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# UNH Law Alumni Magazine, Spring/Summer 2001

University of New Hampshire School of Law

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# THE ADVOCATE

A Magazine for Alumni and Friends of Franklin Pierce Law Center



The Balance of Justice

## DEAN'S MESSAGE

Dear Alumni and Friends,

*"(In order to achieve success)...you must rise early, work hard, and strike oil." ---John D. Rockefeller*

There are a number of ways to measure the success of a law school, most good, none of them perfect. We can look at the caliber of the incoming class, job opportunities for the graduating class, and bar passage rates. Or, how we do in various national rankings. One of my favorites is hard to measure, but is a valuable yardstick nonetheless, and that's how much students improve in the three years we have to turn them into lawyers.

Regardless of how we measure success, there is one and only one way to achieve it—all of us working together as a team toward a shared goal. Success is not a destination, rather it's a journey. It's a journey on which all of our stakeholders are embarked. That includes students, faculty, staff, alumni, the local bar, me, you. We all have important roles to perform.

We've made some tremendous strides along our journey. Our new building, named for the much beloved Dane Buck, is nearing completion and looks great. It will add immeasurably to our capabilities. We are hiring new faculty. We're developing strategic alliances with the University of New Hampshire and Tsinghua University in Beijing, China. We're also taking the highly successful Education Law Institute on the road. This year it will not only be conducted here, but also in Maryland in conjunction with the University of Maryland's School of Education.

This year's 1L class was one of the best ever...smart, engaged, hard working and just all around nice people. Our incoming class this fall will certainly have great role models in the class ahead of them. That is surely another measure of success.

We are working hard to sharpen our image and how we project FPLC to the rest of the world. We recently completed two very productive retreats, one with the board of trustees and faculty, and one with just faculty. We developed a "futures statement" which states "Franklin Pierce Law Center, an innovative leader in legal education, provides its graduates with the skills to lead, serve and meet the emerging needs of a knowledge-based global society." We also wrote an evaluation standard by which proposed programs will be judged, creating a template to evaluate programs before we launch them.

We are developing a master's degree in e-commerce law that we want to have up and running in the near future. We are working on a trademark institute, named in honor of Allen Greenberg, long-time trademark counsel for Coca-Cola. In April, we were accredited by the New England Association of Schools and Colleges. Our every seven-year review by the ABA also went very well.

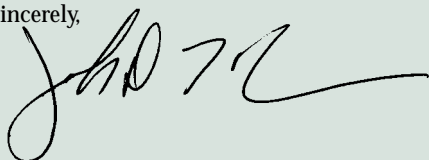
I hope you all know by now that we've hired a vice dean, Keith Harrison, from the University of Denver College of Law. Keith will be a wonderful addition to our faculty, and especially important to the smooth operation of the school. He brings a wealth of experience in legal education and real world savvy.

These are some of our steps along the road to success. Success breeds success. For me, success is simply continuous improvement. This applies to all aspects of FPLC.

I hope all of you participate in the journey. It is an "all hands" effort. To the extent that you can help, we ask your support. I will do my part of fulfilling Rockefeller's admonition by rising early and working hard.

I look forward to seeing you along the journey.

Sincerely,



John D. Hutson  
Dean

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## NEW TECHNOLOGIES:

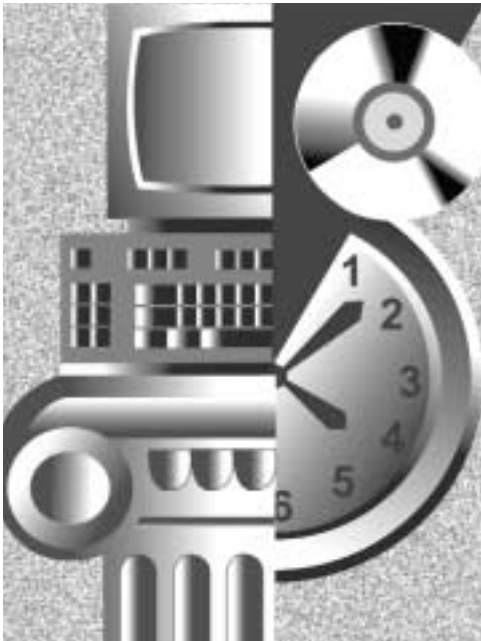
# E-EDUCATION AND THE LAW

IT IS CLEAR THAT ELECTRONIC TECHNOLOGY IS MAKING PROFOUND CHANGES IN THE PRACTICE AND STUDY OF LAW. IT JUST ISN'T CLEAR WHAT THOSE CHANGES WILL BE AND HOW THEY WILL COME ABOUT. Fortunes have already been squandered on dead ends, showing without doubt what doesn't work. But through it all there have been some very promising developments, promising enough to justify a serious effort by the Law Center to capitalize upon them.

One of the most promising developments—and the one that most intrigues me—is the use of electronic media to create realistic simulations of the actual practice of law, from client relations to adversarial proceedings. Clinical education has demonstrated the power of experiential learning. Electronic simulations cut the cost of delivering experiential learning by substituting the computer for the people in the simulation, and they remove the tyranny of timing, so the student can try the case, conduct the intake interview, or argue with an opposing attorney at midnight, six in the morning, or any other time that is convenient.

As the last example illustrates, electronic education sidesteps the limits of time and place that shape face-to-face education. Teachers and students have long devised ways to reduce those limits, so, for example, there is “homework” that can be done at the student’s convenience, outside the presence of the teacher, but the homework still comprehends a face-to-face meeting in which the subject matter is “covered.” Electronic technology so expands what can be done at “home” that, in education as in worklife in general, home becomes a potent locus for effective effort. Released from the limits of time and place, the safest prediction is that education will take place in a great variety of settings, both real and virtual, as familiar things like “on the job training” make use of virtual settings that place your mind anywhere in the universe. Why shouldn’t your preparation for a hearing, trial or negotiation include a virtual simulation of that proceeding in which you interact with virtual humans? In such a world the need for a face-to-face course in trial advocacy or administrative procedure changes radically.

That said, however, it is clear that an enormous amount of work must be done to get from here to there. Technology must be developed that enables the creation of realistic human-to-human interaction; and applications must be developed that deliver the virtual experiences that will transform the process of becoming a lawyer. It is not at all clear what agency is to do this work. Legal education is poorly geared to capitalize on the opportunity. Characterized by very high faculty/student ratios



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and by little or no funding for technology-based research or development, law schools are not graduate schools, where students expect to be put to work on interesting developments, funded by research money.

The Law Center is in the early stages of configuring a program whose intent would be to develop the expertise to produce the kind of realistic human-to-human simulations mentioned above and to pursue a number of other promising paths. The name of the program is the Media Lab.

With multimedia technology presenting an ever-larger presence in both the practice and learning of law, the Law Center is tackling the opportunity by creating a new Media Lab. The new media lab will be built in the space that

formerly housed the clinics. It will feature a video-production studio, video and audio workrooms, three student team production rooms, and four offices for faculty and staff.

The Media Lab will house student teams that will work on a variety of projects, from the development of teaching materials to be used in existing courses, to the development of courses that are delivered electronically, to multimedia programs aimed at teaching law to non-lawyers. Central to the effort will be the aggressive use of new technology and the exploration of new ways that it can be used to create deliverables for clients.

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## GIBBONS TAKES E-EDUCATION TO AALS CONFERENCE

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Professor Hugh Gibbons recently demonstrated his unique interactive computer-based educational projects at the summer conference of the American Association of Law Schools held in Calgary, Canada. "The focus of my 'eEducation' demonstration was to exhibit learning media that are highly interactive, that operate at a distance and at the convenience of the learner," says Gibbons. "Because they are independent of time and space, they put control into the hands of the learner. The challenge lies in generating an interactive learning experience that operates at a distance in time and space. That challenge is particularly difficult because 'interactive' in legal education means interaction between people, not between people and things. Making verbal interaction happen over asynchronous electronic media is not easy."

Gibbons presented several examples of his new "eEducation." One example, entitled "Fatal Dive," is a CD-ROM-based program used in torts that consists of more than 200 video clips that present four characters in a simulated case intake scenario. A woman's husband has died in a scuba diving incident, and she approaches the player, wondering if she has a plausible cause of action for his death. Two members of the dive team and the helmsman of the vessel that ran over the decedent are willing to talk. All four people, however, have sensitivities, which if provoked, may lead to erroneous answers, or to premature termination of the interview. The students then use the information about the incident as the basis for a "memo to the partner" evaluating the case against six potential defendants and making a recommendation. Because of the heavily branching nature of the program, it is almost impossible for any student to glean a complete picture of the incident, resulting in different concepts of the event.

Gibbons also presented several "eEducation" examples created by students. Designed by Giovanna Fessendan '02, *State v. Gilmore*, based on work done by Cinde Warmington '99 and David Doyle '99, is a stand alone evidence lesson covering the admissibility of character evidence. The facts of a criminal case are presented and a series of evidentiary questions are presented to the student. Video clips of the evidence professor are presented that explain or expand upon issues raised by the facts.

"Erectodioxum," created by three first-semester students, Reagan Allen, Elizabeth Hochberg, and Andrew Mierins, simulates interviews with corporate executives. It sets out the facts of a dispute over the injurious actions of two of the companies toward a third. The analytical phase of the simulation then looks for a plausible cause of action by the injured company. Interference with contract, interference with prospective economic advantage, deceit, unfair competition, and intentional infliction of emotional distress are all explored in a fevered attempt to find a theory that offers some prospect of success. "Courtroom One," by Christopher Hennessey '02, presents the history of New Hampshire's oldest courtroom. It includes physical and historical tours of the facility, reflections by people who worked and heard cases in the building, and the story of two of the courtrooms most famous cases. The presentation is in the "pictures-with-voiceover" style made popular by filmmaker Ken Burns. The project will be distributed to schools and libraries throughout the state as part of an effort to educate school children about the judiciary.



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IN 1998, ROBERT M. VILES, FORMER DEAN AND PRESIDENT OF FRANKLIN PIERCE LAW CENTER, BEGAN INTERVIEWING ALUMNI FOR A BOOK HE ENTITLED, MAKING A DIFFERENCE. He initiated this writing project during the Law Center's 25th Anniversary. At the time, he wrote:

"When an institution reaches a milestone like a quarter century it is usual to prepare a history chronicling events from the founding charter to the current roster of faculty and trustees. After looking at histories of other schools and organizations, I realized that reading them was more boring than exciting. What about a different kind of history? As the best evidence of the Law Center's impact, what about a history of graduates and what they have made of their legal education?"

In this way, the *Making a Difference* project was born. The project design is simple: interview graduates to learn how they have made a difference in their communities or in the practice of law, then transcribe and publish a compilation of the interviews as the Law Center history. Not sure of how or where the project would go, I decided to do some interviews myself, starting with alums that, from news articles or personal information, I knew to have made a difference.

Doing the interviews has been exciting for me personally as well. In all of the interviews, I have been impressed that practicing law is the means to an end, to making a difference, and not the end itself. The skills, expertise, and experience of practice have been critical to achieving the ends but they cannot be confused with them. In many cases other capabilities, such as tenacity, empathy, organizing ability, or leadership, have been more or at least equally important.

While the extent of the Law Center's unconventionality is debatable, it has included a refusal to channel students into traditional legal jobs. Instead, the objective has been to ready graduates to adapt their law school preparation to their own objectives, their own experiences and opportunities. The result has been a great deal of latitude for making a difference. This history of the first quarter century will make us all proud to be a part of Franklin Pierce Law Center."

*This issue includes two of Viles' interviews. Additional interviews will be published in upcoming issues of The Advocate.*

# Making a Difference

## BIOGRAPHY



1939-1999

Robert M. Viles came to New Hampshire in 1973 to become associate dean of Franklin Pierce Law Center. In 1976, he was named dean. Beginning in 1992, he also served as president. In July of 1999, he assumed the position of vice-chair of the board of trustees.

While at the Law Center, Viles helped develop the school's reputation in intellectual property law. He also worked to expand the school's support for public interest law and greater representation of underserved communities, which he called "community lawyering."

Viles was born on June 12, 1939 in Skowhegan, Maine. He received his BA degree magna cum laude from Bates College in 1961, an LLB as a Root-Tilden Scholar at New York University School of Law in 1964, and an LLM from Yale University in 1965.

From 1965 through 1972, he was a member of the faculty at the University of Kentucky College of Law where he was assistant dean from 1968 to 1970, and a tenured associate professor. From 1972 to 1973, Viles served as the research director of the Commission on the Bankruptcy Laws of the United States, which produced a legislative proposal leading to the enactment in 1978 of the present United States Bankruptcy Code. He was also a consultant and expert witness on bankruptcy law and contract law, and a member of the National Bankruptcy Conference for many years.

Throughout his deanship, Viles also taught courses in contract law, negotiations, debtor-creditor relations, poverty law, social legislation, and social work and the law. His innovative, practical course in contract design, a requirement for first-year students at the Law Center, was unique in the country.

# MAKING A DIFFERENCE: Alumni Profile

BY ROBERT M. VILES

## N. Linda Goldstein '78 Advocate for Community Development

N. Linda Goldstein is with the recently established Washington, DC office of Boston's Goulston & Storrs, PC. She is currently an honorary trustee for the National Institute for Community Empowerment and a member of the board of directors of the National Housing Conference. She is on the board of the District of Columbia Building Industry Association (DCBIA) and co-chair of the East of the River Committee for the DCBIA. She is co-author of the *CRA Fair Lending Handbook* published in 1996 by Warren, Gorham & Lamont.

Prior to joining Goulston & Storrs, Goldstein was with the Washington office of Boston's Goodwin Procter, LLP. She has experience in real estate and has specialized knowledge concerning U.S. government housing programs and the mandates of the Community Reinvestment Act. Before entering private practice, Goldstein served in the office of General Counsel, U.S. Department of Housing and Urban Development (HUD). She is a past chair of the American Bar Association (ABA), Forum on Affordable Housing and Community Development Law, a former assistant secretary of the ABA, Section on Real Property and Probate, and a past chair of the Affordable Housing and Community Development Committees, Section on Real Property and Probate. Goldstein also served on the advisory committee of Community Empowerment Initiative of the Martin Luther King Center.

*President Viles interviewed Goldstein for this profile on July 22, 1998, in Washington, DC.*

**RMV:** How did you become interested in affordable housing and economic development law?

**NLG:** While in law school, I took a course from Professor Michael Baram, then on the faculty. He showed me a case concerning HUD where the court explored the issue of whether people were "pollution." This highly unusual case piqued my interest in low-cost housing activities, and I began exploring other case law involving HUD and HUD



programs. In connection with various school papers, I contacted HUD officials in Washington and questioned them concerning

housing policy matters. They seemed surprised to hear from a law student in the State of New Hampshire.

Eventually an attorney in the Office of the General Counsel asked me if I knew about the HUD intern program for new lawyers. He explained that it paid well and would give me a good start in the housing field. It was the only job for which I applied. When I was accepted, I persuaded my husband that we should return to Washington instead of spending the rest of our lives in New Hampshire, as we had planned when we fled Washington for me to enter law school.

**RMV:** When did you move from the HUD General Counsel's Office to private practice?

**NLG:** I had been at HUD for six years when the Washington firm of Ginsberg, Feldman and Bress invited me to join it as specialty HUD counsel. Ginsberg, Feldman was particularly attractive to me because, among other interesting clients, it represented the newly-formed Enterprise Foundation, which Jim Rouse, a prominent national developer, had started with the objective of increasing the availability of housing for low-income individuals and families. After joining the firm, I prepared the first loan documents for the Foundation. Today it is one of our nation's most important third-party intermediaries sponsoring community-based affordable housing ventures.

During the 1980s real estate boom, I took a detour into commercial real estate and represented commercial developers constructing office buildings on Washington's major business arteries. This highly lucrative work earned me a partnership at Ginsberg, Feldman. Then, after nearly ten years there, I moved my practice to the Washington office of New York's Lane and Mittendorf in order to obtain the support of banking counsel. Due in large measure to increased



enforcement of the 1977 Community Reinvestment Act, bankers were becoming significant lenders of affordable housing and economic development ventures.

By this time, I was becoming actively involved with the American Bar Association activities. The ABA's House of Delegates had agreed to recognize housing and community development law as a distinct practice area. I was appointed to the Governing Committee of the newly created ABA Forum on Affordable Housing & Community Development Law.

These bar activities led me back to housing and economic development work. Several years after joining Lane and Mittendorf, I agreed to represent a Washington-based community development corporation and several national entities working on community development. To allow more flexibility in accepting housing and economic development clients, I decided to withdraw from Lane & Mittendorf as a partner and serve "of counsel." Although my decision caused a stir in the firm (in part because I was the only woman partner in Washington or New York) it resolved the conflict between the economic demands of a large firm and what I really wanted to do. In 1997, when Lane and Mittendorf decided to close its Washington office, I moved to the Washington office of Goodwin Procter. With over 400 attorneys and full coverage of all critical practice areas, Goodwin Procter offered a good base for a housing and economic development practice.

**RMV:** Is affordable housing and economic development law really a separate practice area?

**NLG:** Yes, this is a distinct practice area, and, as I mentioned earlier, it is recognized by the American Bar Association. The ABA Forum on Affordable Housing and Community Development Law, which I chaired for the 1997-98 term, has just under 1500 lawyers.

It should be understood that this is a multi-disciplinary practice area. In addition to real estate lawyers, the area attracts bond lawyers, tax lawyers, and public interest advocates.

**RMV:** What do lawyers in your specialization do?

**NLG:** There are two kinds of work: first, what might be called more conventional lawyering and, second, what I like to call front-line ventures. An example of the former is assisting developers in the use of low-income housing tax credits to develop affordable housing. Another is undertaking development under the HUD Hope VI Program, which

authorizes rebuilding existing public housing sites to include mixed-income housing. Although these areas are complex, they are ones in which lawyers can benefit from the economies of scale associated with ongoing client work. In other words, various government-funding programs exist, and a firm can perform repeat transactions. Also, the fees for these transactions are reasonably profitable.

**RMV:** What's different about front-line work?

**NLG:** On the front lines, there are no cookie-cutter transactions. Examples are economic development, large-scale planning for urban revitalization, initiatives to preserve affordable housing portfolios, and other housing and community development initiatives that do not fit neatly into any established program. For this work, you may need to agree with the client on a combination of a fixed fee plus *pro bono*

contribution of legal services, and it is likely you will be called on to offer creative solutions to unusual issues.

In charting new territory you need to deal with what I call "disconnects." Often, the client is totally disconnected from people in power and sources of help. In most cases, you sail through uncharted waters. No one has written the rules. Neither has anyone established how you access the resources necessary to get the job done. Most importantly, these are often ventures that are not neatly repeated in cookie-cutter fashion.

*"Often, the client is totally disconnected from people in power and sources of help. In most cases, you sail through uncharted waters."*

– N. Linda Goldstein '78

**RMV:** What is an example of front-line work?

**NLG:** A good example is my work in the Anacostia area of southeast Washington, DC. Separated from the rest of the District of Columbia by the Anacostia River, Anacostia is home to our Capital City's lowest income residents. In the 1960s, much of the city's public housing was relocated to Anacostia, largely destroying what had been a vibrant community. Very little effort had been undertaken in the past 30 years to revitalize the Anacostia area. The few remaining pockets of vibrant neighborhoods in Anacostia were surrounded by severely distressed communities.

Five years ago, the Community Empowerment Initiative (CEI) of the Atlanta-based Martin Luther King, Jr. Center for Nonviolent Social Change decided to bring its mission to improve economically-distressed communities to the District of Columbia. Because I served on CEI's Advisory Committee, I was asked to assist. I met with District business leaders, who urged me to talk with the Anacostia Economic Development Corporation (AEDC). In several

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meetings with AEDC officials, I inquired about the community's most pressing needs. They said they needed "everything," including a revitalized downtown, more occupant-owned homes, a supermarket, and retail outlets. "Everything" even included a lawyer who would stay with them as long as it took to make the improvements. I began to represent them.

Soon thereafter, AEDC learned that Safeway Inc. was considering construction of a supermarket shopping center in the Anacostia community. They believed that Safeway would not build unless it could be assured that the fully-completed shopping center could be sold to investors. AEDC needed to be certain that Safeway would build in their neighborhood. CEI advised that, if the center was built, it made little sense to send its profits into the pockets of investors located outside the community. Although at the time AEDC had limited access to funds, it decided to buy the supermarket. This would ensure that Safeway would build the shopping center and that the profits from the venture would be reinvested in the Anacostia community.

Through the District of Columbia, AEDC applied to then HUD Secretary Henry Cisneros for support. AEDC was awarded a Section 108 Economic Development Initiative Grant and was advised that it could apply for a loan to cover acquisition costs. In the two-plus decades since its founding, AEDC had never before received a major U.S. government grant.

The result was that as of December 1997, AEDC owned a 100,000 square foot shopping center, which includes Safeway as the anchor tenant, two banks, numerous retail stores, a U.S. Post Office, and a police sub-station. Profits from the center, which over the years will amount to many millions of dollars, will be reinvested in future economic development ventures in Anacostia. Near this development, AEDC is building 200 new homes to sell to private owners.

Most significantly, the DC Metropolitan Police Department has reported that crime is down by over 40 percent in the area immediately surrounding the shopping center.

**RMV:** Have other communities benefited from development like the Anacostia success?

**NLG:** There are many success stories around the country due in large part to the efforts of organizations like the Enterprise Foundation, which I mentioned earlier, and numerous nonprofit and for-profit developers—all of whom could not perform successfully without the work of countless, dedicated lawyers.

**RMV:** All this shows that economic development and community housing lawyers certainly make a difference, doesn't it?

**NLG:** Yes. Without creativity and joint commitment of the public and private sectors (notably including the private-sector bar), we would see almost no change in the supply of low- and moderate-income housing. In addition, as in the Anacostia example, lawyers can be critical in making connections between community groups and people who know about or control financing.

**RMV:** Do you need a large firm to offer this counseling adequately?

**NLG:** No, but you may need to assemble lawyers with different expertise—although they needn't be in the same firm. However, it needs to be understood that the gestation period between starting a project and collecting the fee can be very long. A small firm may not have the resources to carry a number of these transactions at the same time.

**RMV:** Is it correct to imply from what you say that this is not work for *pro bono* lawyers?

**NLG:** I believe that it is demeaning to under served communities to promote this work as "*pro bono*" or "public service" work. While attorneys in my practice area may offer more flexibility in their billing than in other areas of practice, our efforts should not be confused with social work. What clients need is top-notch legal talent, and that is what we are paid to provide. This is not the province of *pro bono* legal service, which sometimes comes and goes. Occasionally, our practice area finds itself in the embarrassing position of sparring with lawyers who want to treat this kind of work as *pro bono* activity. Having said this, most lawyers in this discipline are generous with their *pro bono* time and welcome skilled *pro bono* teams that commit services to community development clients.

**RMV:** As a community lawyer of a special kind, what are your larger views about economic development and affordable housing?

**NLG:** I am generally in agreement with the conclusions in HUD's recent report on the "State of the Cities." There is a sharp increase in the number of low- and moderate-income families needing affordable housing. This shortage is concentrated not only in the cities, it also affects suburbs, small towns, and rural areas. The shortage must be addressed. Also, communities must look to stimulate business expansion and new job creation close to where low- and moderate-income people live. While we need increased resources, we also need to marshal the talent and creativity of the legal community to link available resources and accomplish meaningful community revitalization. I encourage my colleagues in the legal profession to look for opportunities to apply their skills in their own communities.

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## MAKING A DIFFERENCE: Alumni Profile

BY ROBERT M. VILES

### Richard P. Burgoon, Jr. '87 Biopharmaceutical Entrepreneur



In 1990, Richard P. Burgoon, Jr. set as his objective, becoming general counsel of a biotechnology company within ten years. In 1998, with two years to spare, he became vice president and general counsel of Arena Pharmaceuticals, a biotech start-up company located outside of San Diego, CA. Burgoon is now senior vice president, operations, general counsel and secretary for the company. Arena is a so-called "platform technology" company, founded in 1997, dedicated to discovering drugs that Arena's partners will develop for market. Arena, which at the time of the interview was still a private company, is now publicly traded on the NASDAQ under the symbol "ARNA," having raised about \$125 million in a July 2000 Initial Public Offering. Burgoon's first legal hire at Arena was another FPLC graduate, Ann Nguyen, '99.

*President Viles interviewed Burgoon for this profile on April 22, 1999 in Concord, NH.*

**RMV:** Let's start this interview with the ultimate question: what differences have you made as a biopharmaceutical lawyer, to recognize your subset of biotech practice?

**RPB:** I was fortunate to have secured patent protection for two significant biotech drugs that are now on the market, I am a co-founder of an internet business, have been appointed by the U.S. Secretary of Commerce to an advisory committee for intellectual property rights, I've become an active player in the biotechnology community.

From my perspective, however, the most enjoyable, and therefore the most important, contribution is that I have been able to help guide nearly a dozen FPLC students who have worked for me as externs during the past six years, and I have been lucky to have had the opportunity to pass on some of what I've learned over the years to three patent application preparation and prosecution classes as an FPLC adjunct professor.

**RMV:** What is biotechnology, anyway?

**RPB:** Although the traditional bright lines are now blurring, it's distinguished from the pharmaceutical industry by how drugs originate. In the traditional pharmaceutical industry, you extract compounds from sources in nature or from chemical synthesis. In biotechnology, you use the tools of molecular biology to create or discover drugs. Recombinant protein drugs are all from biotechnology, for example.

**RMV:** What's the role of a patent lawyer in biotechnology?

**RPB:** The patent lawyer is important because intellectual property protection is generally far more important in biotech than in other industries. The reason is that venture capitalists know that it may take ten years to bring a new biopharmaceutical product to market. To protect their financial interests over that period of time, they are dependent on intellectual property protection around the core technology of the company.

**RMV:** Has intellectual property protection been reliable in the biotech industry?

**RPB:** In the early 1980s, the Court of Appeals for the Federal Circuit (CAFC) decided *Hybritech*, a case which, in essence, posed the question of whether a biotech patent is effective to bar infringing competitors from destroying your business. Fortunately, the CAFC ruled for the patent assignee, *Hybritech*, against the infringer. If the court had ruled the other way, many in the industry have opined that biotech companies would not have been able to attract funding.

Proof of the significance of this ruling is that venture capital investments in biotech companies and biotech start-ups spiked shortly after the CAFC issued the *Hybritech* decision. Prior to that time, a lower amount of venture capital went into the biotech industry.

**RMV:** What has been the impact on society of the growth of biotech business?

**RPB:** Today, there is a plethora of new drugs on the market for treating horrible diseases such as B-cell lymphoma, multiple sclerosis, diabetes, and rheumatoid arthritis.

**RMV:** How does the U.S. biotechnology compare with biotechnology in the rest of the world?

**RPB:** The U.S. biotechnology industry is indisputably the leader. I suspect that this will continue to be the case well into the twenty-first century because of a variety of facts: limited government intervention in the creation of the industry; an educational infrastructure that is the envy of the world; and, above all, societal admiration for entrepreneurs, both scientific and financial. It takes a lot of grit for a scientist to take a significant career risk by working in this industry, and it takes incredible discipline for financial investors to risk millions of dollars in funding these companies. Even with the potential for great rewards, the risks are simply too great for most people. These features are direct by-products of the U.S. pioneer spirit.

Connected within this is a very favorable U.S. patent system that places innovation above politics. The climate for innovation is different elsewhere. For example, in Europe one cannot patent a transgenic animal and, indeed, under the European patent systems political groups have opposed these patents for political reasons. While they debate, we invent. Venture capital supports innovation, not political discourse. Fortunately for society and the industry, however, Europe is now recognizing that the brain drain and money drain out of Europe will stop moving in the direction of the U.S. only when the politicians get out of the way. Slowly but surely Europe will have a biotechnology industry on a par with that of the U.S.

**RMV:** Are you aware of other industries in which patents have played such a critical part in attracting venture capital?

**RPB:** No. The hot area now, Internet commerce, is a contrast. It doesn't necessarily depend on patents. Even without patents, it's easy to make big multiples from your initial investment, which are what investors generally want. This was formerly true of biotechnology. Now the requirement of working in a regulated regime is bringing reality to biotech stock prices. It is very hard to get a drug approved by the

FDA [Food and Drug Administration]. With biotechnology, the returns can be big, but they take a long time. With the Internet the returns can come big and fast.

**RMV:** In biotechnology does it take different or greater skills to practice patent law successfully?

**RPB:** This is an area that by definition requires strategic foresight in preparing the applications and prosecuting the claims. Pharmaceuticals are unique because different kinds of legal protection are available. An obvious kind is patent protection. Not as obvious is data exclusivity under the Hatch-Waxman Act. You receive five years of exclusivity for your supporting clinical data starting from the date of approval of a new chemical entity. During this period you're

protected from generic competition. Other ways of protection include orphan drug and pediatric drug classification. Comparable sorts of exclusivity are available in other countries.

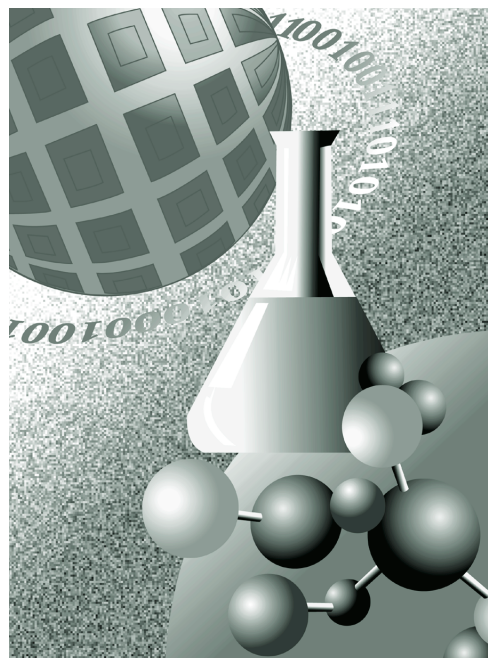
**RMV:** How does the requirement of strategic foresight affect the way you practice patent law?

**RPB:** You must prepare patent applications with an appreciation that they will be scrutinized from a business perspective and that the chances for litigation are very high. You must be comfortable with investors' due diligence review. The importance of the business side was not always recognized. In the early days of the biotech industry, there was an incredible emphasis on scientific

skill. Most companies insisted that their patent practitioners had PhDs in molecular biology.

The emphasis on scientific qualifications started with the Patent and Trademark Office (PTO). When I sat for the patent agent's examination, a bachelor's degree in biology wasn't sufficient for admission to the patent bar. Biology, according to the PTO in the mid-80s, was not a rigorous science. This was nearly a full decade after the biotechnology industry started!

As a consequence, chemists in the PTO were examining biotech patent applications. At the same time law firms were hiring PhDs in molecular biology who had relatively little experience as lawyers. It was the practice to employ them and then send them to law school. They were good on the technical side but not always on the legal side. Opinion letters were quite often drafted with incredible attention to the science and little attention to the law.





While there were no problems with the technical adequacy of the applications, sometimes there was no understanding how it fit within the business side of the client-company. What you had were a lot of neat ideas that were technically exquisite but had little chance to succeed in a business context. Multi-million dollar decisions were often based on these applications. The trouble was, when it came to litigation or scrutiny by big companies, the analysis was a legal analysis, not a scientific one; these lawsuits are decided by housewives and gym teachers who sit on the jury, not by panels of PhDs.

Particularly in the biotech industry, you must draft a patent application as a legal document, not a technical document. If you don't, you risk trouble. In one recent case, different ways were used to define the technology involved. One narrow definition was used in prosecuting the patent application. Another, broader definition was used in litigation. The Court of Appeals for the Federal Circuit ruled that you can't do that legally although it may make sense technically. Instead you must use the same definition throughout.

The patent lawyer must understand the entire rubric in which the patent will be used. It's not just protecting the invention and making it look pretty. The invention must fit in the business context. Because it can literally cost at least \$100 million to bring a biopharmaceutical to market, there is no other industry in which the stakes are so high. A mistake made early on can have unbelievable consequences a decade out.

**RMV:** From what you say, is the lesson that you shouldn't hire a patent lawyer on the basis of technical proficiency alone?

**RPB:** Speaking as one who has a 15-year-old BS in biology, I have to agree! In all seriousness, I know many PhD lawyers who are excellent attorneys, but I know many more that in my opinion should have stayed in the lab. These folks think like scientists, not lawyers. Like it or not, scientists and lawyers are trained to address problems differently. The last thing you want is for a scientist to solve

a legal problem or, for that matter, a lawyer to solve a scientific problem. When you hire a lawyer, you are hiring a lawyer, not a scientist. The lawyer needs to understand the science, but that does not require being a scientist. Executives within the industry are slowly starting to realize this. Therefore I think that there's a trend to employ lawyers with more legal experience.

**RMV:** How did you get started in biotechnology with only a bachelor's degree in biology at a time when the expectation was a PhD?

**RPB:** My first employer, Lyon & Lyon in Los Angeles, needed so many lawyers for litigation support that I assume that they overlooked my lack of advanced degrees. And, besides, "BS" doesn't just mean bachelor of science!

**RMV:** You graduated from FPLC before it became well known as an intellectual property school. Was it difficult getting a job on the West Coast at that time?

**RPB:** A majority of the partners at Lyon & Lyon had never heard of the school. They wanted to know whether it was accredited. They did know Judge Pauline Newman, however. I had externed with Judge Newman at the CAFC while I was at FPLC.

**RMV:** What from your legal education (besides your externship with Judge Newman) prepared you for practice?

**RPB:** A majority of my non-IP courses were business courses. The phrase "win-win," which I first heard in the Contracts course I had with you, wasn't something that many licensing lawyers really seemed interested in acknowledging when I began practicing law. The business people who were their clients believed in and understood the need for win-win contracts, but the lawyers practiced win-semi-lose in drafting licensing contracts. Coming from a win-win environment made it easier for me to talk with business people.

**RMV:** What did you do in your first in-house job?

**RPB:** It was with Beckman Instruments. I was lucky in that I was allowed to work as staff attorney for two operational groups, bioanalytical systems and diagnostic systems. The assignment gave me a lot of opportunity to draft patents in

*"...no litigator or partner ever felt as much satisfaction as I have by being part of several teams that have discovered drugs that are saving lives or improving lives."*

– Richard P. Burgoon, Jr. '87

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two technical areas, straight chemistry and some recombinant DNA. The breadth of this experience served me well later. It also introduced me into the biotech industry.

**RMV:** What did it mean to be introduced into the biotech industry?

**RPB:** It's a very small and tight industry and difficult to enter. Going back to our earlier discussion, without the advanced degree, the only door-opening opportunity for me was in-house experience plus lots of patent applications under my belt. But once you're inside, you're part of it and become a tradable player. As a consequence, you don't know whom you will be associating with in the future. Today's technological rival may be tomorrow's business ally. So the concept of win-win applies here as well.

**RMV:** As a player, where did you go next?

**RPB:** I had the opportunity to become patent counsel with IDEC Pharmaceuticals, a biotech company in San Diego. The great benefit to me professionally in joining IDEC was that I learned first-hand how biotechnology executives think and talk. IDEC is a "technology-based" company, meaning that it focused on a specific technology and applied the technology to different diseases. For IDEC, the technology involved therapeutic antibodies, including one that it now markets for the treatment of B-cell lymphoma. A secondary benefit was that the biopharmaceutical industry in the early days was heavily focused on antibodies, so joining IDEC was a great way to learn the roots of the industry. I stayed there two years, then moved to Cephalon in Pennsylvania as senior director and patent counsel. Cephalon did many different things in biotechnology. Unlike IDEC, Cephalon is a "disease-based" company, meaning that it focuses on specific diseases and utilizes any technology that may be useful in the treatment of the diseases. For Cephalon the disease focus is neurological disorders, such as narcolepsy. Cephalon has a product on the market for this disease. In this respect, Cephalon afforded much broader experience than IDEC, including a chance to learn about the interplay between regulatory and patent law. I was there for four years.

**RMV:** Why did you move to your present position as general counsel?

**RPB:** I suppose that at some level the entrepreneur inside me recognized that moss was beginning to grow around my feet and that it was time to take a risk and transfer out of my comfort zone of patent lawyering and into a general practitioner zone. I therefore moved to a general practice law firm

with the intention of trading my patent experience for more corporate experience. No sooner had I started work for the law firm than Arena asked me to be general counsel. Arena is an excellent example of how close-knit the biotechnology community can be in that one of the co-founders of Arena was also a co-founder of Cephalon. Another Arena co-founder was senior vice president of worldwide business development for Cephalon.

Getting inside the industry is one thing; making a mark is another. You are indeed known by reputation in this community, and executives in the industry tend to have very long memories for both good and bad reputations. I suppose I did something right by these folks when I was at Cephalon.

Very few start-ups hire an in-house attorney as early as Arena did. One reason that I was hired is that I had done a lot with Cephalon on business development. Arena hired me to wear a variety of different hats. That's what makes the job fun. For example, in conjunction with several other Arena officers and employees, I am a co-founder of an e-commerce company. It will be a free-standing business in another month and, we hope, go public within 12 months. I've never done anything like this before.

**RMV:** It strikes me that you are unusual for a patent lawyer. Is that true?

**RPB:** Well, when he hired me, the chief operating officer at Cephalon told me I wasn't a typical patent attorney. I see patent law as a means to an end. The end is access into an entrepreneurial environment and to playing on that field. You've got to have an entrepreneurial spirit to thrive in biotech. I suppose that the money is easier in patent litigation or that job security is more assured as a partner of a law firm or in a large corporation, but, believe me, no litigator or partner ever felt as much satisfaction as I have by being part of several teams that have discovered drugs that are saving lives or improving lives. When you see a product on the market that has a patent number on the label, a patent that you helped to secure, it beats by a very long shot seeing a case in a report with your name on it. When you get the chance as a lawyer to really be a part of helping in the growth of several companies, indeed to be a co-founder of a new company, there is a unique satisfaction that money can't buy. If that makes me an unusual patent attorney, well, I plead guilty with pleasure.



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# REPORT FROM A RUSSIAN COPYRIGHT CONFERENCE

BY ADJUNCT PROFESSOR GLEN M. SECOR

FROM FEBRUARY 5-9 OF THIS YEAR, I HAD THE PLEASURE AND PRIVILEGE OF REPRESENTING FRANKLIN PIERCE LAW CENTER AT THE INTERNATIONAL COPYRIGHT IN CULTURE MANAGEMENT, PUBLISHING, AND ELECTRONIC EDITIONS CONFERENCE IN ST. PETERSBURG, RUSSIA. The conference, which took place at the Nabokov Museum, was sponsored by the City of St. Petersburg, the Open Society (Soros Foundation), CEC International Partners, the Nabokov Museum, and the Consulate General of the United States.

The program was balanced with Russian and American presenters, including representatives of St. Petersburg State University, Cardozo Law School, the National Gallery of Art (U.S.), the State Hermitage Museum (Russia), Emory University Law School, several Russian law firms and publishing companies, and, of course, FPLC. The audience, which numbered around 100 people each day, was comprised of Russian lawyers, publishers, media company representatives, librarians, students, museum personnel, and others. Each presentation was translated into English or Russian and language differences posed no barrier to spirited exchanges between presenters and audience members. Indeed, the enthusiasm of the Russian attendees was one of the most striking and rewarding aspects of the conference.

The conference itself was part of a larger effort called the Copyright Monitoring Program, which is designed to increase awareness of and respect for copyright protection in Russian society. In addition to the conference, the program has included a survey on copyright practices and attitudes towards copyright protection among Russian publishers and arts organizations. The survey was conducted by Gallup, and I have placed a copy of the survey report on reserve in the library at FPLC. The Copyright Monitoring Program has also produced an informational website ([www.copyright-monitoring.ru](http://www.copyright-monitoring.ru)).

The whole idea of intellectual property protection in Russia seems a bit surreal under current circumstances. The transition from a centralized economy to a market economy has been difficult. People are still getting used to the idea of private ownership of property and intellectual property seems like an abstract concept to many. Political and economic realities, including

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a general shortage of money and a relatively impotent legal/judicial system, make the enforcement of intellectual property rights seem like a quaint but remote idea. Yet, there is a recognition, at least among the people involved in the Copyright Monitoring Program, that basic intellectual property protections must exist if Russian copyright industries are to develop and if Russia is to fully participate in the world economy.

The organizers and attendees of the conference obviously wanted to learn about the American perspective on copyright protection, especially in terms of copyright in the digital world. We do have a much longer tradition of intellectual property protection in the U.S. and we are much more wired, Internet-wise, than is Russia. But some of the Russian presenters and audience members expressed concern about a wholesale adoption of the Western copyright model in Russia, feeling that our approach to copyright law places too much control in the hands of the copyright owner. And they believe that copyright policy should not focus merely on cracking down on piracy, but instead must help to encourage legitimate distribution channels as a viable alternative to the black market.

The conference was also very much a learning experience for the American speakers. We heard some excellent presentations on Russian copyright law and the practices of Russian publishers and arts organizations. I also had the opportunity to speak one-on-one with Russian attorneys about the challenges they face in representing their clients in Russian courts and with Russian publishers looking to get involved in foreign rights trading and electronic publishing. In general, I found the people to be warm and fascinating.

Of the six American speakers, five were sponsored by CEC International, a private agency, and I was sponsored by the U.S. Consulate. My State Department hosts arranged for me to give lectures on the days I was not speaking at the conference. On one of those days, we traveled to Novgorod, one of the oldest and most historic Russian cities, where we met with a group of university professors. On the other day away from the conference, I gave a lecture to students, faculty, librarians, and publishers at the National Library in St. Petersburg. This schedule left me with little time for sightseeing, but I thoroughly enjoyed the opportunity to speak with the groups in Novgorod and at the National Library. As is, I was able to squeeze in brief visits to the Russian Museum and the Hermitage, both of which were breathtaking.

St. Petersburg is a beautiful city, even in the winter, and I cannot wait to go back. But as much as I liked the city, what impressed me most during my time there was the character of the people I met. Russia is in terrible shape economically and people are having to make do with very little. St. Petersburg was not dangerous or threatening, despite reports I'd read beforehand of rampant crime. But this is nonetheless a very difficult time in Russia and many of its institutions are still trying to make the transition from the Soviet control model. Yet, the people I met were incredibly positive and eager to push ahead. There is a very literate, very well-educated culture. And, as one American who has lived in Russia off and on over the past two decades noted over dinner one evening, the Russian people have persevered through much worse than the current situation.

This was a wonderful experience for me and I look forward to maintaining the friendships made during a cold week in February.

*View of St. Petersburg*



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**CLIENT SNAPSHOTS:**

# My Summer at Pine Tree Legal Assistance

BY SUZANNE F. SAUNDERS '01

Imagine that you live in the poorest part of your state. It is rich in rural amenities; clean water and fresh air. It's a place where you can actually see an endangered species in its natural habitat. You can't get out much however, because you are disabled. You depend on a monthly social security check to make ends meet but your rent is more than the monthly check. So, you live on credit cards. Your daily life consists of harassing phone calls from creditors, threatening your children if you do not pay your debt in full. This is not all you have to worry about. Your benefits may be reduced or terminated and you can't even get a security deposit back from another creditor because they know you are poor and illiterate.

What would your life be like if you were the young mother of four girls and your husband beat you in front of them? This isn't the first incident of violence, mind you. You are uneducated and haven't ever really worked (because your husband wouldn't let you) but you finally leave him and live in a shelter.

Perhaps you live in a trailer and rent the land it is on. You get behind in rent because you are diagnosed with a brain tumor. Not only is your life in the balance but your home is threatened by an eviction proceeding. While you are in surgery, your landlord kicks in your door, urinates on your floor and steals everything you own. Already feeling vulnerable, you are afraid your landlord will come after you.

Unfortunately, the above scenarios are not fictional. They are snapshots into the lives of some of the clients I served this summer while interning at Pine Tree Legal Assistance, Inc. in Down East, Maine. I have been visiting this place all of my life and know how disadvantaged many of the people who live there are. I feel Down East, Maine is the most beautiful place on earth with its jagged coastline and the salmon colored sunsets. I get so much joy living there that I want the residents who live there to feel good too. By virtue of its natural beauty, I feel compelled to give back to the Down East community by helping the poor with their legal problems.

How would you feel if a young mother thanked you for helping her get custody of her son back from relatives by merely drafting a Revocable Power of Attorney? It's a good feeling to know that you made a difference in a person's life

or in a community at large. Pine Tree's presence was felt by many this summer and made the difference between justice and injustice for many citizens who would not have had legal representation without Pine Tree's services. My client, who survived brain surgery, won a Protection from Harassment case against her landlord and was awarded monetary damages. Another client was refunded her \$400.00 security deposit and her landlord's unlawful collection tactics were reported to a state agency. On behalf of a battered wife, I sought and obtained a Protection from Abuse Order and assisted her in obtaining an uncontested divorce. My clients felt vindicated, empowered and hopeful as a result of the legal advice and representation I provided them with Pine Tree Legal Assistance.

My legal education was enriched immeasurably by my summer at Pine Tree Legal Assistance. Without the Public Interest Coalition (PIC) Fellowship I received from Franklin Pierce Law Center, I would not have been financially able to serve these needy clients. The availability of FPLC's PIC fellowships allows law students to serve under represented people, inspiring in these clients, faith and confidence in our justice system.

*Saunders now works full-time at Pine Tree Legal Assistance in Machias, ME. She is practicing law in the county where her family has practiced law for the past 200 years, most recently her grandfather, Don H. Saunders. Her great grandfather, Hubert Elijah Saunders, sat as a judge in the Machias Municipal Court. She was the recipient of the Lexis Public Interest Coalition Fellowship for the summer of 2000.*

*Lexis has again funded a full student fellowship for the summer of 2001. This year's recipient is Rosemary Wiant, FPLC '03, who will work for the New Hampshire Disabilities Rights Center. Law firms, individuals or businesses interested in sponsoring future PIC fellowships may contact Brigitte Siff Holmes, director of Community Lawyering, Franklin Pierce Law Center.*



**F**ELLOW CLASSMATES ROBERT VEIGA AND MARK SISTI ARE AMONG FRANKLIN PIERCE LAW CENTER'S EARLY GRADUATES. In 1979, they left the Law Center to pursue their legal careers. While both share a deep commitment to ensuring that the United States justice system represents all it was created to serve, their chosen areas of practice place them at opposing counsel tables. Assistant United States Attorney Robert Veiga devotes his time to prosecuting criminals and holding them responsible for their actions, while defense attorney Mark Sisti dedicates his career to defending the accused, no matter how severe the crime. This article takes a look at the law from both sides, and from their very personal perspectives.

## PROSECUTION AND DEFENSE: THE BALANCE OF JUSTICE A Look at the Law from Both Sides





*"I view my role to be not only a prosecutor, but to protect individual rights. Our government functions on the basis of checks and balances, so a prosecutor is often called upon to exercise discretion as a check on police power to protect the rights of the individual."*

*—Robert Veiga '79,  
Assistant United States Attorney, Concord, NH*

**I**N APRIL, ASSISTANT UNITED STATES ATTORNEY ROBERT VEIGA '79 SAT DOWN IN THE OFFICE OF DIRECTOR OF DEVELOPMENT TERRY CROMWELL '79 TO TALK ABOUT WHERE LIFE HAS TAKEN HIM SINCE HE LEFT FRANKLIN PIERCE LAW CENTER. IN THE 25 YEARS SINCE GRADUATION, VEIGA HAS HELD ONLY TWO POSITIONS — A CAREER PATH SO STRAIGHT, IT WOULD LEAD ONE TO BELIEVE IT WAS PLANNED, RATHER THAN SERENDIPITOUS.

A native, of Lowell, MA, Veiga, age 47, graduated in 1976 from Tufts University, Boston, with a BA in history and a focus in economics. After college, jobs were scarce during the Jimmy Carter years, and Veiga opted to go to law school and wait out the poor job market. He says he chose Franklin Pierce because, it offered a unique environment in which to learn the law and because "I liked New Hampshire. It seemed like a good place to raise a family."

Veiga and Mark Sisti enrolled at FPLC in 1976. Veiga recalled, "From the beginning, Sisti's mindset was criminal defense oriented and my mindset was oriented to the prosecution side."

"I never really planned on being a practicing attorney. Most of my courses in law school were tax courses, sort of an extension of my interest in economics. I never intended to take the bar. My friends at FPLC urged me to take the bar so I acquiesced, and passed." Recently married and in need of a job to pay school loans, Veiga applied for jobs at six small law firms, a judicial clerkship, and for a position as a prosecutor at the Hillsborough County Attorney's Office.

"I didn't really know how to be a trial lawyer coming right out of law school," says Veiga. "I had the building blocks, but didn't know the mechanics, and felt that if I was going to be a practicing attorney, I needed to feel

*Robert Veiga '79, page 18*



*"I want to go to my death, knowing that I never took a second of someone's liberty away from them."*

*-Mark Sisti '79, Criminal Defense Attorney,  
Twomey & Sisti, Concord, NH*

**M**ARK SISTI'S CAREER AS A CRIMINAL DEFENSE ATTORNEY CAN BE SUMMED UP IN ONE SENTENCE, "I DON'T TURN ANYBODY DOWN." FOR MORE THAN 20 YEARS SISTI HAS DEFENDED MURDERERS, RAPISTS, SEX OFFENDERS AND THIEVES. "I TAKE EVERYONE. I THINK THEY DESERVE IT," SAYS SISTI.

Born in Buffalo, NY, Sisti, age 46, spent his early years in Baltimore, MD and Buffalo. While in high school, he worked at a gas station and trained to be a mechanic. He went on to learn welding and later worked full-time as an ironworker while attending Canisius College in Buffalo.

"It was a good experience, and I was able to earn good money to pay for college. I wasn't real serious about going to any school, much less law school, until I started seeing some people getting severely injured. I realized how dangerous ironwork could be. My decision at that point was, I am really going to concentrate on school, because I don't want to be an ironworker."

Four months after graduating in 1976 with a BA degree in English from Canisius College, Sisti enrolled at Franklin Pierce Law Center. "I had other options, such as St. Louis and Ohio, but I visited New Hampshire and liked it, and decided on Franklin Pierce," explains Sisti.

As a student, Sisti gained experience both in and out of law school that helped to prepare him for his career as a defense attorney. He participated in the Civil Practice Clinic which at the time was known as the Family and Housing Law Clinic. Professor James Duggan, now associate justice of the New Hampshire Supreme Court and the late Professor Bruce E. Friedman taught the classroom component. Sisti also took criminal procedure and federal courts from Duggan.

"We were really lucky," says Sisti. "Duggan was a teacher and he was kind of a contemporary. He was not much older than us. He was a great inspiration, especially

*Mark Sisti '79, page 19*



**Robert Veiga '79***cont'd from page 16*

comfortable in the courtroom. So I took the job in the Hillsborough County Attorney's Office because I felt it would be a good training ground. At the interview, I was asked what I knew about criminal law, and I said, "not as much as I should." The response was, 'that's OK, we'll teach you,' and they did."

To his credit, Veiga had taken criminal procedure courses offered by Professors Joseph Dickinson and James Duggan. He had also taken an evidence course and audited a course on criminal law. Veiga began work at the Hillsborough County Attorney's Office on January 2, 1980, a position he held for over a decade.

Reminiscing about his early days at Hillsborough County, Veiga explained his first trial case was a DWI. "I wasn't in the office more than a few hours when another assistant county attorney came in with a DWI case, and asked me to handle it. I asked what I should do with it, and was told that jury selection would begin at 2 p.m. One of my colleagues at the County Attorney's Office looked in on me and asked if I had ever picked a jury before. Of course I hadn't, so he stayed to help me with the selection. Then I was on my own and I remember the judge just screaming at me for what seemed like an eternity. But it was a very good experience, which I learned a great deal from and won the case in the process. To a great degree, I learned my craft on the job. I also learned that the practice of law at that level was often at a frenetic pace. The Hillsborough County Attorney's Office turned out to be a wonderful experience because of the extensive courtroom training and experience and the opportunity to establish myself in the profession."

"In 1991, I tried my first felony case before Judge Souter, now United States Supreme Court Justice Souter. It involved a man who stole a bulldozer and I had a difficult time establishing that this particular bulldozer belonged to the victim. As it turned out, she was able to identify the machinery by a tear on the seat cushion and the defendant was convicted. At sentencing, I recommended a term of incarceration in the House of Corrections because the man had just gotten married and had a new baby on the way. I remember that the court was not happy with my recommendation and asked why I hadn't asked for a state prison sentence. After a lengthy explanation and a brief recess,

Judge Souter adopted the recommendation I had made."

While both the United States Attorney's Office and the Hillsborough County Attorney's Office are prosecution offices, they are very different according to Veiga. "Most of the violent crimes are handled in the county courts," says Veiga. "That is where you see most of the truly horrible crimes which can be difficult cases to deal with on an emotional level, particularly child abuse cases. It continues to amaze me that some people have no qualms about victimizing innocent children." While working for the Hillsborough County Attorney's Office, Veiga handled cases ranging from negligent homicides, rapes, abductions, assaults, robberies, drug cases and child abuse cases including sexual and physical assaults. A case involving the rape of a female jogger from Milford still remains vivid in Veiga's memory.

According to Veiga, "The teenage victim was kid-

napped from the roadside and taken to a desolate area where she was raped repeatedly. The jury did not seem to fully appreciate the gravity of the charges until they viewed the crime scene, located deep in the woods, off remote logging roads. The jury was taken to the general vicinity by bus, and then by four-wheel drive vehicles which we had standing-by. When they got out of the vehicles and up to the site, there was absolute dead silence. Obviously that view had a

huge impact on the jury, and the seriousness which continued throughout the trial."

Violent crimes impact not only the victims, but also their immediate family members. "It takes a long time to heal those kinds of emotional wounds," says Veiga. "Victims are notified of parole hearings and have the option to appear, and usually they do. Child molestation cases are by far the worst, not only because of the age of the child, which I have had as young as three, but also because of all of the problems attendant in demonstrating that a witness of such a tender age is competent to testify."

Veiga recalled a case involving a vicious assault against an eleven-day-old child. "The female victim was a normal healthy baby girl whose brain was almost completely destroyed because of violent shaking by the defendant. However, she remained alive for several years after the assault, bedridden and unable to speak, or see or even swallow food. She lived her life as a spirit trapped in her own useless body. It is particularly sad when you consider that she should have had a normal, healthy life. It was a difficult case to prove but the defendant was ultimately found guilty and thanks to the extended term of imprisonment

*"It continues to amaze me that some people have no qualms about victimizing innocent children."*

– Robert Veiga '79

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**Mark Sisti '79**

*cont'd from page 17*

for the Public Defender Program. I don't think anyone who came out of the Public Defender's Office could have been untouched or not influenced by him. He has always been a teacher. And ultimately he will be a teacher as a judge."

Like so many early graduates, Sisti worked full-time while in law school during his second and third years. He worked as a ward attendant on swing shift from 3–11 PM in the maximum-security ward of New Hampshire Hospital when its roster totaled nearly 1500 patients.

"This is an extreme example about learning about people in extreme situations," says Sisti. "It was a tremendous education. Everything you do with people prepares you. If you want to sit back and learn, you can learn doing anything. I worked with folks that were literally brought in from the street, screaming, yelling, and psychotic."

After graduation Sisti joined the New Hampshire Public Defender's Office in Rockingham County. He had considered an offer with the Public Defenders Office in Washington, DC, as well as one to teach at the University of Melbourne, Australia. While enrolled in a master of forensic science program, Sisti opted to stay in the Granite State. He worked with a caseload of over 80, and was in court within six days after joining the Public Defender's Office. According to Sisti, his first case was a probable cause hearing involving a 16-count burglary case in Portsmouth. He fought the case successfully and won, much to his surprise.

Two years later, he was transferred to the Merrimack County Public Defender's Office and in 1982 was named to the Homicide Defense Project with his future partner, Paul Twomey. "I was trying murder cases three years out of law school," says Sisti, "Things moved fast back then. We began defending folks throughout the state that were charged with murders. We must have had over 100 murder cases," Sisti explains. "From 1986 to 1988, I was the deputy director of the Public Defender Program, and also doing homicide."

"I gained a great deal of experience during those six years working for the New Hampshire Public Defender's Office. Twomey and I appeared in district and superior courts, hundred of times," says Sisti, "and got to know peo-

ple throughout the state. I gained an appreciation of New Hampshire and how things work here."

In the 1980s, Sisti augmented his defense expertise by attending the National Course of Criminal Defense in Houston, TX. "It was intense training in criminal defense. Well-known criminal defense attorneys, such as Gerry Spence and Richard "Racehorse" Haynes, were there. The faculty was excellent. It was serious law."

While attending the classes in Houston, Sisti had the opportunity to meet public defenders from around the country. "I learned how public defender offices in other states operated

and saw how well New Hampshire's office operated. It is definitely among the upper echelon."

Sisti and Paul Twomey founded their private practice in 1988, opening their first office in Chichester. They now have four offices located statewide in Chichester, Lancaster, Portsmouth and Manchester, with six attorneys. Alumnus Leonard Harden '93 works out of the Lancaster office.

"Most of the work we do impacts people at the lower levels. I don't know if we impact the community as much when we are working on high-profile cases. I didn't realize at first how much I was affecting the lives of people as much as I do...like in smaller district court cases where you rep-

resent kids, they are free to go on with their lives. Sometimes, these trials, that are not public, are more important," says Sisti.

In 1991, Sisti served as lead defense attorney in the trial of the *State v. Pamela Smart*. A teacher at Winnacunnet High School in Rye, NH, Smart was accused and later convicted of accomplice to first-degree murder of her husband. Sisti believes that the media had a significant impact on that trial. It was one of the first trials in the state and county to have been televised live from beginning to end.

"When I started trying cases in 1979 and the early 1980s, there were no cameras in the courtroom. There was an unbelievable amount of dignity in the courtroom and in courtroom settings. The other extreme would be the Pamela Smart case which was televised from beginning to end," explains Sisti. "Television made a tremendous difference. People behave differently when they are on TV, it's live, it's real time. The questions is, 'Is it better or worse?' 'Is

*"When I started trying cases in 1979 and the early 1980s, there were no cameras in the courtroom. There was an unbelievable amount of dignity in the courtroom and in courtroom settings. . . Television made a tremendous difference. People behave differently when they are on TV, it's live, it's real time."*

– Mark Sisti '79

*Mark Sisti '79, page 20*

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**Robert Veiga '79**  
*cont'd from page 18*

statute, served a lengthy sentence. Unfortunately, it was a small price to pay for the destruction of this child's potential and ultimately her life," says Veiga.

In August 1990, Veiga assumed a position as Assistant United States Attorney for the United States Department of Justice, District of New Hampshire. During the last ten years, he has worked on cases involving organized crime, tax fraud, drug conspiracies, bankruptcy and bank fraud, firearms and immigration violations, kidnappings, robberies and child pornography. While some of his colleagues have chosen to specialize, Veiga has chosen not to and has won numerous convictions.

"My concept of victory is doing justice," says Veiga. "That can mean obtaining a conviction by plea or verdict, by recommending a sentence that is fair and reasonable under the circumstances or even by entering a dismissal of a pending charge where the circumstances dictate that is appropriate. A conviction by plea is generally the most expedient option in reaching these goals because the guilt of the wrongdoer is assured, the sentence is generally reasonable and satisfactory to both sides and the opportunity for appeal is limited, thereby conserving prosecutorial and judicial resources."

"The thing that disappoints me most about the legal system is the apparent lack of knowledge on the part of the general public, as to how it works. People often have misconceptions about how cases are resolved and what the plea process is really all about," explains Veiga. "The public does not often appear to understand what goes into an investigation of a case, the trial of a case or the resolution of a case. Moreover, while the media could play an important role in educating the public about these issues, in my opinion it often tends to sensationalize a case. Instead, there has been an increase in trial reporting by the television media. I am not a proponent of television cameras in the courtroom. I believe that cameras in the courtroom could reasonably be expected to affect the demeanor and substance of witness testimony, thus potentially affecting the outcome of the trial."

Over the years, Veiga has argued cases against fellow Law Center alumni Mark Sisti '79, Ray Raimo '78, and Rodkey Craighead '79, among others. All were members of the first classes that attended Franklin Pierce Law Center, the first to take a chance on a new renegade law school in New Hampshire.

For students interested in criminal law today, Veiga recommends they seek work in the offices of the attorney general, county attorney or district attorney. "You don't have to stay for ten years like I did," says Veiga. "Get a couple of trials under your belt. Have the experience of making your law school training work in a trial setting. Develop a good working relationship with other members of

the bar, court clerks and judges around the state and by all means establish and preserve your credibility."

"I never really thought about being a lawyer as a way to get rich. I've stayed with prosecution work because it's a way to give back to the community. I have been blessed with a sound family life, excellent educational opportunities and some lucky breaks along the way to get where I am and I figure I owe society for that. To serve the public in this way is a great honor."

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*Robert Veiga and his wife, Jane, have three children, Brent, age 18, Justin, age 15, and Kristen, age 13.*

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**Mark Sisti '79**  
*cont'd from page 19*

it different? It is not the same. You wonder whether or not the attention being spent on being televised or recorded is attention that should be spent on telling the truth and being accurate," says Sisti.

"Are we giving these answers because they look good? Are we giving these answers because they are truthful, or are we giving these answers because these are the ones the media expects, or will be shocking or stunning to the public," continues Sisti.

"Media generates attention. It's not so much the merit of the case. Any murder case can be made into a spectacular event. People have no interest in a case where two guys that are poor get in a fight, and one guy dies," says Sisti. "I think cameras in the courtroom are distracting. This is not entertainment. Anyone who has been a witness in a criminal trial knows this. There are no cameras in federal court, the quality of justice is just fine," says Sisti. "If you want to come in and watch, it's fine, or if you want to come in to report on it, that's fine too."

Sisti's advice to current students interested in criminal defense work is, "Go to court. It's the only way to learn. To build a defense, you have to be flexible. Every case is different. If there is one thing you learn, it is not to do it all the same."

Sisti plans to continue his career in criminal defense for many years to come. "I was trained as a public defender. We never turned anyone down...ever. The most despicable people in the world, people you don't want to be affiliated with in any shape or form, certainly deserve a fair trial," says Sisti. "When defense attorneys become judgmental to the point where we pick and choose our clients, I think we are in trouble."

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*Sisti and his wife, Jane, live on a farm in Gilmanton Iron Works. He has six children, Emma, 21, Anna, 19, Corinne, 16, Grace, 12, Salvatore, 11, and Vincenzo, 6.*

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# INTELLECTUAL ASSET MANAGEMENT: EXPLAINED & EXPANDED

SEATED AT DESKS WITHIN COMPANIES AND ORGANIZATIONS RESTS THE MOST VALUABLE AND, FOR THE MOST PART, UNTAPPED WEALTH—THEIR OWN EMPLOYEES. Traditionally, the terms intellectual assets, intangible assets, or intellectual capital were used to refer to the legally defined category of intellectual property. Today, however, organizations of all sizes and in all industries appreciate the value of employee brainpower, knowledge, and innovation processes as intellectual assets. Organizations that appreciate the value-adding, maximizing effect of their intellectual assets stand to gain a competitive advantage that only management of such assets will yield.

Limiting the definition of intellectual assets to intellectual property, per se, ignores a virtual treasure chest of organizational knowledge and employee brainpower. These assets are in their own right valuable business assets, that can be capitalized if properly managed. At the least, such assets should be seen as the “raw materials” from which intellectual property is made. Hence, fundamental business management principles would entail the management of such assets, if for no reason but to maximize the generation of intellectual property. Fundamental business management principles entail the management of organizational knowledge and employee brainpower, in their definition as “raw materials,” to maximize the generation of intellectual property (IP).

More and more organizations recognize that, in addition to management of intellectual property, they need to manage the specialized knowledge in their databases, practices, and the heads of their employees. This is because organizations in the “new economy” are increasingly faced with the challenge of producing a high turnover of innovation—a challenge that organizations soon realized cannot be effectively tackled by the traditional business management approaches.

Initially, organizations thought encouraging employees to innovate would be easy. “Don’t control. Lead,” became the new axiom in business management and a variety of solutions appeared. The idea was to give more than mere lip service to the slogan “people are our best assets” and create a culture of sharing and collaboration. By following that paradigm, organizations hoped that innovation would soar. But organizations soon discovered that there is more to innovation than “incentive programs,” “communities of practice,” and “idea banks.”

Organizations found that to have a high “turnover” of innovation, traditional management and organizational structures had to change. That’s how the question of organization innovation made its way to the CEO’s desk. There, innovation was realized as more than a value to be encouraged, but should rather be developed as a systematic way of doing business and be managed as a production process. But why was innovation suddenly so important? Hadn’t it existed from the dawn of humankind? And why were innovation processes and practices increasingly determining an organization’s competitive strength? The simple answer is, “It’s the new economy.”

The “new economy” is a knowledge economy where “accumulation and use of intellectual capital resulted in it being the basis for commercial success,” (Granstrand, 1997) and where “innovation endows resources with a new capacity to create wealth.” (Drucker, 1993).

With this new economy, does it follow that we should have a new way of business management? This is a valid question that some writers have addressed, arguing that the new knowledge economy created a paradigm shift in business management from the industrial-based organization to the knowledge-based organization. (See Sveiby, 1997. Arthur, 1999) But even before this question was thoroughly debated, let alone settled, a variety of Intellectual Asset Management, IAM services and products were offered in the United States and other developed economies. Further, major corporations that span a variety of industries (e.g. Dow Chemical, Coca-Cola, Skandia, Arthur Andersen, BP and Lucent) have developed and/or changed their management systems and structures to manage intellectual assets, some with initiatives going back to the late 1980s.

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So what is IAM? Is it a collection of practices, procedures and applications that deal with intellectual assets? Or is it a business management approach? Defined narrowly, IAM covers any set of procedures and practices that aim to maximize the value added or extracted from any type of intellectual assets, be it knowledge, innovation or IP. However, according to the preferred definition of IAM, adopted by its proponents as a field/discipline, IAM is a total business management approach that manages intellectual assets throughout the whole enterprise or organization for maximum value extraction (Kahn, 1998. Bellis & Schroeder, 2000. Rouse, 2000).

I wish I could say that there is a consensus as to the “preferred” definition among those involved or interested in the field of IAM, namely intellectual property lawyers and professionals, and business managers and consultants. However, as any emerging field, IAM suffers from lack of consensus as to definitions and as to the best practices that should be employed. Despite this lack of consensus and the modest literature on the topic, there is no dispute whatsoever as to the significance of IAM for driving business development and growth. Indeed, IAM is presented by some as the ideal business management approach for the new knowledge economy where organizations need to innovate and outsmart each other to maintain a competitive advantage.

One would think that with such broad definitions and optimistic promises IAM services and/or models provide complete solutions to management problems. But contrary to expectation, almost all of the IAM models and approaches developed to date fail to deliver. This is because such models (with the exception of total models developed by a handful of major corporations) are “restrictive,” “incremental” or “accumulative.” Restrictive approaches limit IAM activities to management of one form of intellectual assets, mainly IP, or even to one form of IP, and then complement their approach with piecemeal processes. Incremental approaches divide IAM into separate and isolated functions that are scattered through R&D, legal and business departments. On the other hand, accumulative approaches attempt to combine the efforts of the various departments in the incremental approach by opening communication channels between them. (Al-Ali, 2000)

### **CIAM™—Creating a New Approach**

Through intensive research and in depth study of IAM in the context of business management and development, I have concluded that only a definition of IAM as a total business management approach can deliver the promises that IAM proponents make. Adopting such a methodology, I developed a comprehensive IAM approach, that I call CIAM™, Comprehensive Intellectual Asset Management. CIAM defines IAM as a system for the “management of intellectual assets at every step on the chain or process of their development, and according to the strategic goals that can be

achieved from managing each of the different types of intellectual assets (knowledge, innovation or IP)” (Al-Ali, 2000).

For the purposes of CIAM, I categorized intellectual assets according to their function under three groups:

**Raw materials:** the intellectual resources that are used to formulate a prototype of a new product/service. These are public knowledge resources, organizational knowledge and employee brainpower.

**Production processes:** comprises all the innovation processes, practices and systems employed by the organization to transform the prototype into a marketable end product.

**Competitive tools:** comprises all the intellectual property that an organization owns or controls, which can be used strategically to gain a competitive advantage or generate more revenue.

The CIAM approach manages the three groups of intellectual assets through three stages: knowledge management, innovation management and IP management. (Though Knowledge Management can be claimed to be an independent discipline, I see it as a component of comprehensive IAM). Incorporated into the three components of CIAM are a variety of the practices, tools and applications developed in the United States and on the Internet under the banner of IAM. However, the CIAM approach does not merely make sense of scattered information on IAM, or tidy up a messy landscape of IAM services and practices. It offers a model of IAM that uses available tools and practices with a sharp focus on desired, strategic objectives.

CIAM is, at best, a generic model that should be customized to the needs of each organization depending on its industry/business strategy. That being said, the CIAM approach is a necessary tool that enables an organization to address all its IAM needs in the process of strategic planning. A comprehensive approach, CIAM also deals with how to change organizational and management structures for effective IAM. But most importantly, CIAM attempts to unify the scattered, albeit haphazard, knowledge on IAM into a meaningful and applicable business strategy for the new knowledge economy.

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*Adjunct Professor Nermien Al-Ali is currently writing a book on intellectual asset management. Her career as a research scholar began at Franklin Pierce Law Center in January 2000. Through extensive research on the emerging field of intellectual asset management, Professor Al-Ali also designed, and currently teaches, a course on IAM, as a business management approach for the management of human capital, knowledge and intellectual property in the new economy. It is the first course of its kind to be offered at a US law school.*



## New Hampshire Supreme Court Associate Justice James E. Duggan Addresses Graduating Class

New Hampshire Supreme Court Associate Justice James E. Duggan addressed the graduating class of 2001 at commencement ceremonies held on May 19. Faculty and student presentations were given by Professor Susan Richey and by Jason Schwent of Saint Louis, MO.

The Law Center awarded 119 Juris Doctor (JD) degrees, 53 Master of Laws in Intellectual Property (LLM) degrees, 24 Master of Intellectual Property (MIP) degrees, 19 joint Juris Doctor/Master of Intellectual Property (JD/MIP) degrees, one joint Juris Doctor/Master of Education Law (JD/MEL) degree, and one Master of Education Law (MEL) degree.

Former director of the Appellate Defender Program and interim dean, Duggan served on the Law Center faculty from 1977 to 2000. Prior to his appointment to the New Hampshire Supreme Court in January 2001, he was selected "Outstanding Teacher of the Year" by the members of the Class of 2001.

Duggan was instrumental in the growth of the school in its early years. His work was crucial in developing the criminal law program. He taught a variety of courses, including criminal procedure, federal courts, appellate advocacy, appellate practice clinic, state constitutional law, and community

lawyering. He served as the Law Center's interim dean from 1997-1999.

A long-term member of the New Hampshire Bar Association's Board of Governors, he founded its criminal justice section. He was elected to the American Academy of Appellate Lawyers in 1993. In 1991, he was named Merrimack County "Lawyer of the Year" and elected to the American College of Trial Lawyers Association. He previously served as chair of the New Hampshire Board of Claims, as a New Hampshire bar examiner and as a board member of the New Hampshire Bar Foundation. He supervised production of the *Annual Survey of New Hampshire Law*, a legal publication entirely researched and written by Law Center students.



*Pictured here at Commencement 2001, Dean John D. Hutson, left, with Associate Justice James E. Duggan, former director of the Law Center's Appellate Defender Program. Justice Duggan was appointed to the New Hampshire Supreme Court in January 2001.*

## Law Center Appoints New Vice Dean

Keith M. Harrison, associate professor of law and former associate dean for academic affairs at the University of Denver, College of Law, Denver, CO, assumed the position of vice dean of Franklin Pierce Law Center, effective July 1.

Author, lecturer and criminal law expert, Harrison brings extensive experience in academic administration. During his

decade long career at Denver, he also served as president of the Faculty Senate. He taught courses in criminal law, criminal procedure, street law, legal ethics, immigration law, race and the law, military criminal law, and interviewing counseling and negotiation.

Harrison was a visiting faculty member at both Hamline University School of Law and Syracuse

University School of Law, and was a clinical teaching fellow at Antioch School of Law in 1985. He served as lieutenant and judge advocate in the United States Coast Guard from 1981-1985. He earned his JD in 1981 from the University of Chicago and BA from St. John's College, Santa Fe, NM in 1977.



## Law Center Student Teresa Zaino Receives Prestigious IP Award



Recent Franklin Pierce Law Center graduate Teresa A. Zaino has been selected as the national winner of the prestigious 2001 Jan Jancin Memorial Award for her outstanding contributions as a law student to the intellectual property profession. The award is presented by the National Council of Intellectual Property Law Associations (NCIPLA), the American Bar Association Section on Intellectual Property Law (ABA/IPL), and the American Intellectual Property Law Association (AIPLA).

Zaino received her juris doctor degree at commencement ceremonies held in May 2001, and holds an MA degree in nuclear engineering from the University of Virginia. Zaino is also a graduate of the United States Merchant Marine Academy, Kings Point, NY, where she earned a degree in Marine Engineering Systems, a U.S. coast Guard merchant mariner's license, and a commission in the U.S. Naval Reserve.

While at the Law Center, she served as student

editor of the *Germeshausen Newsletter*, the Law Center's intellectual property law newsletter, published by the Kenneth J. Germeshausen Center for the Law of Innovation and Entrepreneurship. She served as a student representative on the Law Center's Admissions Committee, and is a member of the ABA and the AIPLA. She is the author of several papers on the American Inventors Protection Act, and a critical analysis of the *Magill* decision.

Zaino maintains a career as an engineering duty officer in the U.S. Naval Reserve. She was recently promoted to the rank of commander. As a naval officer, CDR, Zaino provides engineering and programmatic support to the Naval Sea Systems Command Headquarters, Washington, D.C. She has served in many previous positions, most recently as executive officer of the Portsmouth Naval Shipyard Headquarters unit, Portsmouth, NH.

The Jan Jancin Award is named after the late Jan Jancin, in honor of his lifetime of achievements in the field of intellectual property law, as well as his contributions to the intellectual property bar, the American Bar Association's Intellectual Property Law Section, the American Intellectual Property Law Association (AIPLA) and the National Council of the Intellectual Property Association (NCIPLA).

## Intellectual Property Summer Programs Go to China

The Law Center's internationally renowned Intellectual Property Summer Institute (IPSI) will be taught next year at Tsinghua University in Beijing, China, as well as in Concord. According to Professor William O. Hennessey, director of graduate programs, the first IPSI program in China will be offered from June 10-July 13, 2002. Participating faculty members include Professors Hennessey, Bing Wang and Zhenmin Wang of Tsinghua. Professor Bing Wang is enrolled in the LLM program at the Law Center. Professor Zhenmin Wang is currently a Fulbright Scholar at Harvard Law School. Three courses will be offered, International and Comparative IP Law and Institutions, Introduction to Chinese Intellectual Property Law and

Institutions, and The Chinese Legal System. Professor Hennessey will also teach "World Trade and World Intellectual Property Law" based on his new casebook in international intellectual property law, to be published by Mathew Bender later this year. The program, for which ABA accreditation is being sought, will be open to JD students from law schools around the United States.

The cooperative program was formally announced this past winter when Law Center Dean John Hutson and Wang Baoshu, dean of Tsinghua University School of Law, signed a formal cooperation agreement to establish the summer program for U.S. and Chinese law students to begin in 2002.

The FPLC-Tsinghua

association began in 1997 when the late Professor Bruce E. Friedman initiated the creation of a legal clinic at the University. In 1998, Professor William Hennessey was a Fulbright senior lecturer at Tsinghua and has supervised a cooperative program with Tsinghua since 1999, made possible through a United States Information Agency grant supporting faculty exchanges.

Faculty and students will visit the State Intellectual Property Office, the Trademark Office, the Copyright Office, the Haidian District Court IP Section, Beijing Intermediate Court IP Section, Supreme People's Court-IP Section, Zhongguancun High-tech Special Economic Zone, and Tsinghua University Science Park.

## Law Center Faculty Assist with New Hampshire Advance Care Planning Guide

Law Center Professor Mitchell Simon recently participated in a project undertaken by the New Hampshire Partnership for End-of-Life Care to prepare a new *Advance Care Planning Guide*. The *Guide* is designed to help individuals make and document health care choices before an accident or illness prevents them from doing so.

“With advancing technology, the number of choices and the number of decisions individuals have to make has increased tremendously,” says Professor Mitchell Simon, senior scholar at the Law Center. “As a matter of law, the only way you can control your end-of-life care is by executing advance directives.”

Professor Simon and law student Patricia Lenz '01 conducted an extensive review of advance directive documents and their use in all 50 states before advising the New Hampshire Partnership for End-of-Life Care on the revision of the state's current *Advance Directives in New Hampshire*, written over a decade ago.

“I've been involved in situations where people hadn't taken the time to plan for their health care, and it places their families in horribly difficult situations,” explains Simon. “I think it's incumbent upon all of us who want to control end-of-life care to make it legal and to provide clarity for families as to what our wishes are.”

## Education Law Institute Focuses on Assessment and Internet Issues

Assessment and the Internet in education will be at the forefront of this year's Eighth Annual Education Law Institute. The four-day legal education forum will be held in Concord from July 23–26, and at the University of Maryland, College Park, MD, from October 7–10.

According to Professor Sarah Redfield, director of the Law Center's education law programs, this year's presentations and workshops will include topics relating to special education, education adequacy, testing, and Internet responsibility and ownership.

Among this year's key speakers are: Marvin Johnson, Esq. of the ACLU; Michael Rebell, Esq., Campaign for Fiscal Equity; Julie Underwood, Esq., National School Boards Association; David Sciarra, executive director of the Education Law Center; and



Jeremy Williams, Esq., deputy general counsel, Warner Brothers. Institute programs are designed for teachers, principals, superintendents, special education administrators, and lawyers.

Sponsors include Franklin Pierce Law Center, New Hampshire–National Education Association, the New Hampshire Association of School Principals, and the New Hampshire School Boards Association. All programs are endorsed by the New Hampshire Education Association and are eligible for continuing education credit. For additional information, please e-mail Sarah Redfield at [sredfield@fplc.edu](mailto:sredfield@fplc.edu)

## Cornerstone Campaign Raises Funds For F. Dane Buck, Jr. Building

A capital campaign to raise funds for the new F. Dane Buck, Jr. Building began officially in April. The new 16,000 square foot addition to the Law Center will house a new “smart classroom,” the clinics, and additional offices.

According to Director of Development Terrence G. Cromwell '79, “The focus of the Cornerstone Campaign is to offer opportunities for alumni and friends to “reserve” space in the new facilities for commemorative plaques to be placed at the desks in the classrooms. It is also a chance for many alumni who remember and loved Dane, to honor his memory in a most appropriate manner.”

Completion of the building is expected in the fall.



The F. Dane Buck building, a 16,000 square foot addition, is nearing completion. It is scheduled to open in the fall.

# A LUMNI NEWS

BY DENISE WESTER, ALUMNI DIRECTOR

Since you last received *The Advocate*, the Alumni and Development team has made it a priority to be more active in reaching out, staying in contact and listening to concerns and suggestions from alumni and friends. We appreciate all your efforts to keep in touch and hope that you will continue to contact us whenever you need our help or have a suggestion to improve alumni programs.

During the last few months, alumni receptions were held at various locations across the country. In February, a reception was held in Miami, FL, and in March, Peter Braun '79 hosted a reception at the firm of McDermott, Will & Emery in Boston, MA. In April, Maria Nutile '88 of Snell & Wilmer, Phoenix, AZ, hosted an alumni reception at their firm. In May, two events took place in California.

On May 7, John Griffith '97 and Michael Molano of Sonnenschein, Nath & Rosenthal, along with the Law Center, co-hosted an alumni gathering at the San Francisco Marriott during the International Trademark Association Conference. On May 9, Rick Burgoon, Jr. '87 and Ann Nguyen '99 hosted an alumni event at the corporate office of Arena Pharmaceuticals in San Diego, CA.

On June 15, Lewis Gersh '96 and Kathleen Gribschaw Gersh '96 of New York, NY, hosted a reception in their home. We would like to thank all of these alumni for their hospitality and graciousness in generously giving of their time and resources to make these events a success.



*Pictured above, Trustee Lewis Gersh '96 (center) and his wife Kathleen Gribschaw Gersh '96 with Joseph Barrett '96 at the Greater New York Area alumni reception. The Gershs hosted the reception at their home in Manhattan.*

We are currently planning Reunion Weekend 2001, which will be held on September 21–22. It promises to be a fun-filled event and a great time to reconnect with fellow classmates.

The Alumni & Development Office is working closely with Career Services and Admissions to tap the knowledge of our graduates. We know that you, as alumni, are our ambassadors and greatest resource. You are in the position to be mentors, teachers, employers and advisors to upcoming students and graduates. (Please note Patricia White's article on inside back cover.) If you wish to give of your time or resources, please contact us. The knowledge that you share will be invaluable to all.

In closing, please keep in touch. Let us know when you move or change jobs. By keeping us informed of your current address, we will be able to keep you updated on alumni receptions and send you Law Center news and publications.

It's always great to hear from you.

Denise Wester

*Alumni Director*

[dweste@fplc.edu](mailto:dweste@fplc.edu)

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*Denise Wester, former assistant to the director of development, was appointed alumni director in March 2001. Former Alumni Director Nancy Brooks resigned to become a full-time mother. She and her husband Stephen have a new little boy, Andrew Paul.*

## CLASS ACTIONS

### 1970s

**Janet Vail '76** is director of community lending for Citigroup's Center for Community Development Enterprise, Washington, DC.

**John H. Metz '77** was sworn in as president for a two-year term of the Hamilton County Trial Lawyers Association in Cincinnati, OH in April 2001.

**Samuel Der-Yeghiayan '78** was appointed an immigration judge in December 2000. He joins the ranks of more than 200 immigration judges in 52 Immigration Courts throughout the United States. Prior to his appointment, he served as district counsel for the Chicago District of the INS. In 1998, he received the Frank J. McGarr award for "Outstanding Government Attorney of the Year." He is a member of the Illinois Bar and the U.S. Supreme Court.

**Christopher Wood '78** has moved his law practice, C.W. Wood & Associates, PC to 301 Howars St., 19th Floor, San Francisco, CA 94105.

### 1980s

**Elizabeth Williams-Stivers '83** is an employment lawyer for Unum Provident Corporation, Portland, ME.

**Richard Uchida '84**, Concord, NH, was recently named Merrimack County

"Lawyer of the Year" by the Merrimack County Bar Association.

**Mary Ellen Goggin '86** has been appointed of counsel with Benesch, Friedlander, Copland & Aronoff, LLP, Cleveland, OH. She specializes in mergers, acquisitions, and general corporate matters.



*Mary Ellen Goggin '86*

**Timothy P. Gurshin '86** joined the New Hampshire Public Defender Program as a staff attorney in the Laconia office.

**Joseph Borsellino '87**, Newton, MA, recently received the Crispus Attucks Community Award, presented annually by the Boston Equal Rights League. The award recognizes outstanding community service.

**Kenneth J. Hale '87** is a loan officer with Great Stone Mortgage, Dover, NH.

**Stephen R. Christian '88** is senior counsel at Bechtel BWXT Idaho, INEEL, Idaho Falls, ID.

**Cynthia Chandley '89** has joined Ryley, Carlock & Applewhite, Phoenix, AZ.

### 1990s

**Robert Axenfeld '91** joined Gaines & Boisbrun, a full service intellectual property firm with offices in Texas and Pennsylvania. He is a principal in the Pennsylvania office.

**Christine Friedman '91** has established the law firm of Mallory & Friedman, PLLC, Concord, NH. She specializes in trial advocacy and alternative dispute resolution.

**John R. Posthumus '91** has joined LeBoeuf, Lamb, Greene & MacRae, LLP, Denver, CO.

**Brendon King '92** has entered private practice in Boston, MA.

**Lauren Paul '92**, a freelance writer, authored a feature article on Internet shopping that was published in *Fortune* magazine's Technology Guide, Winter 2001.

**Shelley Montgomery Santry '92** recently joined the Jefferson County Attorney's office, Louisville, KY, where she will prosecute domestic violence cases.

**Kathleen Chapman '93** serves as director of legal services and staff counsel for Heartly House, Inc., a nonprofit agency serving survivors and victims of domestic violence. She is a member of the executive committee of the Frederick County Bar Association and is a fellow in the Maryland State Bar Association.

**Lorraine Hitz-Bradley '93** is supervising attorney for employment discrimination at the Indiana Civil Rights Commission, Indianapolis, IN.

**Joy McCoy '93** is a partner with Mc Nerney, Page, Vanderlin & Hall, Williamsport, PA, where she practices family law.

**Robert J. Worrall '93** has joined the law firm of Arnold & Porter, Washington, DC.

**Julie R. Cohen '94** has become a member of Shebitz, Berman & Cohen, New York, NY, specializing in education, employment, labor, commercial and constitutional law and litigation.

**Daniel Duckett '94** and **James V. Ferro, Jr. '94** have joined the Manchester, NH, law firm of Wiggin & Nourie.

**Donald J. Perreault '94** and **Scott R. Faber '94** have joined Hayes, Soloway, Hennessey, Grossman & Hage, PC, Manchester, NH

**Jeffrey Collins '95**, Lexington, MA, is a legislative analyst and assistant general counsel for the Massachusetts House of Representatives Joint Committee on Commerce and Labor.

**Scott Joseph '95** is an associate of the law firm of Seegel, Lipshutz & Wilchins, PC, Wellesley, MA. He specializes in corporate, real estate, and estate planning.



**Crista Niemann '95** is working as a claims analyst with American International Group (AIG Insurance) in the Fidelity bond department, New York, NY.

**Doug Russell '95** is a principal, along with his wife, Gail, in the intellectual property law firm of Taylor, Russell & Russell, PC, Austin, TX.

**Rob Gorman '96** is currently working as a U.S. patent counsel for CIBA Vision, a unit of Novartis, Duluth, GA.

**Scott Asmus '97** of the Nashua, NH law firm of Maine & Asmus, has been appointed chair of the intellectual property law section of the New Hampshire Bar Association.

**Miguel De Puy '97** is head of the intellectual property department of Morgan & Morgan, Panama City, Republic of Panama.

**David A. Donet, Jr. '97** recently accepted a position with Thornton, Davis & Fein, P.A., Miami, FL. The firm handles complex commercial litigation, products liability and aviation law.

**Jeffrey Huter JD/MIP '97** recently accepted a position with Intel, Phoenix, AZ.

**Brendan King '97** opened a private, general litigation law practice in Boston, MA, in October 2000, where he specializes in criminal and juvenile law.

**Michel Rose '97** has accepted a position with the Whirlpool Corporation, Benton Harbor, MI.

**Lillian Lai '98** recently accepted an associate position with Kirkland & Ellis, Los Angeles, CA, handling intellectual property litigation.

**Terrence M. Brennan '99** has accepted a position with Sonnenschein Nath & Rosenthal, Washington, DC.

**Eric Conard '99** has joined the Alaska law firm of William F. Tull & Associates, specializing in bankruptcy, domestic relations and civil litigation.

**William J. Edwards '99** has joined Wiggin & Nourie P.A., Manchester, NH.

**Sonali Gunawardhana '99** has joined the U.S. Patent & Trademark Office as a trademark attorney advisor in Arlington, VA.

**Edward J. Hendrick Jr. '99** was named senior vice president for technology commercialization for Science Applications International Corporation, San Diego, CA.

**Robert Scheffel '99** has accepted a position with Dorsey & Whitney, Denver, CO.

**Nancy Tayebi '99** is an attorney with the National Association of Securities Dealers Regulation, NY, NY.

**Christopher J. Voci '99** has joined the intellectual property law firm of Rader, Fishman & Grauer, PLLC, as an associate in the firm's Bloomfield Hills, MI, office.

## 2000s

**Kevin M. Drucker '00** has joined the Tucson, AZ office of the law firm of Hayes, Soloway, Hennessey, Grossman & Hage, PC.

**Franciscus Ladejola-Diaba '00** is now an associate at Fish & Neave, New York, NY.

**James Laboe '00** has accepted an associate position in the litigation department of Arent, Fox, Kintner, Plotkin & Kahn, PLLC in Washington, DC.

**Andrew Schuman '00** has become a local activist in Bowling Green, OH, fighting to ban smoking in public places.

**Jeffrey Placker '01** has joined Hayes, Soloway, Hennessey, Grossman and Hage, PC, Manchester, NH.

**Linda Spiller '01** has accepted a position as attorney editor with West Group, Rochester, NY.

## BIRTHS

**Earl Duval '92** and wife, Charlene; Hope Margaret Drake, January 8, 2001.

**Mary Jane Wilmoth '92;** Anissa, December 4, 2000.

**Christine Carvalho '93** and husband, Mark Traphagen; Ian Carvalho Traphagen, October 6, 1999.

**Joy McCoy '93;** Abigail Lynn, February 4, 2000.

**Scott Joseph '95** and wife, Shelley; Hailey Bea, February 22, 2001.

**Thomas Cawley '96** wife, Judey; Mary Kate, November 8, 2000.

**Ramin Aghevli '97** and wife, Carolynne; Ariana Elizabeth, January 16, 2001.

**Jeffrey Huter JD/MIP '97** and wife Trudy; Kayla Noel, December 21, 2000.

**Bill Shaw '98** and wife, Sarah; Taylor Kathryn, October 18, 2000.

**Nicole Uzee '99** and **Michael Whitehead '00;** Michael, Jr., September 25, 2000.

**Eui Hoon Lee MIP '99** and wife Jessica; Hannah, May 23, 2001.

## MARRIAGES

**M. Kristin Spath '85** to Thomas J. Piper in Danbury, NH.

## IN MEMORIAM

**Emily C. Mills '85,** Mooresville, IN.

**Michael Novack '93,** Westport, CT.

# areer Services

BY PATRICIA WHITE, ASSOCIATE DIRECTOR OF CAREER SERVICES

## The Career Services Office/ Alumni Connection: A Key Partnership

Law Center alumni and Career Services staff can work together in numerous ways to achieve common goals. From letting a student know just what the day-to-day practice of law is really like to sharing stories of how they got their first legal job, alumni are in a position to give students invaluable information.

Why should alumni volunteer their time, a most precious resource in today's over-committed schedules, to help law students? As FPLC graduates, we all have an interest in improving the quality of the Law Center's programs and in contributing to the enhancement of the school's reputation. As recognition of the quality and unique attributes of the Law Center continues to grow, we all benefit. By participating in Career Services programs, alumni contribute to the professional development of their soon-to-be colleagues in ways that academic programs simply cannot.

Success of many of the programs offered by the Career Services Office is dependent upon the time and effort that has been so freely given by alumni over the years. A brief overview of some of our programs and services demonstrates just how valuable alumni participation can be:

### Exploring Legal Careers Forum

This is an excellent opportunity for students to conduct an informational interview with attorneys who practice in their area(s) of interest. We have been fortunate to have more than 30 volunteer attorneys participate in the Forum each year, representing practice areas as diverse as patent prosecution and public interest law.

### Interview Skills Program

Alumni take on the role of hiring partner and conduct mock job interviews with students. After the interview, the attorney provides a critique of the student's performance, with positive feedback, as well as suggestions for improvement.

### Life as a First Year Associate Panel

Recent graduates share those "things I wish I'd known" with students in an informal setting.

### Alternative Legal Careers Forum

Alumni who have discovered life beyond working in a firm come on campus to speak with students about their diverse career paths, from administrative officers to lobbyists to contracts managers.

### E-Advisor Program

Career Services maintains a list of alumni who have volunteered to serve as mentors, via e-mail, for our students. Students are matched with alumni who practice in their particular area of interest and who are available to answer questions about their practice.

In addition to participating in these types of organized programs, alumni can assist students in many other ways. Beyond the obvious hiring of a student as a clerk, extern or first year associate, alumni can also offer a student an opportunity to job shadow for a day or let them observe him or her in court. An alumnus can recommend that a colleague hire a FPLC student or can contact Career Services to let us know about an employment opportunity they have become aware of. Alumni can be a great source of advice about curriculum choices, career planning and market trends.

Examples of how alumni have helped students in their job search abound. Recent "success stories" include a student who landed her first job through a networking contact she made with a FPLC trustee whom she met at a function for a faculty member. Another student obtained a public interest position as a result of doing an externship with an alumnus in a western state. In another example, a student was introduced to an attorney by the director of an FPLC clinical program at a court hearing, and that attorney referred her to a colleague who subsequently hired her.

The Career Services staff urges students to develop professional contacts early in their law school career. Statistics show that more than 70% of jobs are found through networking. Alumni are the backbone of career development networking. But networking is not a one-way street. For those alumni interested in a lateral move or career change, the Career Services Office is here to assist you with job search strategy and employment listings. Seasoned practitioners as well as new graduates can benefit enormously by staying "connected" through the FPLC Alumni/Career Services network.

*If you would like information on volunteering in any of the Career Services programs, please contact Patricia White, associate director of Career Services, (603) 228-1541 ext. 1182 or [pwhite@fplc.edu](mailto:pwhite@fplc.edu).*



## Calendar of Events 2001

Education Law Institute	July 23–26 (Concord) October 7–10 (College Park, MD)
Reunion Weekend 2001	September 21–22
Maine Alumni Reception	October
Greater Philadelphia Alumni Reception	November



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