

VALPARAISO  UNIVERSITY
LAW

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If you read newspapers or pay attention to bloggers, you've heard this story about law schools: they are villains.

Law schools are attacked for high tuition, rising student debt, weak preparation of graduates for practice, obsession with rankings, and a host of other evils. Congress has turned its attention to law schools. So, too, have plaintiffs' lawyers.

All this may leave you with questions about what is really going on and how it all affects Valparaiso Law. The subject is complex, but I will try to answer briefly before I turn to recent news and developments.

If you dig through the many charges now being leveled at law schools, you find a recurring theme: that law students are consumers who are not being well served. This is a charge law schools have never seen before. Over the years, law schools have been criticized on many grounds—for example, failure to teach professional responsibility (in the 1970s) or skills (in the 1980s). But previous criticisms have largely been about the law school curriculum or law school contribution to the public interest. Criticism on consumer protection grounds is novel. In fact, law schools have never before been thought of as providers of a consumer service.

Here is the reason. Law schools are typically organized and operated as academic units of a university, providing post-baccalaureate education of an advanced, but still general character. This arrangement has been very good for students and society, and has produced one of the most effective and admired legal education systems in the world. For example, it has allowed law schools to focus on developing critical abilities in graduates that are central to lawyering and valuable in an array of other professional settings. Yet, as parts of universities, law schools have been sheltered from market concerns (only one accredited law school has closed in the last 50 years). For this reason, and because their missions invariably relate to serving a public interest, law schools have not had to think about their services and outcomes in consumer terms.

But now they do. So what is their response? Some critics depict law schools as not caring about consumer issues or students' economic life. This is not a fair charge. Law schools and faculties are acutely aware that legal education has become expensive and that it is now more difficult for graduates to secure good jobs. Law schools very much want to deal with these problems (to the extent within their control) and make things better for their students. But these problems are not ones that can be

solved through a quick fix.

For example, law school tuition has been rising steadily. Many factors contribute, and there is a temptation simply to assign blame—it is all too common to blame administrators (supposedly too many) or faculty (supposedly more concerned with scholarship than with teaching). But a structural cause (not unique to law schools) is that most of a school's costs are in compensation. Compensation costs steadily rise, and it is very difficult to achieve productivity increases (e.g., through larger classes) without sacrificing quality. As a result, increasing compensation costs are passed through as increases in tuition. To control the rising price of the J.D. education, it must be subsidized and, unless there is a very large endowment, the only real option is through revenue from other programs. But just as it takes time to build endowment, it takes time and a fair amount of business acumen to develop new programs and bring them to financial success. And so the problem of rising J.D. tuition cannot be solved overnight.

At Valparaiso, we saw many of the changes and stresses coming and for the past several years we have been preparing for them and assessing solutions. We still have work to do, but we are dealing with the challenges strategically. One important thing we have come to understand is that continuing success requires that we (and indeed every law school) focus on the questions, *What are the valuable services and outcomes we offer students?* and *Are we delivering them?* If we successfully respond to these questions, we will be giving students clear and compelling reasons to choose our educational and career-related services and be satisfied with them. In this way, we can respond to students' consumer-related needs and concerns. But equally important, because the valuable services and outcomes must be implementations of our mission, we will still be focusing on our mission—only now from the perspective of students' mission-related wants and needs.

As part of our thinking about value and services in the delivery of mission, we have looked carefully at our strengths. For example, we have great strength in clinics, externships, skills courses, writing courses, and practice opportunities, all of which enable us to offer a comprehensive path to practice and career. We are working to further build on our strengths through a major curriculum reform project, which will even better serve student goals and needs. We are also engaged in a comprehensive career services redesign, which will better integrate these services with the revised curriculum and with a more strategic program of alumni outreach and engagement.

There is much more to be said about the challenges to law schools and the strategic work we are pursuing. Over the next year, we will be holding a series of alumni events around the country to provide an opportunity to discuss these issues further and to strengthen our very strong alumni community. We have already held a successful event in Chicago, in early April, and will hold an event in Grand Rapids on 28 June at Meijer Gardens. Please watch for notices of dates and places of events in other cities.

Communication and Engagement

One place you can watch for notices is in our new electronic newsletter, the *Valparaiso Law*

Alumni Connection, which is distributed quarterly. The newsletter supplements my semi-annual letters and provides a venue for alumni to exchange news about achievements, career developments, personal developments, and anything else of interest. Please send your news and updates to Associate Director of Marketing **Nicole Skinner**¹ or submit them on our web site, at www.valpo.edu/law/alumni/al-news-and-events/al-share-your-news-and-updates. Please also make sure that we have your current email address so we can send you the newsletter.

I also hope you will join our alumni community on LinkedIn. We already have about 800 alumni and friends participating. It is an excellent way to find and stay connected with fellow alumni and friends of the Law School, keep abreast of developments, and share job and career opportunities.

Chicago Campus

This summer, the Law School and the University will open a Chicago campus, located in the complex owned by the Lutheran School of Theology in Hyde Park. Initially, the Law School will have a three-room suite, primarily to support our new **Immigration Clinic**, which will handle refugee and asylum cases under the supervision of new faculty member **Geoffrey Heeren**. We will also have access to classrooms and other resources for programs and initiatives. Our new Associate Dean for Faculty Development, **Jeremy Telman**², will use some of this space to host a scholarly workshop in spring 2013 for law faculty from schools in our region. We will also use the facilities for career functions and alumni events.

At the Chicago campus the University will offer three graduate degree programs: an M.B.A., a Masters of Health Administration, and a Master of Ministry Administration.

Faculty and Librarian News

There is a great deal of faculty and librarian news to report. In July, Associate Dean **Mary Persyn**³ will retire. Mary joined us in 1984, coming from Notre Dame Law School where she had served as a librarian. Over her 28 years at Valparaiso, Mary oversaw the building of our new library in Wesemann Hall and the expansion of our collection. Mary also guided the substantial growth in library services to meet the teaching, learning, research, and study needs of our students and faculty. Over the years, she has been an officer or director of many professional library associations, and a leader in Valparaiso University governance committees. Mary will continue to live in Valparaiso and, we hope, remain actively engaged in the University and Law School.

Our new Associate Dean for Library and Information Services will be **Emily Janoski-Haehlen**. Emily is currently the Associate Director for Law Library Services at Northern Kentucky University's Salmon

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P. Chase College of Law. Emily received her J.D. from Chase and her M.S.L.S. from the University of Kentucky. Her most recent publications have focused on legal research and social media.

Three other new faculty members will join us this fall. As mentioned above, **Geoffrey Heeren** will start a new immigration law clinic. Geoffrey has his J.D. from New York University and LL.M. from Georgetown. He was a Senior Attorney for the Legal Assistance Foundation of Metropolitan Chicago, handling complex immigration cases, a lecturer at the University of Chicago School of Law, and clinical teaching fellow at the Georgetown Law School.

Robert Knowles will also join us, teaching civil procedure and administrative law. Rob has his J.D. from Northwestern University School of Law where he was Coordinating Articles Editor of the Northwestern University Law Review. He has taught as a Visiting Assistant Professor at New York University and other schools. He practiced law at Covington & Burling, where, in addition to handling corporate litigation, he represented seventeen Guantánamo detainees in habeas proceedings.

David Cleveland will also join us this fall, teaching legal writing. David has his J.D. from the Georgetown Law Center and is currently a Professor of Law at Nova Southeastern University's Shepard Broad Law Center. He has published extensively in the areas of federal procedure, legal precedent, and judicial opinions.

Recently, several of our faculty members received major recognitions. **Rosalie Levinson**⁴ has been awarded the 2012 **Distinguished Faculty Award**, established by the Mabel Burchard Fischer Grant Foundation in Honor of Jack A. Hiller. The citation for Rosalie notes that:

Professor Levinson will have a lasting impact on national legal discourse through her exceptional scholarship and lecturing in the fields of constitutional law and civil rights, and on the Law School and its students through her teaching, leadership of the Honors Program and Federal Judicial Extern Program, and many other forms of exceptional service.

Also this year, the two **Michael and Dianne Swygert Law Faculty Fellows** were named. **Seymour Moskowitz**⁵ was named the Swygert Teaching Fellow. Sy has taught at the Law School for 34 years and, in his statement submitted to the selection committee, described his approach to teaching as follows:

[T]eaching is a process of communal learning. In any course, the teacher is also a student; the student is also a teacher. My role is to help students understand the world, and particularly the legal world, around them in a clearer and more analytical way. . . . Conveying knowledge is only one small part of the teacher's role; I also help students find their voice and path.

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Zachary Calo⁶ was named Swygert Research Fellow. Zachary has established himself as an internationally influential scholar at the intersection of law and religion. He has lectured and given conference presentations throughout the United States and the world. In the past few months alone he has taught a course on religious freedom to Chinese judges and scholars at Peking University and is participating in a European Union funded working group at the European University Institute in Florence. He is working on two books and serves on the editorial board of two international journals.

Another recognition came from the Governor of Indiana. In December 2011, Governor Daniels awarded **Clare Nuechterlein**⁷ the Governor's Distinguished Service Medal in recognition of her more than six years of service as Chairwoman of the Indiana State Ethics Commission.

You can read about additional awards to faculty and alumni in the forthcoming issue of the *Valparaiso Law Alumni Connection*.

Starting this summer, **Jeremy Telman** will assume the position of Associate Dean for Faculty Development. **JoEllen Lind**⁸ has served in that position for the past four years and has been highly effective in supporting our faculty's scholarly work and raising their visibility. Jeremy will continue that work and will also build our program of mentoring and supporting the professional development of junior faculty members.

As always, our faculty have been very busy with their scholarly, law reform, and other professional work. A small sampling is the following:

- **Ivan Bodensteiner**⁹ published his article, "The Risk of Complaining—Retaliation," in the *Journal of College and University Law*.
- **David Herzig**¹⁰ presented a paper, "Disregarding DOMA: The IRS' Duty to Disregard Unconstitutional Statutes," at the Seton Hall School of Law. In January, he organized a panel on "A World Without DOMA: Bankruptcy, Immigration and Tax Implications," at the Association of American Law Schools Annual Meeting. A podcast of the presentations is available at http://www.aals.org/am2012/podcasts/7_A13b_R12_DOMA_Edited.mp3.
- **Rebecca Huss**¹¹ is Chair-Elect of the Animal Law Committee of the ABA Tort, Trial and Insurance Practice Section. She was recently the featured speaker at the Animals, Ethics &

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Law Symposium held at the University of Tennessee-Knoxville.

- **Rosalie Levinson** delivered the Donahue Lecture at Suffolk Law School this spring. Her talk was, “Targeted Hate Speech and the First Amendment: How the Supreme Court Should Have Decided Snyder.” In addition, her article, “Who Will Supervise the Supervisors? Establishing Liability for Failure To Train, Supervise, or Discipline Subordinates in a Post-Iqbal/Connick World,” was recently published in the *Harvard Civil Rights/Civil Liberties Law Review*.
- **Susan Stuart**¹² published her article, “‘Hope and Despondence’: Emerging Adulthood and Higher Education’s Relationship with Its Nonviolent Mentally Ill Students,” in the *Journal of College and University Law*, and her article, “War as Metaphor and the Rule of Law in Crisis: The Lessons We Should Have Learned from the War on Drugs,” in the *Southern Illinois University Law Review*.
- **Jeremy Telman’s** article, “Intolerable Abuses: Rendition for Torture and the State Secrets Privilege,” was published in the *Alabama Law Review*, and his paper, “Non-State Actors in the Middle East: A Challenge for Rationalist Legal Theory,” will be published in the *Cornell International Law Journal*.
- **Linda Whitton**¹³ was a featured speaker at the Elder Law Colloquium sponsored by the National Health Law and Policy Resource Center at University of Iowa College of Law. In March she presented a paper, “Guardian Decision-Making Standards: Theory, Reality, and a Proposal for Reform,” at the annual meeting of the Elder Law Committee of the American College of Trust and Estate Counsel in Miami.

Student News

Our students continue to take leadership positions in the ABA’s Law Student Division. **Bryan Rogers** (’13), who was Seventh Circuit Governor this year, was recently elected Law Student Division Representative to the ABA Board of Governors. **Katrina Castillo** (’14), who was a Seventh Circuit Vice Governor this year, has been elected Seventh Circuit Governor for the coming year. Six of our first- and second-year students have been appointed Vice Governors for the Seventh Circuit. Our students also continue to have leadership positions in the National Black Law Students Association. **Whitney Kenner** (’13) is the National Secretary of NBLSA and **Rasheeda Armstrong** (’14) is a Subregional Director.

We have an extensive student advocacy program, with three organizations—**Moot Court Society**, **International Moot Court**, and **Trial Advocacy**—fielding teams in twenty competitions this past year. Teams and individual competitors did very well. Among the successes were Best Oralists Awards to **Ebonee Dawson** (’13) in the Professional Responsibility Moot Court Competition and to **Lakeisha Murdaugh** (’12) in the Dominick L. Gabrielli National Family Law Moot Court Competition, and the

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Best Direct Examination Award to **Kyle Bruett ('12)** in the National Trial Advocacy Competition. A team consisting of **Matthew Heiting ('13)**, **Wendy Mejia ('12)**, **Megan Leffelman ('13)**, and **Benjamin Waite ('13)** reached the semifinals in the Monroe E. Price International Media Law Moot Court Competition in Oxford, England.

At the beginning of January, we opened a new student lounge in Wesemann Hall. As many of you will remember, the old lounge was long and narrow, with limited seating and limited space and functionality for food service. As part of a reconfiguration of the first floor, we created a new student lounge and café with twice the seating capacity of the old one. The café has a full kitchen, operated by University Dining Services, providing meals, coffee, and snacks from 7 a.m. to 3 p.m. The lounge is open as a study space whenever the building is open. We also constructed a plaza just outside the lounge, which will allow students to eat and study al fresco in nice weather.

Conferences and Lectures

Next year, we have a remarkable schedule of conferences and lectures. Our **Seegers Lecturer**, on 29 November, will be **Brian Leiter**, the Karl N. Llewellyn Professor of Jurisprudence and Director, Center for Law, Philosophy, and Human Values at the University of Chicago Law School. Our **Tabor Lecturer** will be **Steven Lubet**, the Edna B. and Ednyfed H. Williams Memorial Professor of Law at Northwestern University. The **Indiana Supreme Court Lecturer** will be Indiana Supreme Court Justice **Frank Sullivan**, who as of this fall will be a Professor at the Indiana University Robert H. McKinney School of Law. Our **Martin Luther King, Jr. Day Speaker** will be **Karen Freeman-Wilson**, formerly Indiana Attorney General and currently Mayor of Gary. And our **Monsanto Lecturer** will be **Martha Chamallas**, the Robert H. Lynn Professor of Law at the Ohio State University Moritz College of Law. The dates of these lectures will be announced in the fall.

On 9 November we will hold our annual conference. This year the subject is *Exploding Prison Populations and Drug Offenders: Rethinking State Drug Sentencing*. Our keynote speaker will be **Randall Kennedy**, the Michael R. Klein Professor of Law at Harvard University. There will be an extensive group of speakers from academia, government, and practice. I hope you will be able to attend.

For updated information on our conferences and lectures, please check our web site, www.valpo.edu/law, which provides a full calendar of events and activities in the Law School.

Conclusion

In my opening comments, I discussed the stresses all law schools are under and how we are responding to them. As you can see from this letter, from my prior letters, and from other communications, Valparaiso Law is remarkably strong and innovative and well positioned to deal with these stresses. Because of the talent and commitment of our faculty, staff, alumni, students and friends, we are today a thriving community and we look forward to an even more exciting and influential future. I cherish your partnership.

Very truly yours,

A handwritten signature in black ink, appearing to read "Jay Conison". The signature is fluid and cursive, with a prominent initial "J" and a long, sweeping underline.

Jay Conison
Dean and Professor