if no money changed hands.

A perception of hopelessly irreconcilable decisions is exacerbated by the failure of critics to distinguish between reinstatement cases and enforcement/infractions cases such as the University of Southern California case that featured Reggie Bush, its Heisman-winning running back, who took money and other benefits from two agents. This is like comparing apples to oranges.

Except for drug violations, student-athlete violations are handled exclusively by the Student-Athlete Reinstatement Committee and its staff. The NCAA Committees on Infractions, by contrast, deal with institutional responsibility, as well as the culpability of coaches and other staff members. The infractions and reinstatement committees have different governing principles, decision-makers, systems for processing violations, timelines, and reporting lines within the NCAA.

Much has been written about the NCAA enforcement staff and the Committee on Infractions, both in law reviews and in the popular media. By contrast, the reinstatement process is poorly understood, and its procedures are often assumed, wrongly, to mirror those of enforcement/infractions. This Article shines a spotlight on the reinstatement process, describing how it works, where and why it differs from the enforcement/infractions process, and the deferential judicial standard of review accorded student-athlete eligibility decisions. Also discussed is what happens in student-athlete drug appeals.

I. NCAA VIOLATIONS

NCAA bylaws set conduct standards for coaches, other staff, and student-athletes and define and regulate student-athlete competition eligibility. NCAA bylaws also describe the processes by which bylaws are enforced and violations are punished.

All NCAA violations have two culpable parties: the individual who “did the deed” and the member university responsible for the individual’s conduct. More than 460,000 student-athletes compete at NCAA member institutions. Estimated conservatively, each year there are at least 25,000 college athletic competitions. The sheer number of athletes and potential athlete eligibility cases sets the NCAA apart from entities such as the International Olympic Committee (IOC) and professional sports leagues that also administer athletic competition.

There are four classifications of NCAA violations. Level IV violations are minor, technical violations that were committed inadvertently. By their nature, Level IV violations never involve conduct that may have eligibility consequences for a student-athlete and, therefore, are not germane to the discussion in this Article. Level I and II violations are serious and are handled by the particular Committee on Infractions for the NCAA division whose institution committed a violation. Over the past four years the combined total of cases handled annually by all three Committees on Infractions averaged only 20.5 cases. Fewer than eight of the 20.5 cases entailed a hearing.

Level III violations are isolated or limited in nature and provide no more than a minimal recruiting or competitive advantage to a university or minimal impermissible benefit to a student-athlete. Approximately four thousand Level III violations are processed annually. Level III violations entail neither enforcement staff investigations nor trigger the Committee on Infractions hearing process. Rather, they are handled by an enforcement director specifically designated for that purpose (Level III Director). The Level III Director makes no fact findings but, instead, imposes penalties based on the facts provided in an institutional self report.

Pursuant to the cooperative principle, universities are required promptly to report suspected violations and to cooperate with an NCAA investigation. Coaches, other university staff, and student-athletes agree to adhere to NCAA bylaws and to report suspected violations.

The process for assessing institutional responsibility for Level I and II violations is the one familiar to commentators, and also the one they often assume is employed in student-athlete reinstatement cases. Institutional responsibility for Level I and II violations involves adversarial presentations resolved by the applicable division’s Committee on Infractions. The enforcement staff investigates, makes allegations of violations, compiles the evidence to support its allegations, and presents its evidence at an infractions committee hearing. Coaches charged with violations routinely appear with counsel. The Committee on Infractions writes detailed infractions reports setting forth the

reasons for its findings and the penalties it imposes.

II. THE STUDENT-ATHLETE REINSTATEMENT PROCESS

The most fundamental difference between enforcement/infractions and student-athlete reinstatement processes, and likely the least understood, is that there is no equivalent to the Committee on Infractions in student-athlete reinstatement cases. Even for Level I and II violations, it is a university that investigates, makes the factual conclusions as to what occurred, and concludes that violations were committed. Even for Level I and II violations, reinstatement staff conduct no investigation, make no allegations of violations, and compile no evidence in support of allegations. Even for Level I and II violations, there is no adversarial hearing. In all reinstatement cases, the exclusive role of the reinstatement staff and the Student-Athlete Reinstatement Committee is to assure that the institution provides a full factual record, and then, based on those reported facts, to assess the degree of student-athlete culpability and decide whether and under what conditions a student-athlete may be reinstated to competition eligibility.

Investigations take time. Level I and II infractions cases always take at least a year between onset of investigation and hearing and often take two years or more. Delay in resolution of violations no doubt burdens an institution. Adverse publicity continues until a case is resolved, affecting a university's overall reputation, and likely is an ongoing distraction for day-to-day operations. Recruiting may be affected while recruits wait to learn what institutional penalties will be imposed. Without question, however, the consequences of delay fall more heavily on student-athletes. They have only four years of competition eligibility and a five-year window in which to compete. The less time remaining on a student-athlete's five-year competition clock, the more critical the need for quick resolution of any claimed violation. That need for speed is heightened when a reinstatement request is made close to a student-athlete's next scheduled date of competition. A streamlined process to resolve violations, even at Levels I and II, is, therefore, particularly critical for student-athletes.

Student-athletes who compete are more talented, skilled, or experienced than those who sit on the bench. When a student-athlete competes while ineligible, therefore, it always is a competitive advantage for a team and university. Depending on the talent level of an ineligible student-athlete, the position played, and the talent level of back-up student-athletes, the competitive advantage can be substantial.

Mueller finds her diverse background in practice advantageous in CDO position

By Loguen Blazek, '16



There is a new face in the Nebraska Law Career Development Office. The office's new associate director is Kala Mueller. Mueller received her bachelor's degree in criminal justice from the University of Nebraska–Lincoln in 2005 and her J.D. from the University of Wisconsin Law School in 2009. During law school, Mueller was involved with the *Wisconsin Journal of Law, Gender & Society*, first as a member of its writing program, which resulted in publication of her article on China's population control policy, and later as a senior editor. She also worked with a clinical program serving prison inmates and the Dane County District Attorney's Office in Madison, Wisconsin.

Following law school, Mueller worked as a prosecutor in central Wisconsin for over three years before joining a private practice where she practiced primarily in the area

of personal injury defense.

Mueller was drawn to the position in the Career Development Office because of her background. "Having worked as an attorney in both the public and private sector, I felt that my background would lend itself well to the requirements of this job, and now that I've taken the Gallup StrengthsFinder, I'm even more convinced that this is a great fit for me," said Mueller.

Mueller went on to explain that she received a J.D. at a time when the legal job market was hit really hard by the recession, and from that experience she knows how valuable the services provided by the Career Development Office are. That makes her excited to fill such an important role at the Law College.

The Career Development Office is designed to provide students with aid and resources to help them pursue the career of their choice both while they are attending the Law College and following their graduation as alumni. Mueller explained, "At the Career Development Office, we are always thinking about ways in which we can better reach our students and make the CDO more accessible." As the associate director, Mueller hopes to help establish more of a presence on social media. "Students now have the ability to check our availability and schedule counseling appointments online through ROSCOE, and we're offering walk-in hours Monday through Thursday," said Mueller. The Career Development Office is also excited to introduce the students to a new app – Careers by Symplicity – which offers a quick and easy way to search for jobs and RSVP for events in ROSCOE. "We've also added resume and cover letter writing workshops to our programming for this year," she added.

When asked what she was most looking forward to about her new position, Mueller responded, "I'm most looking forward to working with and getting to know the students."

Ebel, Cline Williams Jurist-in-Residence, examines evolution of 4th Amendment

By Loguen Blazek, '16

"The Times They are a Changing," yet the Cline Williams Jurist-in-Residence Lecture continues to be a staple at Nebraska Law. The 2015 Cline Williams Jurist-in-Residence featured the Honorable David M. Ebel, senior judge of the United States Court of Appeals for the Tenth Circuit. Ebel spoke to a large group of students, faculty and guests at the Law College on March 31 with a lecture entitled, "The Times They Are a Changing — and so is the Fourth Amendment."

The Cline Williams Distinguished Jurist-in-Residence Lectureship series began in 1972 and has hosted 17 distinguished lecturers, including J. Lee Rankin, James L. Oakes and Richard S. Arnold.

Born in Wichita, Kansas, Ebel received his B.A. from Northwestern University in 1962 and went on to receive his J.D. from the University of Michigan Law School. While in law school, Ebel was editor-in-chief of the *Michigan Law Review*. Following his graduation from law school, Ebel served as a law clerk for Justice Byron White on the Supreme Court of the United States. Ebel entered private practice and was a partner at Davis Graham & Stubbs LLP in Denver, Colorado, before joining the judiciary.

Ebel's lecture focused on the effect of societal changes on the Fourth Amendment. "In the past, society had very clear expectations of privacy," he explained. Historically, the population was spread out and most people lived on farms. Communication most frequently occurred in person, which made privacy the norm. However, as society changed and technology made it easier to communicate and more people began living in cities, privacy became more uncommon.

In his lecture, Ebel referenced various cases that affected how the Fourth Amendment was interpreted. The first of those cases was *US v. Katz*. *Katz* developed an understanding of the Fourth Amendment as a way to protect people, and focused on privacy not property. Ebel pointed out, "If the old *Katz* test had prevailed, the Fourth Amendment would have diminished along with society's expectation of privacy." However, as Ebel went on to discuss, that was not what occurred. Instead, the Fourth Amendment has grown stronger.

How courts have interpreted the Fourth Amendment has changed since *Katz*. One case that demonstrates this is *United States v. Jones*, the case Judge Ebel found most surprising in terms of the Fourth Amendment. In *Jones*, the Supreme Court of the United States held that "the installation of a GPS tracking device on Jones's vehicle, without a warrant, constituted an unlawful search under the Fourth Amendment, rejecting the government's argument that there is no reasonable expectation of privacy in a person's movement on public thoroughfares." The Court "emphasized the Fourth Amendment provided some protection for trespass onto personal property." According to Ebel, "This demonstrates the shift in the interpretation of the Fourth Amendment from a reasonable expectation of privacy toward one based on protection of a mixture of property and privacy rights."

Ebel went on to discuss various other cases and how each affected the evolving search and seizure laws and the Fourth Amendment. Ebel reasoned that much of the shift and changes in recent Supreme Court Fourth Amendment cases have to do with increasing technology and the fear of what that influx of technology could do to Americans' privacy and property rights.



Law College celebrates 40th anniversary of first class in its East Campus home

On March 31, 1975, Professor John Gradwohl arrived early at the brand new College of Law building on UNL's East Campus. March 31 was the first day of classes at the building, and Gradwohl was preparing to teach the first class to be held there. To assure that his Estate Planning class would indeed be the first, Gradwohl had told his class to be there a half hour early. His caution was well-placed; Professor Alan Saltzman had scheduled a make-up class for that morning.

When the students entered Room 125, they found desks but no chairs. They had to proceed to the library and bring their chairs back with them to the room – another cost-saving measure by Dean Henry Grether. Gradwohl had a special class prepared that focused on the efforts to get the new Law College building built, compared the move to the new facility with the Nebraska Bar's move to a new probate code and speculated on the future of legal education. The class then adjourned to the Law Review office for refreshments, not all of which could be legally served in the building under University rules.

To mark the occasion, Gradwohl had the names of the 40 students who attended that class engraved on a brass plaque that was attached to a metal doorplate, which had been somehow secured from Room 101 of the old Law College building. It was affixed to a wood base prepared by a student in the class, Rick Reier, '75, and mounted outside of Room 125.



The plaque was still there when, 40 years later, on March 31, 2015, the anniversary of the building's opening, a group of alumni, students, faculty and administrators gathered to celebrate the occasion. Dean Susan Poser welcomed everyone to the celebration and introduced John Gradwohl's widow, Judge Jan Gradwohl, '54, who on behalf of the Gradwohl family, many of whom were in attendance, thanked the Law College for commemorating the occasion.

Three professors who were on the faculty at the time of the move to the new building spoke. Professor Alan Frank talked about that first class, using information he obtained from an article written by Jordan Ball, '76, in the April 1975 issue of *THE NEBRASKA TRANSCRIPT*. Professor Bob Works recalled the struggle to get the building built including attempts by some to house the College in the old federal building and the Nebraska Public Television building. Professor Roger Kirst added his recollections. Also speaking were members of Professor Gradwohl's Estate Planning class: William Blake, Rick Reier and Loy Todd, all of the class of 1975.

During its 40 years, the Law College building has been expanded and updated, but the anniversary celebration brought to mind, to those who were present at the time, the excitement of moving to the College's sparkling new home. The only thing that detracted from the occasion was that Professor John Gradwohl was not there.

College honored to host international competition

Nebraska Law was privileged to host the 2015 Louis M. Brown and Forrest S. Mosten International Client Consultation Competition (ICCC), April 15-18, 2015. "In recent years, the ICCC has been held in Las Vegas, Hong Kong, Maastricht, Dublin, Glasgow and San Juan. We were flattered to be asked to bring the competition to Lincoln this year," said Professor Alan Frank who, along with Professor Craig Lawson, coordinated the competition.



In the Client Consultation Competition, teams of two law students perform mock interviews with an actor posing as a client before a panel of three judges. The judges' panel is made up of legal and counseling professionals. Each competition focuses on a broad area of the law, which the teams know beforehand. This year the subject was Small Businesses. The teams receive a brief statement of what the client's concerns may be before they meet with the clients, but do not learn any specifics about the nature of the client's problem until the actual interview. Students who win their respective regional and national competitions go on to represent their countries in the international competition. The international competition provides an exciting opportunity for law students to learn and practice interviewing and counseling skills, as well as to meet lawyers and other law students from an amazing range of nations and cultures.

Twenty teams participated in this year's international competition: Australia, England/Wales, Canada, Georgia, Germany, India, Indonesia, Ireland, Malaysia, Mexico, Netherlands, New Zealand, Nigeria, Northern Ireland, Scotland, Sri Lanka, Switzerland, Turkey, Ukraine and the United States. Claire Coleman and Phillipa Byrne from Manchester Metropolitan University in England were the competition's winners representing England/Wales. Georgia and Nigeria finished tied for second place.

Though this event is a competition, the spirit of the ICCC is to foster relations and cultural awareness between students of various countries in a fun and relaxed environment. All 20 teams conduct two interviews on the Thursday and Friday of the competition. The top nine teams compete in the semifinal round on Saturday morning; the top three then move on to compete in the final round of competition Saturday afternoon. In between rounds, teams had an opportunity to spend some time exploring both Lincoln and the UNL campus.

Each team was assigned a student guide to help show them around the area and to escort them to their various rounds or answer any questions they had during their stay. This made for a fun week for the competing teams as well as the students, staff and faculty at the Law College. Student guide Finola Quigley, an LL.M. student originally from Ireland, remarked, "The International Client Consultation Competition provided me with the surprising and welcome opportunity to reconnect with a former classmate from Ireland and to converse about my home. From Cork to Lincoln, who would have thought?!"



During their stay, teams also had the opportunity to see a performance by Pippa White, actress and wife of Professor Craig Lawson, in her presentation 'Voices of Ellis Island. Competitors also



attended an all-American barbecue at the Law College and toured landmarks such as the Nebraska State Capitol, the Nebraska Supreme Court and Memorial Stadium. The final dinner and awards ceremony was held at the Nebraska Club.

Frank and Lawson, who have been teaching and coaching client counseling students since 1975 and 1979 respectively, are the main reasons that the Law College was chosen to host this year's competition. Their strong involvement and support of this competition and the successes of the many teams they have helped over the years has gained the College of Law an international reputation. Frank emphasized his positive feelings for the international competition stating, "Having young law students from all around the world gather together for something of this nature is an amazing experience to be a part of."



Frank and Lawson both contributed in major ways to running the competition and also wanted to thank all the others who helped make this event possible and successful. Some of those people who deserve a big thanks include Dean Susan Poser, the Law College IT department, Assistant Dean Marc Pearce, former Associate Dean Glenda Pierce, Director of Marketing and Digital Strategy Amber Wolff, Student and Alumni Event

"Having young law students from all around the world gather together for something of this nature is an amazing experience to be a part of."
- Professor Alan Frank

Coordinator Katie Pfannenstiel, the rest of the faculty and staff at the College and all those who donated time or money to make the competition possible, including those who served as judges and clients.

The 2015 International Client Consultation Competition was an exciting time at the College of Law and a success, as demonstrated by the wonderful notation on the International Client Consultation main website thanking Nebraska Law for a "superbly hosted competition!" Remarked Poser after the ICC's first day, "Yesterday was one of the most extraordinary days we have ever had at the Law College." The law student competitors were effusive in their praise for the competition and for the kindness and warmth they received from the people of Lincoln. Wrote one competitor, "We just arrived back in Malaysia. It's strange because we are supposed to feel at home here, but we keep on thinking of Lincoln instead. I guess we must have left our hearts in Lincoln."



Native American Law offers students variety of experiences relevant to state

By Loguen Blazek, '16



Students at Nebraska Law have the opportunity to study a variety of interest areas within the law. One of the more unique areas is one that has a particular relevance to Nebraska and the Great Plains – Native American Law.

Professor Jessica Shoemaker, who teaches Native American Law, noted, “In the last few years, we have grown both the breadth of courses we teach in Indian law and the number of out-of-classroom opportunities for students interested in this important field.” In addition to Shoemaker’s class, Professor Emeritus John Snowden, who has taught Native American law courses for years, is now teaching a Tribal Gaming Law seminar.

Outside of the classroom, many exciting new student opportunities have been created, as well, including the Law College’s tribal externships, in which several students have had the chance to participate. “These tribal externs have worked directly for counsel for federally recognized Indian tribes in the Great Plains and have primarily done legislative drafting and codifying projects for tribal governments on a range of topics,” said Shoemaker. One extern had the chance to work directly with a tribal prosecutor for a summer in tribal court. “These tribal externship offerings ebb and flow somewhat depending on tribal client needs and their counsel’s supervision capacity, but I am also currently working on a new project that I hope will soon give students the chance to do some direct estate planning work in Indian Country, where generational transfer of property,

especially trust assets, is a significant issue,” she added. Shoemaker has also supervised students doing independent study on Indian law projects.

Several former externs have followed these initial tribal externship experiences with permanent positions in the field. “At least two former externs have recently taken very impressive Indian law jobs across the country,” said Shoemaker. Ellen McKitterick, ‘14, is working at an Indian law boutique firm in Arizona, and Keegan Bordeaux,

“These tribal externship offerings ebb and flow somewhat depending on tribal client needs and their counsel’s supervision capacity, but I am also currently working on a new project that I hope will soon give students the chance to do some direct estate planning work in Indian Country, where generational transfer of property, especially trust assets, is a significant issue.”

–Professor Jessica Shoemaker



'13, is employed by a tribe in Washington. Moreover, Danielle Larson, '15, was recently selected as a finalist for a prestigious Department of Justice Indian Country Fellowship.

In the last few years, students have also had the chance to engage in a variety of special Indian law-related events. For example, students and alumni have observed tribal court proceedings in Macy, toured reservation businesses and tribal offices, attended a tribal expert witness training program under the Indian Child Welfare Act at the Law College and engaged in a university-wide symposium on Indian law issues co-hosted by the Nebraska Commission on Indian Affairs and the Center for Great Plains Studies.

Shoemaker believes that Indian law is not only a fascinating field, but one that is an important part of a future practitioner's education. "Opportunities for employment include very specialized and focused Indian law positions, like what Ellen and Keegan are doing; however, I also regularly hear from students that they are surprised how often Indian law issues come up in their practice," she said. Having knowledge about this specialized area of law is incredibly valuable in a range of practices including criminal law, family law, business, natural resource law and government work. This is especially true for those on the Great Plains. Nebraska is home to four headquartered tribes, with two more tribes having reservations that overlap with Nebraska's boundaries. Moreover, it is on the bar exam in South Dakota and a handful of other states.

"I frequently tell students Native American Law is a great capstone class," said Shoemaker. "There are real, current, pressing issues of justice and so many concrete examples of where the law can make a difference, for good or bad, in the daily lives of people. Indian law forces us to view all of our institutions of law and government from a critical third perspective, neither state nor federal, but the separate and distinct tribal sovereign view, which students often don't get elsewhere in law school.

"It is a great opportunity for initial assessment of all of the foundational institutions of American law," said Shoemaker.

Though Indian Law is a longstanding field, it's an area that is also constantly developing and changing. Shoemaker's class, for example, often includes simulations involving real cases of significance pending before the U.S. Supreme Court.



Ellen McKitterick, '14



Keegan Bordeaux, '13

Client Counseling Competition: 2Ls Hildebrand, Sholes win regional

Briana Hildebrand and Michael Sholes, 2Ls, won the Regional Client Counseling Competition held at Hamline University School of Law in Minneapolis, Minnesota, in February. After finishing in a two-way tie for first after the preliminary round of three interviews, Hildebrand and Sholes won their semi-final round and then squared off in the final round with two teams from Creighton University School of Law.



Their regional victory, the 15th regional Client Counseling Competition championship won by College of Law students, entitled Hildebrand and Sholes to compete in the national competition held in March at North Carolina Central University School of Law in Durham, North Carolina. At the nationals, they were tied for second place with a number of teams after the preliminary round of interviews. Unfortunately, they were defeated in the semi-final round by a team from Western Michigan University Thomas M. Cooley Law School. The Cooley team went on to win the competition and represented the United States in the Brown/Mosten International Client Consultation Competition hosted by the Law College in Lincoln.



Ironically, the Hildebrand/Sholes team was not the winner of the Law College's Client Counseling Competition. The Nebraska Law championship team consisted of 2Ls Katie Hunsberger and Jason Kamerath. Hildebrand and Sholes finished second and, as the Law College could send two teams to the regional competition, they were able to compete and win in Minneapolis. The team they tied with after the preliminary round was the Hunsberger/Kamerath team, but that team lost in its semi-final round team.

"We are very proud of both our teams in the 2015 competition," said Professor Craig Lawson, who with Professor Alan Frank coached the teams. "They both worked very hard and conducted excellent interviews."

The subject of the 2015 competition was Family Law.

Table for Ten offers students, faculty relaxed, comfortable chance to dialogue

By Loguen Blazek, '16

The College of Law has many wonderful opportunities for students to meet with and learn from professors and experts in various fields of law. Table for Ten, introduced in the 2014-2015 academic year, is one such program, and it has met with incredible success. Each Table for Ten allows a professor to meet with nine students over lunch and discuss a current issue in the professor's area of expertise. It is a relaxed and comfortable opportunity to learn about an area of the law and ask questions of an expert.



"I love the Table for Ten program because it provides a casual and approachable setting for students and faculty to congregate as professionals."
– Professor Brett Stohs

Professor Brett Stohs, director of the entrepreneurship clinic, participated in the program this spring. "I love the Table for Ten program because it provides a casual and approachable setting for students and faculty to congregate as professionals. With so many interesting world events and issues of the day, it is great that the Law College

is creating opportunities for our academic community to come together through dialogue and discussion."

Other law students and faculty members describe how beneficial the program is because it allows students to engage in an educational discussion and benefit from the knowledge of professors and experts in a casual setting without having to have the detached structure of a large group lecture.

The program was the brainchild of Molly Brummond, assistant dean for student and alumni relations. "I am thrilled with the success of Table for Ten. It can often take three to five years for a new program to really thrive. The fact that this program was a hit from day one is a credit to the desire of our faculty to really know their students and vice versa."

College's Schmid Law Library presents first faculty, staff art exhibition

As part of the law library's general outreach program, Access & Outreach Librarian Marcia Dority Baker, and Technical Services Assistant Margaret Gipson, organized the Schmid Law Library's First Faculty and Staff Art Show. Dority Baker and Gipson received 20 submissions from 12 faculty and staff artists. The art highlights the creativity and talent of our faculty and staff, and demonstrates

part of what makes Nebraska Law such a special place. Contrary to many stereotypes of academic communities, our faculty and staff enjoy the creative arts as well as serious scholarship.



The art for the show was mounted at the back of the first floor of the library. The show kicked off on February 6, 2015, with a reception as part of Lincoln's First Friday Art Walk and ran through the month of February. Dozens of visitors enjoyed the art, which included photographs, paintings, drawings and sculpture. The response from visitors was overwhelmingly positive.

As a result of the success of the exhibit, the library hosted an exhibit of law student art in April and is considering an alumni exhibit at some point in the future. To keep up with the law library's exhibitions and activities, follow us on Twitter at @schmidlibrary or follow us on Facebook.



2014 - 2015 Student Accolades

Graduation with Highest Distinction

Katie Joseph, '15
Sarah Maresh, '15
Samantha Ritter, '15

Graduation with High Distinction

Nathan Clark, '15
Sarah Clark, '15
Jennifer Dannehl, '15
David Derbin, '15
Brian Fahey, '15
Neil Hassler, '15
Charles Kaplan, '15
Sarah Kniep, '15
Danielle Larson, '15
Adam Odle, '15
Michael Sands, '15
Audrey Svane, '15
Jacqueline Swanner, '15
Chi (Jenny) Zhang, '15

Graduation with Distinction

Jessup Adams, '15
Nicholas Batter, '15
Daniel Birdsall, '15
Michael Boal, '15
Taylor Brooks, '15
Destiny Brown, '15
Sagan Carmen, '15
Lily Carr, '15
Mark Carraher, '15
Paul Donahue, '15
James Garvin, '15
Catrina Harris, '15
Titus Hattan, '15
Jedediah Herblan, '15
Nicolas Holle, '15
Jordan Holst, '15
Katherine Kimble, '15
Shannon McCoy, '15
Megan McDowell, '15
Kyle McGinn, '15

Nicholas Meier, '15
Danielle Miller, '15
Michael Milone, '15
Brian Moore, '15
Nathan Ogg, '15
Mark Pence, '15
Eric Ronsone, '15
William Straus, '15
Daniel Sweeney, '15
Jordan Talsman, '15
Jacob Tewes, '15
Benjamin Williamson, '15

Order of the Coif

Nathan Clark, '15
Sarah Clark, '15
David Derbin, '15
Brian Fahey, '15
Neil Hassler, '15
Katie Joseph, '15
Danielle Larson, '15
Sarah Maresh, '15
Samantha Ritter, '15
Michael Sands, '15
Audrey Svane, '15
Jacqueline Swanner, '15
Chi (Jenny) Zhang, '15

Order of the Barristers

Michael Boal, '15
Sarah Clark, '15
Katherine Doering, '15
Brian Fahey, '15
Titus Hattan, '15
Mark Seda, '15
Audrey Svaner, '15
Jacob Tewes, '15
Meridith Wailes, '15

Guy Cleveland Chambers Award for Academic Excellence (top graduating students)

Katie Joseph, '15
Sarah Maresh, '15

Professor Richard Harnsberger Prize for Outstanding Academic Achievement

(top grades in their class)

Samantha Ritter, '15
Christopher Schmidt, '16
Max Rodenburg, '17

Professor Richard Harnsberger Prize for Most Improved Student

John Duggar, '16

Theodore C. Sorensen Fellowship

Daniel Gutman '16

Professor Arthur Bruce Winter Constitutional Law Scholar Award

Joshua Christolear, '16

David A. Ludtke-Great Plains Federal Tax Institute Scholarship

Neil Hassler, '15

Philip G. Johnson-Great Plains Federal Tax Institute Scholarship

Chi (Jenny) Zhang, '15

Woods & Aitken Outstanding Student Award

Katie Joseph, '15

Credit Advisors Foundation Award (outstanding Civil Clinic students)

Destiny Brown, '15
Megan McDowell, '15
Nicole Tegtmeier, '16

Pat Gies Memorial Award (Civil Clinic student demonstrating professional excellence, civility, collegiality & kindness)

Jodi Garrelts, '15

International Academy of Trial Lawyers Student Advocacy Award (outstanding Criminal Clinic student)

Jordan Talsma, '15

Koley Jessen Entrepreneurship Award (outstanding work in the Entrepreneurship Clinic)

Katie Joseph, '15

Robert G. Simmons Nebraska Law Practice Award

Sarah Clark, '15

Richard Tast, '15

American Bankruptcy Institute Award Medal of Excellence

Mark Pence, '15

Silver Quill Award (presented by Nebraska Bar Association for best overall performance in Foundational Legal Skills)

Gregory Vinton, '16

Gross & Welch Best Brief Award (best brief in Foundational Legal Skills)

Jaclyn Klintoe, '17

Adam Tunik, '17

McGrath North Mullin & Kratz Legal Writing Award

Anthony Aerts, '17

Taylor Fritsch, '17

Jaclyn Klintoe, '17

Paul Snyder, '17

Amy Swearer, '17

Kathryn Vampola, '17

Gregory Vinton, '17

Debra Wray, '17

The American Board of Trial Advocates (ABOTA) Award (for outstanding performance in Trial Advocacy)

Daniel Gutman, '16

Christopher Schmidt, '16

National Moot Court Team

Nathan Clark, '15

Sarah Clark, '15

Titus Hattan, '15

Kelsey Kallhoff, '15

Mark Seda, '15

Meridith Wailes, '15

Thomas Stinson Allen Moot Court Competition – 1st Place

Daniel Gutman, '16

John Zimmer, '16

Kenneth L. Noha Best Brief Award (Thomas Stinson Allen Moot Court Competition)

Kayla Hathcote '16

Tess Moyer, '16

Roscoe Pound Award (best oral advocate in Thomas Stinson Allen Moot Court Competition)

John Zimmer, '16

Grether Moot Court Competition – 1st Place

Daniel Gutman, '16

John Zimmer, '16

Grether Moot Court Competition Best Oral Advocate

Daniel Gutman, '16

Robert A. Cannon & Susan Jacobs Client Counseling Award (1st place team in Frank/Lawson Client Counseling Competition)

Katherine Hunsberger, '16

Jason Kamerath, '16

National Client Counseling Competition Regional Champions

Briana Hildebrand, '16

Michael Sholes, '16

1L Client Counseling Competition – 1st place

Sara Berggren, '17

Anna Rempel, '17

National Trial Team

Katherine Doering, '15

Brian Fahey, '15*

Megan McDowell, '15

Adam Odle, '15

Audrey Svane, '15*

Richard Tast, '15*

*Regional Finalist Team

International Mediation Competition (INADR) and 2nd place in competition

Timothy Braden, '16

John Duggar, '16

Cori Masi, '16

Lily Spader, '16

Casey Steadman '16

Lyle Wheeler, '16

Manfred Lachs Space Law Moot Court Team

Kiersten Haugen, '16

Nathan Johnson, LL.M.

Danielle Miller, '15

Jacob Tewes, '15

Pro Bono Initiative

Michael Milone, '15

Hannah Putz, '15

Megan Rotherham, '15

James Sieben, '15

Chi (Jenny) Zhang, '15

National Association of Women Lawyers Outstanding Law Student Award

Bri McLarty, '15

Fahey receives award for winning Employee Benefits Writing Competition



Brian Fahey (right) with Clarin M. Schwartz Award winner, Lindsay Lowe, and Charles B. Wolf, shareholder at Vedder Price, P.C.



Brian Fahey, '15, won the 2015 Sidney M. Perlstadt Memorial Award in the American College of Employee Benefits Counsel's Eleventh Annual Employee Benefits Writing Competition. Fahey's winning submission was entitled "Make-Whole Relief: Non-Economic Loss, Punitive Damages & Back-Pay Availability Under ERISA §502(a)(3) in the Wake of *Cigna Corp. v. Amara*." Fahey received the award at the counsel's annual black tie induction dinner on Saturday, September 19, 2015 at The Chicago Club in Chicago, Ill.

College breaks ground on new clinic addition

In April, the College of Law broke ground on a construction project that will result in an addition to the law college building for the College's clinical programs. Scheduled to be completed in November 2016, the addition will bring the Civil, Criminal and Entrepreneurship clinics together in one space. This project is being funded entirely by gifts from Law College alumni and friends. "We are delighted to have this project underway," said Dean Susan Poser. "This addition will have a tremendous impact on the learning experiences of our clinic students."



Dennis Weibling, '78, Senior Vice Chancellor Ellen Weissinger, Dean Susan Poser, Jordan Talsma, '15, Tanner Bortnem, '15, Megan McDowell, '15, and Professor Kevin Ruser at the clinic addition groundbreaking on April 10, 2015

Speaker: Obama's immigration actions acceptable use of executive discretion

By Loguen Blazek, '16

On April 16, 2015, immigration reform came to Nebraska Law in the form of a lecture by Cristina Rodriguez, Leighton Homer Surbeck professor of law at Yale Law School. Rodriguez received her B.A. and J.D. from Yale and a Master of Letters in Modern History from Oxford University, which she attended as a Rhodes Scholar.

With an extensive record of scholarly publications that includes her co-authored book, *Immigration and Refugee Law and Policy*, she is an expert on the effects of immigration on society, culture and policy. Rodriguez has also contributed opinion pieces to media outlets such as *CNN* and the *New York Times*.

Rodriguez clerked for Judge David S. Tatel of the U.S. Court of Appeals for the D.C. Circuit and for Justice Sandra Day O'Connor of the U.S. Supreme Court. She is currently the Pierre Genest memorial global visiting scholar at Osgoode Hall Law School, York University, in Toronto, Canada.

Rodriguez focused her immigration reform lecture at the College of Law on the two major recent executive immigration actions by President Barak Obama. The president's actions are controversial, she said. Opponents see Obama's actions as an unconstitutional "failure to abide by Congressional priorities on immigration," while proponents see them as "simply internal reorganization of the executive branch, institutionalizing prosecutorial discretion." Rodriguez views Obama's actions as prosecutorial discretion and focused her lecture on explaining why the other viewpoint is misconstrued.

Rodriguez emphasized the long history of presidents and the executive branch, in general, using discretion in enforcing laws. She discussed a variety of trade-offs that

Obama's executive orders accomplished. The president's actions, she said, exchange vague rules for standardized ones and create more transparency. Obama's executive actions reduced arbitrary decision making by minimizing the case-by-case enforcement of immigration laws.

As to transparency, one of the major arguments against the president's actions is that their transparency undermines compliance with the law by encouraging more immigrants to come to the United States illegally seeking to benefit from the executive order. However, Rodriguez described why she believes that that concern is unfounded. According to Rodriguez, "The benefit to future illegal immigrations from President Obama's executive order is too speculative to be cause for concern." Instead, she argued that Obama's order actually provides an incentive for immigrants already in this country to comply with the law because removal is strictly based on certain violations such as criminal offenses.

Though Rodriguez focused her lecture on the benefits of the president's actions and why the main arguments against such actions were unfounded, she also said that "while the president's actions were not unconstitutional, there are reasons to worry about such actions." The main reason was that executive orders such as these provide little opportunity for public input, especially for such a major shift in policy. However, Rodriguez theorized that the president's actions could prompt Congress into action, which could help provide the public input that the executive action lacked. Though Rodriguez admitted some of the president's executive actions on immigration had some drawbacks, overall she was positive about the resulting policy.

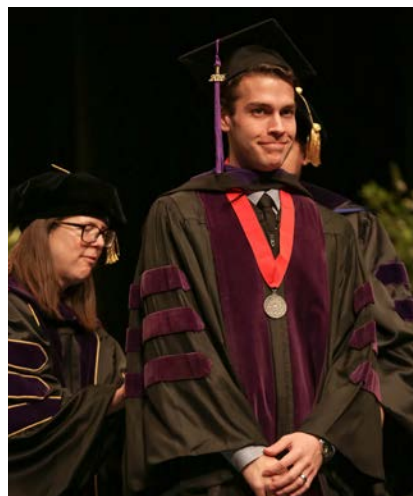
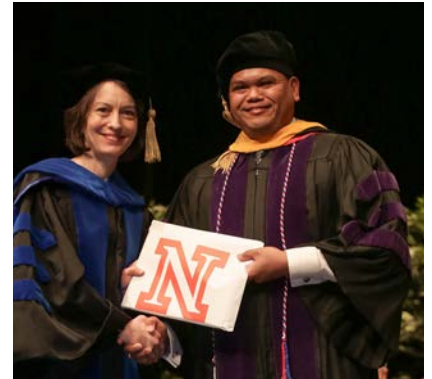
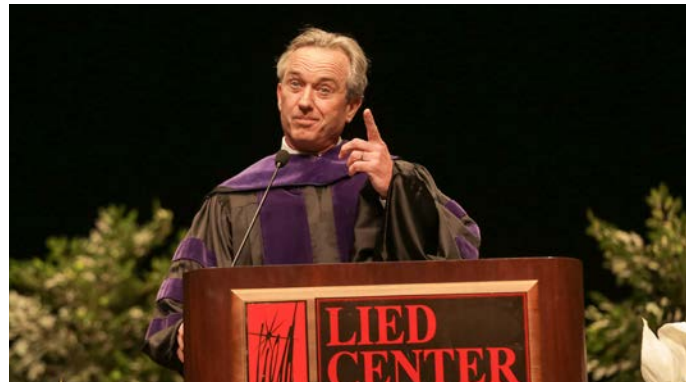


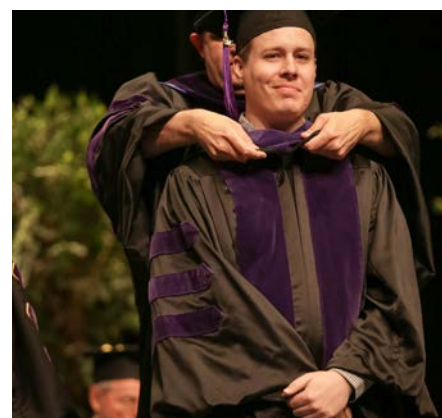
Robert F. Kennedy, Jr. delivers Spring Commencement address at Lied Center

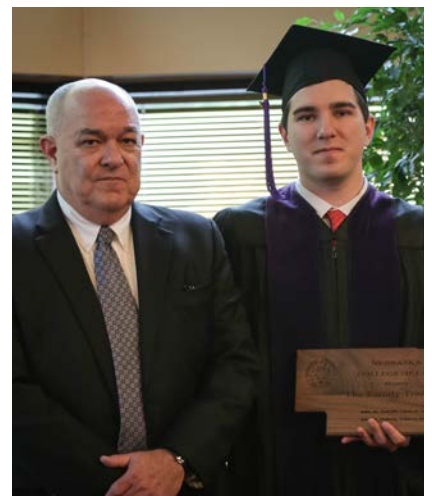
Robert F. Kennedy, Jr. addressed the Class of 2015 graduates and their guests at the spring commencement ceremonies held at the Lied Center for Performing Arts on Saturday, May 9. Kennedy serves as chief prosecuting attorney for the Hudson Riverkeeper and president of Waterkeeper Alliance. He is also a clinical professor and supervising attorney at Pace University School of Law's Environmental Litigation Clinic and is co-host of Ring of Fire on Air America Radio.

Kennedy is a graduate of Harvard University. He studied at the London School of Economics and received his law degree from the University of Virginia Law School. Following graduation he attended Pace University School of Law, where he was awarded a Masters Degree in Environmental Law.

Also addressing the graduates were class president Ryan Patrick, Justice Lindsey Miller-Lerman of the Nebraska Supreme Court and Amie Martinez, '94, president of the Nebraska State Bar Association.







Around the College: Scholarship & Activities



Carlson: Lack of client communication most frequent ethical issue for attorneys

For Dennis Carlson, '74, former counsel for discipline for the Nebraska Supreme Court, life has been a series of new experiences to be met and mastered. When the lifelong Lincolnite, who came from a working class family and a working class neighborhood, enrolled at the University of Nebraska–Lincoln as an undergraduate, he doesn't recall ever knowing anybody who went to college, except for his teachers in school. When he entered the College of Law, he "had never met a lawyer, never talked to a lawyer and only had a vague idea of what a lawyer did on a day-to-day basis, so I was completely out of my element." When, upon his graduation from Nebraska Law, he became a deputy public defender, he started doing trials "from day one." When he interviewed at the Nebraska State Bar Association for the counsel of discipline position, "I had to look up where the Bar Association was because I had never been there and had never been involved in any bar activities whatsoever." When he was offered the position in 1981, he needed "to have a serious refresh of my ethics skills." When he retired as counsel for discipline after 33 years on the job, he faced another new experience in which "every day is Saturday." Undoubtedly, he will excel at that task, as well.

After his graduation from UNL the year before he enrolled at the Law College, Carlson, who had enlisted in the Army National Guard, went to Army basic training and advanced infantry training. When he returned home,



"If you treat people with dignity and respect no matter what their station in life, they are likely to treat you the same way and in the same manner."

he found employment as a guard at the state penitentiary. There he learned a lesson that he would utilize later as a public defender and counsel for discipline: "If you treat people with dignity and respect no matter what their station in life, they are likely to treat you the same way and in the same manner."

The next year at Nebraska Law, he bonded quickly with his new classmates, whom he found were "as scared and intimidated" as he was. His most enduring memory

from that first year was of Professor Larry Berger's Property class. Berger would select one student, whom he called "Lucky Pierre," whom he would quiz for the entire day. "The good thing," he recalled, "was that once you were 'Lucky Pierre,' you were done for the semester, so you could breathe a little bit easier."

In his second and third years, he worked at the Public Defender's Office as a law clerk. Dennis Keefe, '73, who recently retired after serving as Lancaster County public defender for more than three decades, was the first law

clerk in the history of the Public Defender's Office. Carlson was the second. Upon graduation he joined the office as a deputy public defender and stayed in that position for more than six years.

He was proud of the work that the office did, but eventually the job took its toll. "I remember one year I had five clients who either committed suicide or were the victims of homicide," he recalled. "Eventually I was starting to get too hardened and too callous, and I decided I didn't want to spend the rest of my life that way."

When he saw an advertisement in the back of the Nebraska Advance Sheets for the counsel for discipline position, he interviewed and was offered the job. He believes that when he was hired he was the youngest head disciplinary counsel in the country, but he also knew that the skills he had gained in the Public Defender's Office would serve him well. "I knew how a case ought to be prosecuted; I knew how to gather facts and how to present facts," he said.

However, he had a challenge in front of him as he found that cases had been languishing for years without being processed. He overcame that challenge with the able assistance of Alison Larson, '80, whom he hired as his assistant and who stayed with him for about ten years.

The most difficult part of the job was seeking sanctions against attorneys, some of whom he knew well, when they would do things that were unethical. "The law schools do a very good job educating attorneys as to what their professional responsibilities are," he said. "So attorneys know the rules, but the rules end up being violated when attorneys are perhaps overly greedy or perhaps neglectful of business and decide to take the short cut, and that is always disappointing."

"So many of the cases that we prosecuted dealt with neglect or lack of communication or inadequate communication. It's really important that lawyers communicate on a regular and adequate basis because clients want to know what's going on and they have a right to know what's going on. Sometimes attorneys don't communicate well because that is their personality, sometimes, at least in their own minds, they are too busy. Sometimes they deal with clients whom they don't like and with whom they do not want to communicate, and sometimes they deal with cases they don't want to work on and that can create a mental block."

More often than not, though, Carlson found that communication issues are related to things that are going

on in an attorney's life outside the practice of law. "It might be a marital problem or a mental health issue or problems with kids or drug addiction or alcoholism. There are a whole host of problems that can intervene and misdirect an attorney away from what he or she knows to be his or her professional responsibility," he recounted. Many of those cases were referred first to the Lawyers' Assistance Program. "Rick Allen of the Bar Association does an excellent job of giving assistance to attorneys. On many occasions if an attorney recognizes that he or she has some problems and takes steps to correct that problem, the court would take that into consideration on a sanction to be imposed against the attorney."

Those were the cases that gave Carlson the most pleasure. "The ones that I remember most were the ones where attorneys were able to turn their lives around – attorneys who had a problem, who recognized the problem and who took some action to take care of the problem, so they can continue in the practice of law. Those were certainly more satisfying to me than an attorney that ended up being suspended or disbarred from the practice of law."

Carlson also appreciated that his office evolved over the years from one focused primarily on prosecution to one that educated attorneys. "Toward the end, I would spend probably 40-50 percent of my time working on articles or CLE events or presentations to attorneys or law students. We thought that giving advice was one of the best things that we could do to serve the attorneys in the state. We encouraged attorneys to call the office if they had a difficult question, and we would receive hundreds and hundreds of phone calls each year."

This brought Carlson in touch with many attorneys from across the state, many of whom became his friends. In addition, he had the opportunity to work closely with disciplinary counsel from other states. He said, "We belong to a common organization that gets together twice a year. It was always a learning experience, and also a good way to recharge your batteries."

Now Carlson will recharge his batteries in retirement, but he'll still keep busy traveling and volunteering at places like the Bar Association and the City Mission, where he will continue to treat people with dignity and respect.

Lepard, Gilg, Joseph, Weibling recognized by Alumni Council

The College of Law Alumni Council hosted its annual Alumni Council Awards Luncheon on Friday, April 10 at the Lied Commons. Alumni Council chair, Hon. Laurie Smith Camp, '77, served as the event's host. At the event, the Alumni Council honored the accomplishments of Professor Brian Lepard with the Distinguished Faculty Award and of Deborah Gilg, '77, with the Distinguished Alumni Award. Also honored at the event were Katie Joseph, '15, a third year student and the Woods & Aitken Outstanding Student award recipient, and Dennis Weibling, '78, the Outstanding Service Award recipient.



Distinguished Faculty Award winner, Brian Lepard, (center) with his presenter, Matthew Schaefer, and Dean Susan Poser



Award recipients Katie Joseph, '15, Dennis Weibling, '76, Deborah Gilg, '77, and Brian Lepard, with Dean Poser



Outstanding Student Award winner, Katie Joseph, '15, with her presenter, Glenda Pierce, '82



Susan Poser and Dennis Weibling, '76



Deborah Gilg, '77, and Hon. Laurie Smith Camp, '77

Working in public interest? Or in rural Nebraska?

COLLEGE OF LAW LOAN REPAYMENT ASSISTANCE PROGRAM

The College of Law Loan Repayment Assistance Program is available to provide financial assistance for our graduates who pursue public interest legal positions. Applications for the College of Law Repayment Assistance Program must be submitted by November 1, 2015.

STATE OF NEBRASKA LOAN REPAYMENT ASSISTANCE PROGRAM

The State of Nebraska Loan Repayment Assistance Program provides educational loan repayment assistance to qualified attorneys who are employed by tax-exempt charitable organizations and/or are employed in legal profession shortage areas in Nebraska. To be eligible for state assistance, applications must be submitted by November 2, 2015.

Learn more at:

<http://law.unl.edu/alumni/resources/#LRAP>



ALUM NOTES

Stay Connected!

Be sure to let the Alumni Relations Office know of your accomplishments, life changes, and new opportunities. Alum Notes may be submitted by visiting the website (http://law.unl.edu/alumni/transcript_note or emailing molly.brummond@unl.edu).

1950s



W. W. (Bill) Nuernberger, '52, former Lancaster County juvenile judge who passed away in 2009, was honored by Lincoln Public Schools with the naming of the Bill Nuernberger Education Center, which will serve middle school students who need special behavior skills.

Duane Acklie, '55, chairman of Crete Carrier Corp., has been named Lincoln's Downtown Rotary's Nebraskan of the Year.



Carr Trumbull, '55, retired owner of Carr-Trumbull Lumber in Scottsbluff, was honored by the Boy Scouts of America with the Tri-Trails Distinguished Citizens Award on April 30, 2015, at the Gering Civic Center. The award is presented to a corporate leader who provides outstanding leadership, who is successful in business and personal life, who is influential and well-respected in the community and is involved in youth-related activities. Trumbull was an Eagle Scout and adult Scouter.

1960s



Richard Tempero, '62, has been awarded the 2015 Distinguished Service Award from the University of Nebraska Alumni Association. Tempero is a retired attorney living in Indianapolis, Indiana.



Clayton Yeutter, '63, has made a \$2.5 million gift to the University of Nebraska Foundation to launch the establishment of the Clayton Yeutter Institute of International Trade and

Finance.

Hal Daub, '66, a University of Nebraska regent and a partner with the Omaha law firm of Husch Blackwell, received a 2015 Alumni Achievement Award from the University of Nebraska Alumni Association.



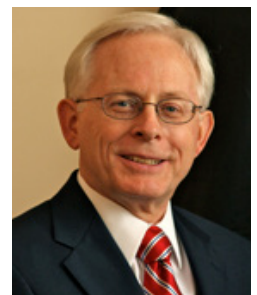
Kent Person, '68, is of counsel in what is now the Holdrege law firm of Person, DeWald & Deaver.

William Harding, '69, was the recipient of the Lincoln Independent Business Association's (LIBA) 2014 LIBA Champion Award. Harding was a founding member of LIBA, incorporated the group 35 years ago and served as its general counsel. Harding has retired from the Harding & Shultz law firm.

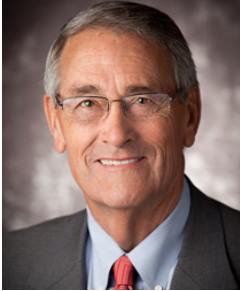


Russell Lovell, '69,

has retired from the faculty at Drake University Law School in Des Moines, Iowa. Professor Lovell joined the Drake faculty in 1976, after working at Legal Services of Indianapolis and the Indiana Center for Law & Poverty. While at Drake, he served as director of clinical programs and twice as associate dean. He also developed the law school's First-Year Trial Practicum. To honor Lovell's retirement, the Professor Russell Lovell Public Service Scholarship was established.



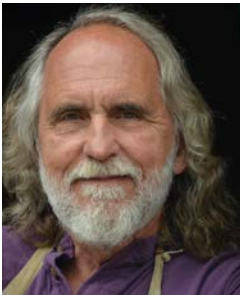
1970s



John R. Timmermier, '70, is affiliated with the Omaha law firm of Prentiss Grant as of counsel.

Jeffrey Curtiss, '72, was selected for inclusion in the 2015 NACD Directorship 100, which each year recognizes the most influential leaders in the boardroom.

Curtiss is the retired senior vice president /chief financial officer of Service Corporation International in Houston.



Toney Redman, '72, retired from the practice of law on March 4, 2015, after 42 years as a criminal defense attorney in private practice and with the Lancaster County Public Defender's Office. He currently sculpts metal works at his forge in western Lancaster County and sells his pieces in galleries in Lincoln and Sante Fe, New Mexico.

William Jay Riley, '72, chief judge of the United States Court of Appeals for the Eighth Circuit, was presented with the Foundation Award by The Nebraska State Bar Foundation at its Fellows Dinner on March 7. The award honors exemplary service to the Foundation and strong commitment to its goals.

Neil Roberts, '72, of Santa Clarita, California, retired from the Boeing Company after 32 years. He is associated with the Washington, D.C., consulting firm, Capital Edge. His most recent assignment in Denver, Colorado, is assisting a government contractor with a review of its subcontracting business system compliance with federal regulations.

Chris Beutler, '73, was re-elected mayor of Lincoln.

Kenneth C. Stephan, '73, retired as a Nebraska Supreme Court judge on July 1, 2015. Stephan was appointed to the court by Gov. Ben Nelson in 1997 following several years in private practice. On the court, he represented the First Judicial District, which includes Lancaster and Seward counties. Stephan was a founding member of the

court's technology committee.

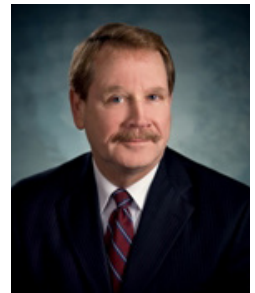
Steven A. Spitz, '74, of counsel with Stevens & Lee in the firm's Charleston, South Carolina, office, has been designated an advisor for the *Restatement of the Law, Fourth, Property*, a project of the American Law Institute. Spitz taught property law at the University of South Carolina School of Law for 25 years and at the Charleston School of Law for ten years.



Kelley Baker, '75, has joined the Lincoln law firm of Perry, Guthery, Haase & Gessford where he specializes in school law.

William G. Blake, '75, a partner with the Lincoln law firm of

Baylor, Evnen, Curtiss, Gruit & Witt, has been elected to the board of directors of the Owners' Counsel of America (OCA), a nationwide network of leading eminent domain attorneys. Blake was also the 2014 recipient of the William S. Ballard Award of the counselors of real estate of the National Association of Realtors for his article, "TransCanada Keystone XL Pipeline: Eminent Domain and Transportation of Energy."



Carl Circo, '76, professor of law at the University of Arkansas, Fayetteville, Leflar Law Center, has published

"Land Use Impact Fees: Does *Koontz v. St. Johns River Water Management District* Echo an Arkansas Philosophy of Property Rights?" 2014 *Arkansas Law Notes* 1626 and "A Case Study in Collaborative Technology and the Intentionally Relational Contract: Building Information Modeling and Construction Industry

Contracts," 67 *Arkansas Law Review* 873.





LaVerne Epp, '76, who served as president of Bethel College in Newton, Kansas, from 2001 to 2005, returned to the college to deliver to commencement address, "From Here to There," to the

2015 graduating class on May 17. Epp is executive chair of the Bioscience and Technology Center (BTBC), a commercialization partner of the University of Kansas. He also serves as a trustee for the Kansas University Center for Research and as a director of KU Innovation and Collaboration. He is an advisory board member of the Entrepreneurial Council of the KU School of Business, where he is also a lecturer.

Thomas Hagel, '76, retired as a law professor at the University of Dayton College of Law in Dayton, Ohio, in May 2015. He is now professor emeritus.



Jon Camp, '77, was re-elected to the Lincoln City Council representing District 2. He is president of CH, Ltd., which develops buildings in Lincoln's Historic Haymarket

Laurie Smith Camp, '77, federal district court chief judge for Nebraska, has been named one of the 20 most influential women in Lincoln by the *Lincoln Journal Star*.



Jack Schultz, '77, is a shareholder in the new Lincoln law firm of O'Neill, Heinrich, Damkroger, Bergmeyer & Schultz. He concentrates his practice in labor and employment law, transportation, telecommunications and natural gas regulation.

Avis Andrews, '78, received the Robert M. Spire Award for pro bono service at the Nebraska Lawyers Foundation Barrister's Ball in Omaha in April. The Robert M. Spire

Award recognizes outstanding contributions by volunteer lawyers who provide pro bono legal services to the poor. Andrews practices with the Andrews Law Office in Fremont.



Robert L. Bals, '78, has joined the Lincoln law firm Shively & Lannin. He concentrates his practice in litigation, insurance defense, personal injury, workers' compensation and products liability.

James D. Sherrets, '78,

was featured as "Attorney of the Month" in the Nebraska edition of *Attorney at Law Magazine*. Sherrets practices with the Omaha law firm of Sherrets, Bruno & Vogt.



Joseph Kafka, '79, has written an eBook novel, *Lawyer for the Little Guy*. Kafka is the owner of The Law Offices of Joseph R. Kafka in San Jose, California.

The firm handles civil lawsuits primarily in the areas of business litigation, contract disputes, collections, insurance and personal injury.

1980s

Marie Asch, '80, professor of law at Suffolk University Law School in Boston, Massachusetts, is the co-author of "Realities of Religio-Legalism: Religious Courts and Women's Rights in Canada, the United Kingdom, and the United States," 20 *U.C. Davis Journal of International Law & Policy* 139.

Karen Himle, '80, vice president of corporate affairs at Thrivent Financial in Minneapolis, Minnesota, has joined the board of directors of Fort Wayne, Indiana, based Brotherhood Mutual Insurance Company.





Bill Mueller, '80, of the Lincoln lobbying and government relations firm Mueller Robak, has been named secretary of the board of directors of the Lincoln Community Foundation. He is also serving on the 2015 United Way of Lincoln and Lancaster County board of directors.

Joseph W. Grant, '81, has formed the Omaha law firm of Prentiss Grant, which represents clients in litigation with an emphasis on workers' compensation and mediation.

Jim Mowbray, '81, retired as chief counsel for the Nebraska Commission for Public Advocacy on August 31, 2015. He had served in the position since the Legislature created the commission in 1995 to help cash-strapped rural counties in providing criminal defense to indigent defendants facing murder and other serious charges.

Jerry L. Pigsley, '81, has joined the labor and employment group of the Lincoln law firm Woods & Aitken.



Charles W. Sorenson Jr., '81, professor of law at the New England School of Law in Boston, Massachusetts, has published "Adopting the Judicial Deliberations Privilege: Making Explicit What Has Been Implicit," 95 *Massachusetts Law Review* 243.



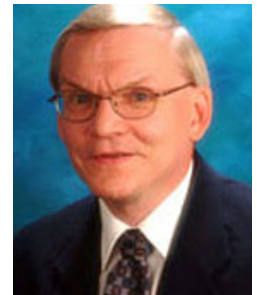
Patricia J. Falk, '83 professor of law at Cleveland-Marshall College of Law at Cleveland State University, has published "A Curious Omission from Ohio's Rape Statute: Sexual Assault When the Victim Consents to Medical or Dental Drugging," 82 *University of Cincinnati Law Review* 1123.

Patty Pansing Brooks, '84, a Nebraska state senator, has been named one of the 20 most influential women in Lincoln by the *Lincoln Journal Star*.



Jan L. Krotter Chvala, '84, was the recipient of the Community Sower Award presented by Nebraska Partnership Philanthropic Planning. Chvala, an attorney with the O'Neill law firm Krotter Hoffman, was recognized for her exceptional service as a charitable adviser.

Herbert E. Cihak, '84, has retired as associate dean for library and information services and professor of law at Pepperdine University School of Law. Prior to assuming his position at Pepperdine, Cihak worked for law libraries at the University of Arkansas, Louisiana State University, University of Kentucky, and University of Mississippi among others. Upon his retirement, he moved to Utah.



Marilyn McNabb, '84, was elected vice chair of the 2015 Lincoln Electric System Administrative Board.

John C. Miles, '85, of the Lincoln law firm Cline Williams Wright Johnson & Oldfather, has been added to the board of directors of Tabitha Health Care.



Bill Ojile, '85, has joined the Denver, Colorado, office of Armstrong Teasdale as a partner in the firm's litigation practice group. His practice focuses on resolving difficult legal and policy issues for higher education institutions, telecommunications companies and other entities operating in highly regulated environments.





Kim Robak, '85, of the Lincoln lobbying and government relations firm Mueller Robak, has been named to the 2015 United Way of Lincoln and Lancaster County board of directors.

R.J. Stevenson, '85, a partner and head of the labor and employment practice at Baird Holm in Omaha, has been elected a fellow in the College of Labor and Employment Lawyers.



Rocky Weber, '85, managing partner of the Lincoln law firm Crosby Guenzel, has been selected as president and general counsel of the Nebraska Cooperative Council board of directors.

Mark R. Killenbeck, '87, Wylie H. Davis Distinguished Professor of Law at the University of Arkansas, Fayetteville, Leflar Law Center, has published "Bad Company?" the introduction to a symposium on "*Cooper's Shadow: Secession, Nullification, and States' Rights, Circa 2013*" at 67 *Arkansas Law Review* 1



Jessie Lee Ann McGrath, '87, has transitioned from being Jeffrey McGrath. She continues to work as a deputy district attorney for Los Angeles County and is currently assigned to the Consumer Protection Division of that office.

Gregory D. Barton, '88, has opened the Law Offices of Gregory D. Barton in Lincoln.



Dave Wilwerding, '89, has been promoted to senior vice president/general counsel at Ag Processing Inc. Wilwerding has been with Ag Processing Inc., the largest farmer-owned soybean processor in the world with headquarters in Omaha, since 1999.

1990s

Linda Crump, '90, has retired as co-chair of the Minority Justice Committee after 15 years of service. The committee is a joint effort of the Nebraska State Bar Association and the Nebraska Supreme Court.



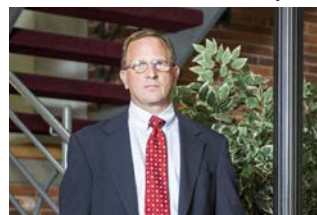
Angie Hallier, '90, is the author of *The Wiser Divorce: Positive Strategies for Your Next Best Life* published by Megeve Press. Hallier is the founding partner of Hallier & Lawrence, a family law firm in Phoenix, Arizona.

Jeff Hansen, '90, has been promoted to senior vice president at Troon Golf at Scottsbluff, Arizona. He has been with Troon Golf since 2008.



Jim Busse, '91, has joined Core Bank Title in Omaha as title department supervisor.

Jeffrey Pickens, '91, has been appointed chief counsel for the Nebraska Commission on Public Advocacy. He has been a staff attorney for the commission since the



Legislature created it in 1995 to help cash-strapped rural counties in providing criminal defense to indigent defendants facing murder and other serious charges.



Mark Fahleson, '92, partner with the Lincoln law firm of Rembolt Ludtke, was featured in a *Midlands' Business Journal's* "Business Minute."

John Bergmeyer, '93, is a shareholder in the new

Lincoln law firm of O'Neill, Heinrich, Damkroger, Bergmeyer & Schultz. He concentrates his practice in business and commercial transactions, banking law, real estate transactions, corporate law, business and estate planning and estate and trust administration.



Christopher Heinrich, '94, is a shareholder in the new Lincoln law firm of O'Neill, Heinrich, Damkroger, Bergmeyer & Schultz. He concentrates his practice in business and commercial transactions, government, real estate transactions and corporate law.



Phillip Lyons, '94, a graduate of the University of Nebraska's Law-Psychology Program, has been named dean of the College of Criminal Justice at Sam Houston State University and director of Sam Houston State's affiliated Criminal Justice Center. He has been a professor of criminal justice at Sam

Houston State since 1995 and served as interim dean for the past year.

Scott A. Meyerson, '94, has announced the formation of the Omaha law firm Likes Meyerson Hatch. He practices in the areas of tax, trusts and estates and business transaction planning. Meyerson has extensive experience serving as general counsel to many local and regional closely-held businesses and in representing developers, property owners, property purchasers and tenants in real estate development projects, leasing matters, real estate transactions and real estate finance.



Turan Odabasi, '94, has been named regional general counsel of HomeServices of Nebraska. He was previously associate general counsel for the University of Nebraska.



Tami Weissert, '95, was awarded full membership in the National Religious Broadcasters (NRB) by NRB's executive committee. Weissert serves as the director of ministry development for Servant's

Oasis, a non-profit group dedicated to helping men and women grow spiritually through conferences and Bible study resources located in Pennsylvania. She is the blogging voice behind the daily Scripture devotional, "Powered by 4", and the author of "Off the Page & Into Your Life: Getting More From God's Word." She also is an organizer of Real Women SOAR Conferences. Prior to joining Servant's Oasis in November 2014, Weissert was the executive vice president and in-house counsel for Back to the Bible and served as co-host of the Back to the Bible radio program in Lincoln.

Christopher Bikus, '96, has joined the Omaha office of Kutak Rock. Bikus represents domestic and international clients in connection with a range of intellectual property matters.



Matthew J. Bock, '96, has joined the Omaha office of Valentine, O'Toole, McQuillan & Gordon as a partner in the firm's banking,

commercial practice and estate planning groups.

Carl Eskridge, '96, was re-elected to the Lincoln City Council representing District 4. Eskridge is deputy ombudsman in the Office of Public Counsel.

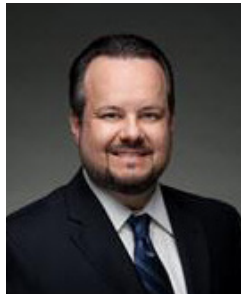




Jennifer K. Robbennolt, '96, Alice Curtis Campbell professor of law and professor of psychology at the University of Illinois College of Law and co-director of the Illinois Program on Law, Behavior and Social Science, has published "Psychology and Effective Lawyering: Insights for Legal Educators," 64 *Journal of*

Legal Education 365 and "Litigation and Settlement," in *Handbook on Behavioral Economics and the Law* 623.

Daniel Torrens, '96, has joined Nearhood Law Offices in Scottsdale, Arizona, as a partner. He practices in the areas of real estate, civil litigation and alternative dispute resolution.



Andrew Loudon, '98, a Lincoln attorney with Baylor Evnen, has been selected as a member of the board of directors for the Bryan Foundation.

2000s

Angela Dunne, '00, of Koenig Dunne Divorce Law in Omaha, has been awarded the Top Ten Attorney Award for the State of Nebraska from the National Academy of Family Law Attorneys (NAFLA).



Jodi M. Hoos, '00, a circuit judge for the Tenth Judicial Circuit in Illinois, delivered the commencement address at the University of Nebraska at Kearney commencement exercises on May 8, 2015. Hoos is a 1997 graduate of UNK.

Robert J. Likes, '00, has announced the formation of the Omaha law firm Likes Meyerson Hatch. He practices in the areas of tax, trusts and estates and business transaction planning.



Nicole M. Mailahn, '00, has been named a shareholder in the Kearney law firm of Jacobsen, Orr, Lindstrom & Holbrook. Mailahn joined the firm in 2000 and has focused her practice primarily in the areas of family law, guardianships/conservatorships, criminal defense, personal injury and workers' compensation.

John M. Prososki, '00, is a founding member of the new Omaha law firm Dvorak & Donovan Law Group. He specializes in business and corporate counseling, banking and finance, mergers and acquisitions and commercial real estate.



Jesse Maddox, '01, has been named to the *Northern California Super Lawyers 2015 Edition – Rising Stars*. Maddox is a partner in Liebert Cassidy Whitmore's Fresno, California, office, where his practice focuses primarily on defending public and private employers in state and federal court and prosecuting employee disciplinary appeals.

Adam Prochaska, '01, has joined the new Lincoln law firm of O'Neill, Heinrich, Damkroger, Bergmeyer & Schultz. He concentrates his practice in civil litigation, personal injury, products liability, insurance law, constitutional law, business law and employment discrimination.



Elizabeth Skinner, '01, in-house managing counsel and vice president of Fidelity National Title Group in Omaha, was one of 11 former students at the University of Nebraska at Omaha's College of Public Affairs and Community Service honored for their contributions to their communities at a ceremony on March 31, 2015.



Aaron Johnson, '02, has been named managing partner of Stinson Leonard Street's Omaha office. Johnson, who joined the firm in 2013, concentrates his practice on commercial lending, corporate finance, tax credit finance and regulatory and general corporate matters.

Monica K. Miller, '02, is co-author of "Fear, Hype, And Stereotypes: Dangers of Overselling the Amber Alert Program," 8 *Albany Government Law Review* 467.

Miller is an associate professor with a split appointment between the criminal justice department and the interdisciplinary doctoral program in social psychology at the University of Nevada, Reno. She also is an adjunct faculty at the Grant Sawyer Center for Justice Studies and a faculty associate for the Women's Studies Program.



Danielle Conrad, '03, executive director of ACLU of Nebraska, received the Visionary Award at the Nebraska Lawyers Foundation Barrister's Ball in Omaha. She was recognized for her role in helping establish the Loan Repayment for Rural Practitioners Program while she was in the Nebraska Legislature.

Conrad has also been named one of the 20 most influential women in Lincoln by the *Lincoln Journal Star*.

Cheri S. Raymond, '03, has joined the Sioux Falls, South Dakota, office of Lynn, Jackson, Shultz & Lebrun. Her practice focuses primarily on employment law, business litigation and insurance defense.



Kendra J. Ringenberg, '03, is a founding member of the new Omaha law firm Dvorak & Donovan Law Group. She specializes in commercial real estate and mergers and acquisitions.

Garner R. Girthoffer, '04, has joined the government relations, tax credit and alternative finance practice area of Baird Holm. Girthoffer, who previously served as senior attorney and legislative liaison for the Nebraska Department of Revenue, splits his time between Baird Holm's Omaha and Lincoln offices.



Clinton J. Guthrie, '04, has been named supervising attorney in the civil practice of the Legal Aid Society in Brooklyn, New York. His position is in the housing unit and primarily involves

supervision of staff attorneys representing low-income tenants in New York City Housing Court.

Cyndi Lamm, '04, was elected to the Lincoln City Council representing District 1 in northeast Lincoln. She practices with the Law Office of Cynthia R. Lamm in Lincoln.



Dave Proksel, '04, has been



promoted to Nebraska operations manager for the National Commercial Services Division of First American Title Company. He joined First American Title in 2011 and was awarded the First American Title Excellence Award in 2014.



David Rasmussen, '04, has joined the new Lincoln law firm of O'Neill, Heinrich, Damkroger, Bergmeyer & Schultz. He concentrates his practice in business and estate planning, business and commercial transactions, corporate law, estate and trust administration, licensing and technology issues and real estate transactions.

Stacey Conroy, '05, is an assistant staff attorney with the Nebraska Supreme Court.

Jill Hamer Conway, '05, is with the Omaha law firm of Prentiss Grant as an associate attorney.



Justin R. Herrmann, '05, has been named a shareholder in the Kearney law firm of Jacobsen, Orr, Lindstrom & Holbrook. Herrmann joined the firm in 2005 and has focused his practice primarily in the areas of criminal defense, employment law, business, real estate, wills and trusts, estate planning and probate.

Amy Miller, '05, has started her own law firm in Wayne. Miller has also been appointed Wayne city attorney and continues to serve as deputy attorney for Pierce County.



Alisa M. Rosales, '05, has joined Equal Justice Wyoming in Cheyenne as staff attorney/IT project manager. Equal Justice Wyoming is a judicial branch entity that increases civil access to justice across Wyoming through developing resources for self-represented litigants and pro bono attorneys.

Lucas Swartzendruber, '05, has been named president of Heartland Trust Company. He has worked at Heartland Bank's trust department since 2011. The bank's main office is in Geneva.



Sean Conway, '06, has been named a partner in the Omaha law firm of Dornan, Lustgarten & Troia. He joined the firm in 2012 and specializes in criminal defense, personal injury and workers' compensation.

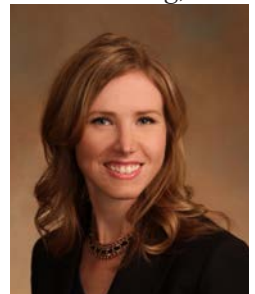
Luke Deaver, '06, and **Nate DeWald, '06**, have taken over Person Law in Holdrege to form Person, DeWald & Deaver.



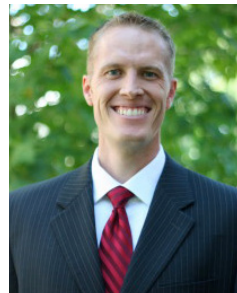
Jeremy Reichenberg, '06, Reno, Nevada, has been named chief deputy Lyon County district attorney. He was formerly senior deputy district attorney. He has been with the office since January 2007 except for 10 months that he spent with a Reno civil litigation firm.



Tara L. Gardner, '07, has joined the Lincoln law firm of Keating, O'Gara, Nedved & Peter as an associate attorney. Gardner specializes in family law, guardianships and conservatorships, estate planning and juvenile law.



Jake Hinkins, '07, was featured as an "Attorney to Watch" in the Greater Salt Lake City edition of *Attorney at Law Magazine*. Hinkins practices with the South Jordan, Utah, boutique law firm Anderson Hinkins, which focuses on personal injury and business cases.





Michael Orcutt, '07, has joined Lipson, Neilson, Cole, Seltzer & Garin in the firm's Phoenix, Arizona office. The firm specializes in professional liability defense work. Orcutt is the co-author of the "Real Estate Broker Liability" chapter in the *Arizona Tort Law Handbook* published by the Arizona State Bar.

Brenda K. Smith, '07, is a founding member of the new Omaha law firm Dvorak & Donovan Law Group. She practices litigation, trial practice, arbitration and mediation. Smith is president-elect of Junior League of Omaha.



Jenny Tricker, '07, an attorney with the Lincoln law firm of Schwartzkopf Schroff & Tricker, has been selected as a member of the board of

directors for the Bryan Foundation.

Daniel J. Honz, '08, has been named a partner with the Omaha law firm Advent. He joined the firm in 2013. Honz focuses his practice exclusively in the area of intellectual property.



Andrew Huettner, '08, has been named a partner with Erickson Sederstrom Law Offices in Omaha. Huettner continues to practice in estate, probate and trust law.

Brittney J. Krause, '08, has joined the Lincoln law firm of Keating, O'Gara, Nedved & Peter as an associate attorney. Her practice focuses on transactional work, including business and corporate law and commercial litigation with an emphasis on construction and design litigation and employment law, personal injury and family law.



Jessica Smith, '08, married Andrew Herrmann on June 6, 2015, at Colonial Gardens in Hastings. She is director of research at the Platte Institute for Economic Research.

Katie Vogel, '08, has joined the Seiler & Parker Law Firm in Hastings. She focuses her practice on business and corporations, estate

planning, natural resources and water law, probate and will and trusts. She is currently chair of the Women and the Law section of the Nebraska State Bar Association.

Lyndsay Bonwell, '09, married Kevin Zlomke on April 11, 2015, at St. Vincent de Paul Catholic Church in Omaha. She is an attorney with Legacy Design Strategies.

Kelly M. Ekeler, '09, has joined the labor and employment group of the Lincoln law firm Woods & Aitken.



Laura K. Essay, '09, has joined the new Omaha law firm Dvorak & Donovan Law Group. She specializes in estate and business succession planning.



Gregory D. Kratz, '09, has joined Lepant Law Office in Beatrice after three years in the Marine Corps. His practice focuses on probate, estate planning and civil litigation.



Gregg McLawsen, '09, has been selected as a 2015 Rising Star by *Washington Super Lawyers*. McLawsen is the founding and principal attorney at Puget Sound Legal where he represents families in the U.S. immigration system.



Matthew Reilly, '09, has been named a partner with Erickson Sederstrom Law Offices in Omaha. Reilly continues to practice in litigation, insurance defense, workers' compensation and bankruptcy/creditors' rights.

Danielle Savington,

'09, has joined AR Solutions, a Lincoln collection agency, as of counsel. She continues to practice at Savington Law Offices in Papillion, focusing on juvenile and criminal



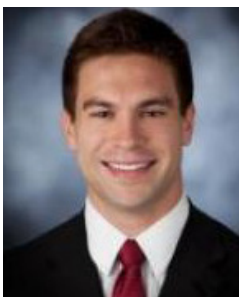
representation and criminal law.



Jesus Tena, '09, has opened a law office in Lexington where he specializes in workers' compensation, criminal law, family law, bankruptcy and personal injury.

2010s

Maggie Cox, '10, married Andrew Ebert on August 1, 2015, at Shadow Ridge Country Club in Omaha. She is an attorney with Kutak Rock in Omaha.



Noah Greenwald, '10, has been named a shareholder in INSPRO Insurance Agency and vice president of its Lincoln office.

Stephanie N. Mahlin,

'10, has joined the new Omaha law firm Dvorak & Donovan Law Group. She specializes in business and corporate counseling.



Shane Matthew Cochran, '11, married Whitney Ann Young on June 27, 2015. He is an attorney at Snyder, Hilliard & Bishop in Kearney.

Andrew Conroy, '11, has

joined the Nebraska Revisor of Statutes office after completing his clerkship with Judge John Gerrard of the United States District Court for the District of Nebraska.

Jessica Greenwald, '11, has joined the new Lincoln law firm of O'Neill, Heinrich, Damkroger, Bergmeyer & Schultz. She concentrates her practice in business and commercial transactions, business and estate planning, estate and trust administration, real estate transactions and corporate law.

Samantha Pelster, '11, and her husband Nick Pelster welcomed Theodore Joseph on March 16, 2014. Pelster is a CASA volunteer and an independent contract attorney in Lancaster County.

Joshua P. Berns, '12, has been promoted to tax manager at the Hastings office of the accounting firm of McDermott & Miller.

Adam Morfeld, '12, a Nebraska state senator, received a 2015 Early Achiever Award from the University of Nebraska Alumni Association. He also gave the keynote address at UNL's annual Ivy Day ceremonies co-sponsored by Mortar Board and the Innocents Society. At the ceremony, Morfeld was presented an honorary Mortar Board membership.



Nate Mustion, '12, has been named McCook city attorney.

Christine Truhe, '12, has joined the University of Nebraska Foundation working with gift planning.

Justin R. Huber, '13, of

Sidney has been named Cheyenne County deputy attorney.

Ryan G. Norman, '13, has joined the Lincoln law firm Shively & Lannin.





Rachel Gerlach Palmer, '13, has joined the Denver, Colorado, office of Cordell & Cordell as an associate attorney. Her practice focuses on domestic litigation.

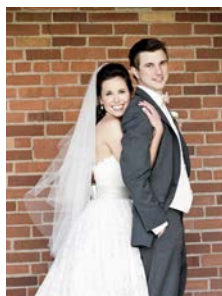
Tyler Spahn, '13, has joined

the Lincoln office of Sattler & Brogan as an associate attorney after the completion of his judicial clerkship with Judge William B. Cassel of the Nebraska Supreme Court.



Ellen Duffy, '14, has joined the Lincoln law firm of Blankenau Wilmoth Jarecke as an associate attorney. She concentrates her practice in public power, water, environmental, natural resources, zoning and land use planning and eminent domain.

Meaghan Gandy, '14, has joined the Omaha office of Kutak Rock as an associate in the firm's real litigation group where she represents employers on employment matters. Gandy joined the firm after clerking for Justice Ken Stephan of the Nebraska Supreme Court.



Katlin Geyer, '14, married Tate Johnson on March 28, 2015, at First Plymouth Congregational Church in Lincoln. The reception was held at the Lincoln Country Club. Following a clerkship with Nebraska Supreme Court Justice Michael McCormick, Geyer joined

the law firm of Lamson Dugan & Murray in Omaha.

Wesley A. Goranson, '14, has joined the Omaha office of Kutak Rock as an associate in the firm's real estate group.



Patrick Kealy, '14, has joined the Reno, Nevada, office of Robertson, Johnson, Miller & Williamson as an associate.

Halley Ostergard, '14, married Chad Kruse on August 16, 2014. She is a judicial clerk in Lincoln for Judge C. Arlen Beam of the

U.S. Eighth Circuit Court of Appeals.

Zachery D. Peterson, '14, has joined the new Omaha law firm Dvorak & Donovan Law Group. He specializes in business and corporate counseling.



Kane Ramsey, '14, has joined the Kearney law firm of Jacobsen, Orr, Lindstrom & Holbrook as an associate attorney. His practice focuses primarily in the areas of civil litigation, criminal and juvenile law, general business and workers' compensation.



Jessop Adams, '15, married Caitlin Foy on June 6, 2015, at the St. Luke's Catholic Church in Ogallala. He works for Adams Bank & Trust.



Taylor Brooks, '15, has been

chosen as a Herbert Scoville Jr. Peace Fellow. The Scoville Fellowship, established in

1987, is a highly competitive national fellowship program that provides recent college and graduate school alumni with the funding and opportunity to work with senior-level policy experts at one of more than two dozen leading think tanks and advocacy groups in Washington, D.C., for six to nine months. Brooks will work with Carnegie Endowment for International Peace in its Nuclear Policy Program on cyber arms control, anti-satellite and missile defense issues.



Andrew K. Joyce, '15, has joined the Lincoln law firm of Morrow, Poppe, Watermeier & Lonowski as an associate attorney. Joyce focuses his practiced on real estate, business and estate law.

In Memoriam

1950s

William F. Wenke, '50, passed away at the age of 86 on May 28, 2015, in Dana Point, California. Wenke practiced law in Orange County, California, with Wenke, Taylor, Evans & Ikola in Santa Ana and Newport Beach. He concluded his career as of counsel with the Newport Beach law firm of Minyard & Morris. Wenke served as president of the Orange County Bar Association in 1977 and of the State Bar of California in 1981. From 1984 through 1985, Wenke served as president of the University of Nebraska Foundation. In 2008, he was recognized by the Legal Aid Society of Orange County with its Access to Justice Award for his work with the California IOLTA program.

Russell (Rusty) Laird, '52, passed away on June 5, 2015, at Deerfield Retirement Community in Urbandale, Iowa. He was 88 years old. Laird served as a signalman for the U.S. Navy in the South Pacific during World War II. Following his graduation from the Law College, he worked briefly for the Iowa National Mutual Insurance Company in Cedar Rapids, Iowa. He then moved to Des Moines where he represented a number of trade associations until his retirement in 1993. Thereafter, he served as of counsel with the Des Moines law firm of Wasker, Dorr, Wimmer and Marcoullier.

John H. Morehead, '52, died on April 12, 2015, in Falls City. He was 87 years old. Before enrolling at the Law College, Morehead served with the Air Force. He became a special agent of the FBI after completing training in Washington, D.C., and Quantico, Virginia. He served in Burlington, Vermont, and New York City before resigning to return to Falls City. He worked in various capacities for the Richardson County Bank and Trust before being elected president in 1962. He served as president, CEO and chairman of the board until he retired in 2011.

William Henry Hein Jr., '55, passed away on March 1, 2015, at the age of 85 in Paradise valley, Arizona. He served for two years as a first lieutenant in the US Army Military Police during the Korean War. After moving to California, Hein held a variety of positions including working at Bancroft-Whitney Legal Publishers in San Francisco, as a staff lawyer for Los Angeles Unified School District, and as general counsel for the Southwest Regional Educational Laboratory. He also taught School Law for a Pepperdine University graduate program. He retired in 1990 and moved to Arizona.

Stephen M. Sawtell, '57, died on July 6, 2015, in Omaha of complications related to Alzheimer's disease. He was 84 years old. Besides his law degree, Sawtell graduated from the school business executive program at Standard University. He served as a lieutenant in the Army in Korea and Japan. In 1957, Sawtell joined Northern Natural Gas, which later was known as InterNorth, Inc., as an attorney. He became secretary in 1972 and vice president in 1977. He took early retirement in 1985, shortly before InterNorth merged with Houston Natural Gas to become Enron Corp. In 1987, Sawtell became senior vice president, secretary, general counsel and director of Dubuque Packing Co. in Omaha. He also took part in a joint venture called Cattle Exporters of Nebraska, Inc., which sold cattle in Dalian, China. He also served as a director of Omaha National Bank.

Ronald D. Raitt, '59, died in April 2015 in his West Toledo, Ohio, home. He was 83 years old. Beginning in 1966, Raitt was a professor of law at the University of Toledo College of Law. He retired in 2002, assuming the status of professor emeritus. During his 36-year tenure, he served as assistant dean and director of admissions programs. He was named an Outstanding UT Teacher in 1997 and in 2002 received the outstanding faculty award from the law school. He was named outstanding professor by the graduating law classes of 1990, 1993, 1995 and 1997. Among the subjects he taught were Civil Procedure, Evidence, Federal Jurisdiction, Products Liability and Legal History. He was the author of the book, *Evidence Cases and Problems*, published by Harrison, as well as numerous law review articles. He was noted for speaking rapidly in class and peppering class discussions with memorable sayings. Prior to attending the Law College, Raitt was a

pilot in the Air Force. Prior to his teaching career, he served as a U.S. assistant attorney general in Nebraska and, in 1961, moved to Washington, D.C., where he was minority counsel for a Senate antitrust subcommittee and as assistant counsel for a trade organization.

1960s

Joseph H. Carter, '60, died in June 2015 in Omaha. He was 82 years old. For the past 33 years, he was a real estate attorney and developer for the Dial Company in Omaha.

Robert W. Korba, '68, of Denton, Texas, passed away on March 10, 2015, at the age of 71. Korba served in the U.S. Army as a first lieutenant in military intelligence. For 35 years, Korba worked for Sammons Enterprises in Dallas, Texas, as legal counsel, general counsel, CEO and chairman. Among his many community activities, Korba served on the executive committee of the University of Nebraska College of Law Alumni Council and was awarded the council's Distinguished Alumnus Award in 2010. In 2011, he received the Charles Cameron Sprague Community Service Award by the Southwestern Medical Foundation. The award honors individuals in the North Texas region who have provided significant support to the improvement of medical education, medical research and patient care.

Bernard J. (Bernie) McGinn, '69, died on August 5, 2015, at his Lincoln home after fighting skin cancer and heart disease. He was 76 years old. A former Nebraska Cornhusker football player and a former prosecutor, McGinn served as a Lancaster County District judge for 25 years before retiring in 2005. He later served on the Nebraska Commission for Industrial Relations. In 2005, he was honored with the Distinguished Judge for Service to the Judiciary Award by the Nebraska Supreme Court for his "exemplary judicial temperament."

1970s

Nicholas C. Grapsas, '70, passed away in June 2015 in Madison, Wisconsin, at the age of 76. He practiced law in Madison and Janesville, Wisconsin, for more than 30 years.

Adrian Fiala, '72, died on April 13, 2015, of an incurable lung condition that he had been battling for eight years. He was 67 years old. Fiala was a linebacker of the Nebraska Cornhusker football team and a catcher for the baseball team during the late 1990s. He passed up the opportunity to play professionally to attend law school. Fiala began his legal career with the Nebraska Public Service Commission. He later served as general counsel for the company that owned City Bank and Havelock Bank and as executive director and CFO of Spectrum Capital, Inc., an investment and securities firm. He was best known, though, as the "color voice of Nebraska football." He broadcast Husker games first for KFOR and, after a 13 year hiatus, for the Pinnacle Sports Network from 1996-2010. He later became a regular on a Lincoln sports talk station. He appeared on televised college baseball games and the College World Series on Westwood One national radio network and co-hosted "Big Red Wrap-Up" on NET television. He also ran a charity golf tournament in Gothenburg and served on the UNL Alumni Association's board of directors and the University of Nebraska President's Advisory Council.

Richard L. DeForge, '75, of Scottsbluff, died on July 25 in Gering at the age of 75. DeForge recently retired from the Scottsbluff County Public Defender's Office, where he had worked for 15 years. Previously he was an attorney for Western Nebraska Legal Aid. Prior to practicing law, he worked for 16 years for Burlington Northern Railroad in Alliance.

Audie J. Wise, '76, died on February 25, 2015, at the Arbors Memory Care Community in Lincoln. He devoted his career to helping the elderly and disadvantaged at Lincoln Information for the Elderly (Aging Partners), what is now Legal Aid of Nebraska and at the Nebraska Department of Health and Human Services.

Donald F. Uerling, '79, died on April 11, 2015, in Lincoln. He was 75 years old. Uerling was one of the first students in the University of Nebraska's joint degree program in Law and Educational Administration. Subsequently, he was a professor of educational administration at UNL's College of Education and Human Services.

Annual Report on Giving



We are grateful for the \$191,148.67 the College of Law received from gifts to the annual fund during the 2014-2015 fiscal year.

The Report on Giving recognizes all donors who made gifts to the College of Law during the 2014-2015 fiscal year that spans between July 1, 2014 and June 30, 2015. Any gift recorded before July 1, 2014 was part of the previous year's totals; any gifts recorded after June 30, 2015 will be recognized in next year's report. We are pleased to report that during the 2014-2015 fiscal year, the College of Law received \$191,148.67 in gifts to the annual fund.

Considerable care has gone into the preparation of this report. Each donor is very important and every effort has been made to ensure the accuracy of the Report on Giving. Please bring any errors to the attention of Molly Brummond at molly.brummond@unl.edu.

For this publication, the University of Nebraska Foundation has honored individual requests from donors for how they wish their names to appear on external reports. Please let us know if you would like for your name to appear other than it does in this report.

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1938

William F. Colwell

1947

Carl H. Rohman
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1948

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1949

Don A. Boyd
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1950

Donald A. Burr
Donald H. Kelley
Robert E. Orshek

1951

Wallace Becker
Edward A. Cook
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1952

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Gordon B. Fillman
Thomas J. Gorham

1953

Duane W. Acklie
Cyrus A. Johnson
Donald W. Pederson

1954

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Janice M. Gradwohl
Kenneth A. Legg

1955

Mark A. Buchholz
Lawrence L. Wilson

Lawrence H. Yost

1956

James W. Hewitt
Norman M. Krivosha
Norman Veitzer

1957

Frank J. Barrett
D. Nick Caporale

1958

Claire D. Johnson
Dwain L. Jones
Richard L. Valentine

1959

Richard M. Fellman
Theodore L. Kessner
Ronald D. Raitt
Philip C. Sorensen

1960

John F. Haessler
Sheldon Krantz
Roger A. Langenheim
Blaine E. Rieke

1961

Sam S. Jensen
Parker L. Shipley

1962

Richard M. Tempero
Gene D. Watson

1963

Glen A. Burbridge
Guy F. Bush
Robert T. Grit
Harold E. Hoff
Ronald D. Svoboda

1964

Jeff P. Cheuvront
Bruce B. Graves
Robert M. O'Gara
Richard C. Schmoker
James L. Sedgwick

William A. Wieland

1965

Ralph M. Anderson
C. Arlen Beam
Thomas H. DeLay
Vincent L. Dowding
Jerome A. Hoffman
Kenneth P. Keene
G. Neale Shaner
John E. Musselman
Donald R. Witt

1966

Gary D. Aden
Budd B. Bornhoft
Hal J. Daub
Vernon F. Duncan
Thomas J. Fitchett
Gary A. Greinke
Fred A. Guggenmos
Con M. Keating
Leland K. Kovarik
Lyman L. Larsen
E. Bruce Smith
Stephen G. Olson
Harvey S. Perlman
W. B. Schenck
Ronald L. Schwab
Steven G. Seglin
Lester R. Seiler
Richard K. Spencer
Earl H. Scudder
C. Howard Vest
Richard L. Waldron

1967

Larry D. Bird
George H. Krauss
Gailyn L. Larsen
Matthew A. Schumacher

1968

Michael D. Engel
William B. Fenton
Robert A. Hill
Robert W. Korba
Jarret C. Oeltjen
Kent E. Person

Richard D. Stafford

1969

William A. Ahlstrand
Charles B. Baumer
John K. Boyer
John T. Connor
James J. DeMars
Barry L. Gerken
Stuart M. Hurwitz
Kile W. Johnson
Russell E. Lovell
William W. Marshall
Thomas R. Pansing
Patrick G. Rogers

1970

Alden A. Abraham
Steven R. Brott
M. Douglas Deitchler
Howard F. Hahn
Thomas T. Holyoke
Marilyn B. Hutchinson
Everett O. Inbody
Stephen A. Mazurak
G. Brian Pingel
James M. Walters
Jack G. Wolfe

1971

Douglas F. Duchek
Richard A. Johnson
Frank E. Landis

1972

James R. Blinn
Gary D. Byrne
James A. Cada
Thom K. Cope
Jeffrey E. Curtiss
James A. Gallant
John M. Guthery
Richard G. Kopf
Arnold W. Messer
John H. Moseman
James E. Rembolt
Neil J. Roberts
Clifford J. Sturek
Stuart Smith

Gift By Class Year

Dennis C. Tegtmeier
John R. Wertz
William J. Wochner

1973

Kenneth L. Backemeyer
Don C. Bottorf
David A. Domina
Robert B. Enszt,
Victor Faesser
Lloyd E. Friesen
Eric V. Iovacchini
Stephen H. Lewis
John R. McPhail
Thomas P. Polityka
Walter V. Siebert
Kenneth C. Stephan
Edward H. Tricker
Richard J. Wegener

1974

Richard L. Banta
Robert J. Banta
Robert L. Boumann
James R. Coe
William G. Dittrick
Thomas J. Gillaspie
Stanley C. Goodwin
James E. Gordon
Ward F. Hoppe
Stephen C. Johnson
David K. Karnes
Paul W. Korslund
Wayne C. Kreuscher
Arthur R. Langvardt
Marvin A. Liszt
C. Vincent Phelps
Leatrice L. Polityka
Stephen A. Spitz
Donald E. Rowlands
Steven C. Smith
Greg M. Stejskal
James H. Truell
Gerald D. Warren
Walter E. Zink

1975

Roberta L. Cook
Richard A. Cummings

Jan E. Dutton
Charles L. Finke
Alan G. Gless
Fred M. Greguras
Michael G. Heavican
H. David Heumann
John J. Hodik
Donald D. Hopwood
Barry G. Kaiman
Gary G. Krumland
Doug L. Loos
Lowell J. Moore
David L. Niederdeppe
Richard C. Reier
Brian K. Ridenour
Robert H. Sindt
Thomas M. Sonntag
Darrell K. Stock
Steven B. Timm
Toni L. Victor
Brian J. Waid
Bruce W. Warren
Patricia J. Winter

1976

Richard R. Abood
Robert F. Bartle
David R. Buntain
Gene Crump
Karen A. Flowers
Deanne R. Franus
Thomas L. Hagel
Susan Johnson
Donald J. Kinlin
Jean A. Lovell
Teresa K. Luther
Steve F. Mattoon
Keith E. Martin
James R. Nearhood
Robert G. Pahlke
Dennis G. Peterson
Alan R. Polsky
Keith A. Prettyman
Roger M. Prokes
Rebecca L. Ross
William C. Schwartzkopf
Richard J. Vierk
John E. Vihstadt

1977

Loel Pansing Brooks
Laurie Smith Camp
Noel S. Dekalb
Rick L. Ediger
Charles W. Hastings
Michael H. Jensen
Paul T. Gefreh
Daniel R. Gilg
Deborah K. Gilg
Philip M. Martin
Steven J. Mercure
Joseph M. Moothart
Robert L. Nefsky
Barry L. Ross
Edward P. Sands
John A. Selzer
Robert M. Wagner
Terrance O. Waite
Frederick G. Yanney

1978

B. Joseph Dromsky
Stanley C. Feuerberg
Christine J. Law
Michael W. Pirtle
Elaine Rollins
Barbara W. Schaefer
Christine C. Schwartzkopf
Schroff
Anna L. Stehlik
Galen E. Stehlik
Alan G. Stoler
Steven R. Voigt
Terry R. Wittler
Dennis M. Weibling

1979

Steven R. Andrews
Lance C. Antonson
April E. Casey
William B. Cassel
Marianne E. Clifford Upton
Kathryn Slepicka Dobrinic
Marsha E. Fangmeyer
Christopher M. Goodrich
Terrill A. Hyde
Joseph R. Kafka
Eileen K. Jennings

Dennis R. Onnen Patricia S.
Schuett Peterson
Michael K. Reppe
Robert W. Rieke
Kevin L. Ruser
Robert R. Steinke
Larry A. Todd
Lori L. Wilson
Fred T. Witt

1980

Karen J. Beadie
David A. Bergin
Claudia L. Divis
Timothy E. Divis
Emil M. Fabian
Ronald G. Gentzler
Keith J. Gredys
Michael G. Hybl
Marcia A. Johnson
Annette M. Kovar
Stephen M. Krumm
Joseph A. Morris
William J. Mueller
Rosalie K. Ridenour
Michael Sloan
Donald L. Swanson
James R. Wefso
Rebecca A. Winston

1981

Todd S. Adams
Elisabeth Bridge
Kathryn A. Bellman
Pamela M. Carrier
Robert C. Corn
John E. Crabtree
Terry J. Curtiss
Andrew J. Jetter
George P. Kilpatrick
Arlen W. Langvardt
Timothy D. Loudon
Robert R. Otte
Jerry L. Pigsley
Charles W. Sorenson
John C. Wiltse
David A. Waskowiak

Gift By Class Year

1982

Daniel J. Amen
Steven D. Boyd
Steven J. Britzman
Jeffrey M. Doerr
Teresa M. Hampton
Susan M. Koenig
Chris A. Horacek
Cynthia J. Odom
Glenda J. Pierce
Donald D. Ross
Sandra I. Schefcik
Mark M. Schorr
Mark J. Young
Alan J. White
Linda L. Willard

1983

Patricia A. Burdyny
Mary M. Campbell
David G. Dales
Vernon R. Daniels
Christie M. Dibbern
Stephen S. Gealy
Thomas E. Geu
Victoria J. Grant
Richard A. Hartfield
Catherine D. Lang
Frankie J. Moore
Richard T. Seckman
Martha K. Zajicek

1984

Patty Pansing Brooks
Judy A. Cada
Betty J. Gesell
Scott L. Gesell
Richard W. Grosz
Douglas R. Hart
Paul M. Kippely
Reginald S. Kuhn
Robert S. Lannin
Terry L. McElroy
Todd A. Morrison
Jill G. Schroeder

1985

Diane H. Dentlinger
John C. Hewitt

Neil L. Johnson
Bruce E. Kruger
Monica L. Kruger
Christopher J. McVeigh
Kathryn C. Maresh
Steven M. Maun
Keith E. Moxon
George S. Nash
William M. Ojile
Kim M. Robak
Robert W. Shively
Ellen L. Totzke

1986

Ann D. Diers
Christine E. Denicola
Susan J. Engelhard
Allen G. Erickson
Robert P. Foster
Harlan B. Milder
Gregory P. Gillis
Kathleen E. Rockey
Jeffery T. Schroeder
Hans H. Thielman
Thomas G. Van Houten

1987

John C. Anderson
Walter D. James
Denise K. Koster
Frank L. Labrador
Lawrence M. Zavadil

1988

Marie L. Buckley
Wayne E. Dolezal
Eric M. Johnson
Jeffrey A. Nix
Todd W. Ruskamp
Elizabeth K. Ryan
John M. Ryan

1989

Cathleen H. Allen
Timothy D. Brown
Mary M. Elliston
David A. Hecker
Stephen J. Henning
Joseph A. Jordano

Sharon A. McIlroy
Bradley E. Nick
Robert J. Parker
Marybeth Ruskamp
Victoria L. Westerhaus

1990

Linda R. Crump
Julie A. Burns
Robin W. Hadfield
Angela K. Hallier
Eartha J. Johnson
David A. Miller
Robert A. Monniere
David B. Parman
Barry R. Wilkerson
Anthony L. Young
John H. Zelenka

1991

Dorothy C. Anderson
Emily Campbell
David W. Chang
Robert L. Eden
Evelyn Nissen Eipperle
Bridget J. Esch
Kenneth D. Esch
Scott K. McCarthy
Pamela B. Peck

1992

Mark J. Blazek
Ralph A. Froehlich
DaNay A. Kalkowski
Robert J. McCormick
Patricia A. Miklos
Scott S. Moore
James R. Nygren
Thomas W. Pittman
Andrew S. Pollock
Samuel J. Turco

1993

Sharon L. Bartter
John H. Bergmeyer
Ennio J. Corsi
Michael R. Contarino
Gregory R. Johnson
Alanna A. Schenken

John S. Slaba
Elizabeth A. Varley

1994

Jack A. Barker
Valerie J. Blevins
Stephen A. Burt
Bryan R. Hill
Karen L. Mackey
David W. Melville
Kent A. Meyerhoff
William J. Munn
William M. Muth
Donald R. Owen
John J. Reeve
Thomas P. Schenken

1995

Kristine D. Brenneis
Robby J. Shortridge
Judy R. Sedoris
Heidi H. Scherr
James C. Ziter

1996

Chad W. Buckendahl
Tamara S. Herrera
William R. Jeppson
Colleen P. Manly
Michael P. Manly
Rita L. Muth
Lori M. Reilly
Robert M. Schafer
David O. Spinar
Nicole B. Theophilus
Daniel Torrens

1997

Duane A. Austria
Elizabeth L. Hocking
Jeffery R. Kirkpatrick
Steven L. Meints
Nilesh S. Patel
Thomas L. Selken
Corey L. Stull
Jeanette L. Stull

1998

Kurth A. Brashear

Gift By Class Year

Derrick J. Hahn
Octavia Y. Hathaway
Sarah N. Patel
Theodore J. Walkey

1999

Marc W. Pearce
Suzanne M. Rodekohr
Chad W. Swantz
Jill E. Thomsen

2000

Jeffrey D. Holloway
Vanessa R. Pertusa-Ruser
Michael G. Rogers
Dale R. Shook
Trent R. Sidders
Joshua F. Stubbe
Craig W. Strong

2001

Sara B. Anderson
Kelli Cummins-Brown
Danielle A. Curtiss
Grayson J. Derrick
Lori C. Helgoth
David J. McClure
Brian S. Nielsen
Angela M. Splittgerber
Timothy J. Thalken
Amy J. Vyhldal

2002

Tasha A. Everman
Robb N. Gage
James A. Hempel
Tracy L. Jamison
Michele M. Lewon
Karen A. Mangan
Jessica C. Sidders
Gretchen R. Twohig
Christine E. Vanderford
Brent A. Wolzen

2003

Janette L. Adair
Aliza Anvari
Matt C. Ashmore
Molly M. Brummond

Sunah K. Lee
Jeremy P. Lavene
Kendra J. Ringenberg
Scot M. Ringenberg
James A. Warren
Tracy L. Warren

2004

Ellen A. Deaver
Shane R. Deaver
Clinton J. Guthrie

2005

Ryan B. Beach
David V. Chipman
Sean M. Gleason
Natalie M. Mackiel
Katherine N. Novak
Lee M. Rankin
Alisa M. Rosales
Tara A. Stingley
Steven N. Welch
Katie A. Welsch
Morgan A. White

2006

Jameson C. Brummond
Daniel E. Dawes
Jason M. Caskey
Eric R. Chandler
Nathan J. Evershed
Keith T. Peters
Christopher D. Seifert

2007

Mindy M. Chipman
Caitlin R. Barnes
Chad R. Doornink
Karen L. Ebmeier
Jason W. Grams
Todd J. Hinkins
Nicole K. Seckman Jilek
Isaiah Wilson

2008

Jason A. Cantone
Daniel J. Honz
Lisa J. Morinelli
Jennifer A. Mostek

Valerie J. Nolan

2009

Joshua C. Howard
Jayne E. Sykora
Michelle R. Waite
Sean D. White

2010

Cameron J. Arch
Adam W. Barney
Seth J. Felton
Nathaniel J. Jagers
Richard A. Kruse
Michael G. Kuzma
Mary J. Lang
Coady H. Pruett
Ross R. Pesek
Matthew T. Schaefer

2011

Kara J. Ronna

2012

Catherine A. Cano
Ashley A. Di Lorenzo
Christopher C. Di Lorenzo
Joshua M. Erlandson
Casey F. Kettler
Christopher R. Kortum
Katherine Q. Martz
Adam S. Morfeld
Travis W. Tettenborn
Christine E. Truhe

2013

Mark A. Grimes
Jack W. Lafleur
Christina L. Usher

2014

Ryan D. Beardshear
Caitlin C. Cedfeldt
Halley A. Kruse
Sara A. McCue

2015

Jessop B. Adams
Stephani M. Bennett

Taylor P. Brooks
Sagan L. Carman
Bergan E. Carr
Ciara J. Coleman
Jennifer S. Dannehl
Adam E. Emerton
Aditya S. Ezhuthachan
Brian J. Fahey
Jodi L. Garrelts
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Danielle K. Miller
Kathryn M. Moore
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Hannah E. Putz
Eric M. Ransone
Lindy N. Rauscher
Megan A. Rotherham
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Audrey R. Svane
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Barbri Inc. Robert J. Banta & Pamela K. Banta
Karen J. Beadie & David Beadie
John K. Boyer & Lynne B. Boyer
John K. and Lynne D. Boyer Foundation
California Community Foundation
Mrs. Virginia Chain Schmid
Ms. Lisa A. Churchill
Community Foundation for Greater Buffalo
Ms. Elery K. Crosby
Jeffrey E. Curtiss & Margaret Curtiss
David A. Domina & Carol Domina
Fidelity Charitable Gift Fund
Fraser Stryker PC LLO
Professor Alan H. Frank & Barbara Johnson Frank
G. Robert Muchemore Foundation
Alexandra M. Goddard
Mr. James E. Gordon
Mr. Howard F. Hahn & Carol L. Hahn
Ms. Angela K. Hallier
Stephen J. Henning & Stacey A. Henning
Invest Nebraska
Mr. Claire D. Johnson
Eartha Jean Johnson & Lonnie L. Johnson
Mrs. Charlene L. Johnson
Mr. Barry G. Kaiman
Con M. Keating & Barbara A. Keating
Ms. Karen Kilgarin
Donald J. Kinlin & Donna C. Kinlin
Mr. Jeffery R. Kirkpatrick
Koley Jessen P.C., L.L.O.
Hon. Richard G. Kopf & Joan K. Kopf
Robert W. Korba & Jane L. Korba
Hon. Paul W. Korslund & Bernadette M. Korslund
Mr. Sheldon Krantz
George H. Krauss & Sharon J. Krauss
Lamson Dugan & Murray, LLP
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October 2015

October 23-24

Alumni Reunion Weekend

November 2015

November 5

Omaha Alumni Coffee & Connections,

7:30 a.m., Delice European Bakery & Cafe

December 2015

December 3

Omaha Alumni Coffee & Connections,

7:30 a.m., Delice European Bakery & Cafe

December 10

Lincoln Area Alumni Holiday Reception,

5:30 p.m., Van Brunt Visitors Center

December 18

Winter Commencement, 1:00 p.m.,

College of Law

January 2016

January 7

Omaha Alumni Coffee & Connections,

7:30 a.m., Delice European Bakery & Cafe

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