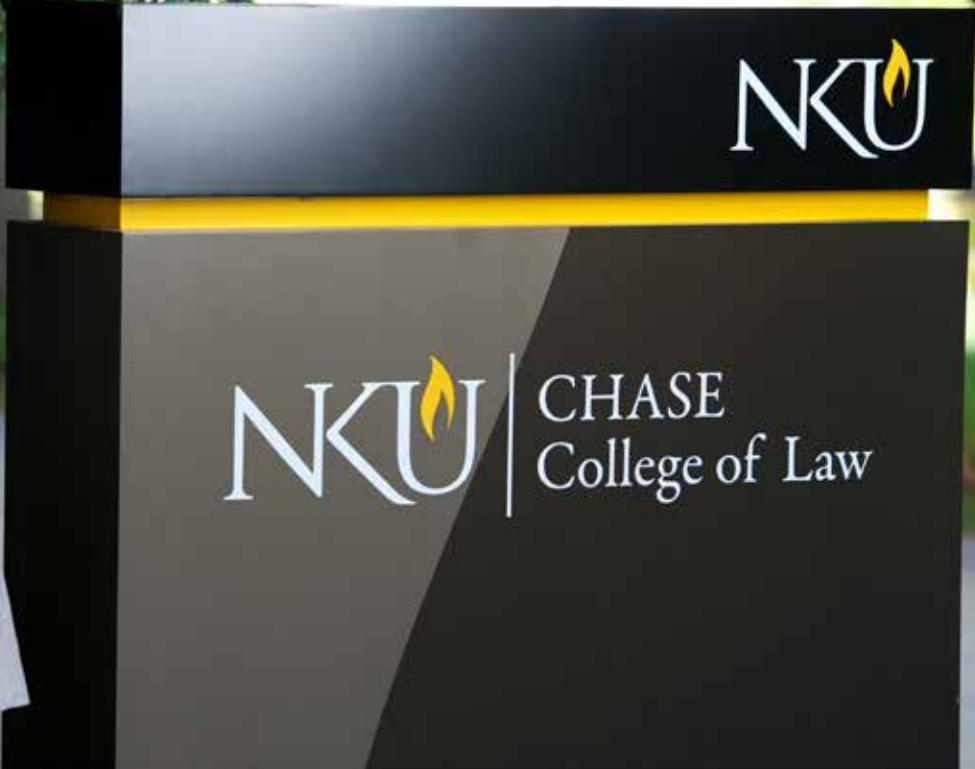


CHASE

BEGINNINGS

Dean Judith Daar looks ahead with a new perspective as Chase enters the new decade

2020



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CHASE

NKU SALMON P. CHASE
COLLEGE OF LAW
NORTHERN KENTUCKY UNIVERSITY

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COMPETITIONS

Trial Team Caps Autumn Contests with Repeat Victory

A Chase College of Law trial team won the Kentucky Mock Trial Competition this past autumn, defeating other Kentucky law schools for the second year in a row. A second team at the competition at Louisville advanced to a semifinal round. The Kentucky performances followed a strong outing by another team in a competition in New York state.

“With the performance of these two Kentucky teams and the Chase team advancing to the quarterfinals in the Buffalo Niagara Mock Trial Competition, the mock trial team has had a very good semester,” Professor Jack Harrison, team coordinator, says.

The winning Kentucky team of students Brianna Fuqua, Brittany Ellis, Christy Hiance and Chelsea Himes won every judge’s ballot in every round. It was coached by Ryan Dowdy ’03, Nick

Hunt ’17, Jesse Taylor ’17 and Sheree Weichold ’19, a member of the winning team the previous year. The other team of students Michael Caligaris, Keegan Facemire, Natalie Rausch and Rachel Specht that advanced to the semifinal round of competition was coached by Mark Gerano ’14, Del Weldon ’08, Ian Mitchell ’13, Zac Anderson ’17 and Robert Lotz ’19.

In the Buffalo Niagara Mock Trial Competition, the team of students Rachel Wilhite, Matthew Smallwood, Addison Thompson and Caroline Herald advanced from a field of about forty law schools to a round of sixteen schools. Team coaches were Pete Tripp ’12 and David Bolek.

Chase teams will compete in spring semester competitions at the National Trial Competition, the American Association of Justice National Competition and the South Texas Mock Trial Challenge.

The trial team of Brianna Fuqua, from left, Brittany Ellis, Christy Hiance and Chelsea Himes won the Kentucky Mock Trial Competition this past autumn.



INITIATIVES

Spring Project will Give Students Multi-Discipline Experience

Professor Amy Halbrook will guide a group of Chase College of Law students in a project this spring to help fathers and sons at an immigration detention center understand legal issues they face and for the students to develop skills for working with social workers, interpreters and health-care professionals in legal matters.

The group will work with the Refugee and Immigrant Center for Education and Legal Services to help individuals at a detention camp southeast of San Antonio, Texas, prepare for interviews and court hearings that will determine whether they remain in detention and, ultimately, whether they remain in the United States or are deported.

Professor Halbrook, who is director of the Children’s Law Center Clinic, received partial funding for the project from a Northern Kentucky University Institute for Health Innovation Branch Award. Professor Halbrook and other participants – four students and a Chase professor or graduate – must raise money to cover the remainder of the expenses for their trip. “Literally, all the money raised for this project will be for travel, lodging and food for the people involved. The rest is completely pro bono,” she says.

The “rest” that is pro bono will involve an anticipated forty to forty-eight hours of work during four days to prepare individuals for interviews and hearings,

and a fifth day of being on-call for more work. After students return to Chase, they will participate in panels and seminars on their experiences.



Professor Amy Halbrook

Chase Expands Early Enrollment Program

Chase College of Law has added a sixth undergraduate institution to its early enrollment program for students to combine a final year of college with a first year of law school.

The Chase 3+3 Accelerated Law Program is now available to students at University of the Cumberlands, in Williamsburg, Ky., in addition to those at Northern Kentucky University and four other institutions in Kentucky and Ohio. The 3+3 program – named for three years of undergraduate studies and three years of law school – is also available to students at Eastern Kentucky University, Thomas More University, Mount St. Joseph University and Union College.

The addition of University of the Cumberlands extends the geographic reach of the program about 180 miles south of Northern Kentucky University, to near the Kentucky-Tennessee state line.

“Cumberlands allows us to reach highly motivated students in southern Kentucky who are considering becoming an attorney,” Dean Judith Daar says.

Students in the 3+3 program receive an undergraduate degree from their undergraduate institution after successfully completing their first year at Chase and simultaneously completing their college graduation requirements.

Chase Programs Are Tops in National Ratings

Chase is among the top forty-five law schools in the nation for students to study business-related law and a top school for trial advocacy, according to an analysis by a magazine for undergraduates who are considering attending law school.

PreLaw magazine gave Chase an “A” rating for the number and range of business law-related courses it offers. Overall, the magazine rated eighty-six law schools as meeting its “A+,” “A” or “A-” criteria. It also rated Chase as a top school for trial advocacy.

The flagship of the Chase business law-related programs is the W. Bruce Lunsford Academy for Law, Business + Technology, which consolidates instruction in the three merging areas of practice, along with courses in emerging areas such as cybersecurity and privacy law. In addition, the Center for Law and Entrepreneurship will provide programming in law and finance in the rapidly growing field of for-profit and nonprofit startups. The trial advocacy programs include the Center for Excellence in Advocacy, experiential learning and mock trial teams.

LEADERSHIP

Alumni Council Has New Chair

Judge Karen Thomas '85 has been appointed as chair of the Chase Alumni Council, the governing body of the Chase Alumni Association.

“Chase alumni represent the best of our profession – ethical, hardworking, dedicated men and women who graduate from law school knowing how to practice law. It is my honor to serve as chair of the Chase Alumni Council, and I look forward to sharing all the great programming and innovative clinics that continue to keep Chase celebrated as The Lawyer’s School,” she says.

Judge Thomas is a Campbell County (Kentucky) District Court judge and chief northern regional judge. She was appointed to the bench in 1996 and was most recently re-elected in 2018, without opposition. She had been vice chair of the alumni association.

Succeeding her as vice chair is Randy Blankenship '86. He is a partner in Blankenship, Massey & Associates, Erlanger, Kentucky, where his focus is civil litigation. He has been a member of Erlanger City Council.

John Garvey '91, a co-founder of Garvey, Shearer, Nordstrom, Fort Mitchell, Kentucky, is immediate past chair.



Judge Karen Thomas

STUDENTS

1Ls Have Early Pro Bono Lesson

First-year students in the Chase College of Law day division had a course in understanding lawyers’ pro bono professional responsibilities without going to a class. They volunteered at nine Cincinnati and Northern Kentucky community programs during a service day that was part of their pre-semester orientation week.

Among their projects: Repairing facilities at a social services center for homeless persons, packing food boxes for homebound elderly individuals, cleaning a kitchen used to prepare meals for people facing food insecurity and packing medical kits for developmentally disabled adults.

The lessons learned: “Our incoming 1L students learned first-hand that lawyers are servant leaders, capable of connecting with people from all walks of life and equipped to solve the most pressing problems facing our communities,” says Professor Jennifer Kinsley, associate dean for professional development.

A New Program Lets Alumni Aid Chase Bar Exam Success

THE FINISH LINE FUND OFFERS SUPPORT TO OVERCOME OBSTACLES TO CONCENTRATED PREPARATION

Anyone who has taken a bar examination knows it is really the final exam of law school, and the most difficult of them all.

For some exam-takers, even preparing for it can be a challenge. That is why Chase College of Law has created the Finish Line Fund, a new fund to help graduates, based on need, defray the cost of a bar review course (some cost almost \$4,000) or living expenses so that they can focus exclusively on bar preparation.

How the Fund Came About

“Last spring, even before officially beginning the deanship, I became aware that several of our graduates were struggling to afford a commercial bar preparation course,” Dean Judith Daar explains.

“For better or worse, today’s law school graduate must enroll in a post-graduate review course in order to be fully prepared to sit for a bar exam. These courses are both necessary and expensive. This revelation led me to understand that many of our students have significant financial barriers that impact their ability devote themselves fully to bar preparation. When I began in my role on July 1, one of my first activities was to establish the Finish Line Fund.”

What the Fund Does

“The Finish Line Fund provides stipends to Chase graduates to purchase commercial bar review materials, as well as defray living and childcare expenses for the ten-week period between commencement and the bar exam,” Dean Daar says.

How it is Funded

“To date, in addition to our alums, many of our faculty and staff have contributed to the fund, making this a community-wide effort,” she says. “In early December, we were so pleased to name our first stipend awardees taking the February bar, and hope to announce more awards for the July bar cycle.”

Why the Fund Matters

“It is my belief that the very existence of the fund is an important signaling message to our students: We believe in your success and will work with you to make your law-career dream a reality,” Dean Daar says.

What it means to Graduates

Angela Meyer Goebel, a December 2019 graduate: “Receiving the Finish Line Fund award allows me to completely focus on my bar prep studies without the worry and stress of how to survive while not working for two months. This generous award has eliminated the final obstacle standing in the way of total freedom to pursue the bar exam with absolute mental concentration. I am forever grateful for this investment in my future!”

Tameisha Barner, an August 2019 graduate: “The Finish Line Fund award has meant less financial stress and more security at a time when I’ve never been more stressed or insecure. I’ve had a lot occur the past year or so that has had me wonder if the bar exam was even an attainable goal for me right now, and this award has helped me put all those fears aside. The bar prep course was my next hurdle after saving for the bar exam application, and I knew it would be difficult to stay afloat while I prep full-time. The stipend and course have really been a lifesaver for me at this already stressful time.”

What an Alumnus Says about It

Timothy Timmel ’76, retired senior vice president Cincinnati Insurance Company and co-founder of the firm’s in-house legal operations who has donated to the fund: “I remember well how important a good bar review course was for me and my classmates. Without it, it’s just not a level playing field. I can’t imagine having to risk taking the bar exam without it – after three or four years of law school – because of finances. The Finish Line Fund offers the perfect opportunity to say thanks to the Chase community by providing scholarships that will have a significant and immediate impact on deserving graduates.”

How to Help

Donations to the Finish Line Fund can be made online at <https://supportnku.nku.edu/CHS> or by mail to Chase College of Law, Finish Line Fund, 100 Nunn Drive, Highland Heights KY 41076-9964.

Chase commencement



NEW DECADE,

The 2020s bring new possibilities to Chase, as new dean Judith Daar looks ahead to what the decade might hold for the 127-year-old law school



Dean Judith Daar with students
Kati Massey and Shay Kumar

NEW DEAN 2020

Born in the Gilded Age decade of the 1890s as a new type of law school and renamed in the war decade of the 1940s as the Salmon P. Chase College of Law, Chase this year is entering the 2020s with a new dean and new opportunities.

Judith Daar is the sixteenth dean in the thirteen-decade history of the college, and the first woman to hold the appointment. With the beginning of her deanship this past summer, she brought to Chase her personal history of more than three decades as a law professor, associate dean and interim dean, and her perspectives on legal education and Chase.

In an academic career that began after three years of practice, following graduation from Georgetown University Law Center, she has been an interim dean, associate dean, and professor of law at Whittier Law School, in Costa Mesa, California; a clinical professor of medicine at the University of California, Irvine School of Medicine, teaching law-related topics; and a visiting professor at law schools in California and Texas.

She has written academic books on legal-and-medical issues and published extensively in professional journals. She has spoken at scores of symposia and conferences, and has been involved with the American Bar Association and specialty associations, largely in areas involving legal issues and medical ethics.

During her first semester at Chase, she created outreach sessions with students, worked with faculty committees on academic initiatives, met with alumni, created a program for student scholarships and a fund to help underwrite bar preparation expenses . . . and utilized her academic experiences and new Chase perspectives to take a long-view for alumni in this conversation on what Chase might anticipate in a new decade, in such areas as specialized skills training, approaches to learning, collaborative ventures, public service preparation and others.



ENHANCED SPECIALTY SKILLS

During a visit to Northern Kentucky University prior to becoming dean, you noted that one way some law schools are increasing their visibility with prospective students is by offering specialized programs, and that Chase has a number of specialties that are worth playing up. What might those specialties mean to Chase in the coming years, both for identifying itself to prospective students and for equipping students for practice?

Dean Daar: Law, by nature, is a traditional discipline because of the vital role that history and precedent play in shaping the rule of law in our modern society. The traditional doctrinal curriculum still provides an excellent foundation for today's practice, but law schools must go beyond these essential basics to supply students with skills specifically tailored to serve a far more complex legal ecosystem.

When I first reviewed the Chase deanship opportunity in the summer of 2018, I was impressed by the thoughtful and targeted approach the school was taking toward legal specialization. The premier programming in business and technology (the W. Bruce Lunsford Academy for Law, Business + Technology), trial and appellate advocacy (the Center for Excellence in Advocacy) and entrepreneurship (the Center for Law and Entrepreneurship) seemed well aligned with student interest and employment opportunities in the region and beyond.

Now we have the opportunity to refine and expand student learning in other areas of high interest and increasing demand in the legal arena. This past fall, we took first steps toward developing a specialized program in health law – an enormous growth area in the Tristate area, as well as the nation. Law impacts health in myriad ways, from the regulation of health

care delivery systems to the physician/patient relationship to the development of pharmaceuticals and medical devices.

The law school can and will look to partner across our campus with health-oriented entities, including the Institute for Health Innovation and the newly established University of Kentucky College of Medicine at Northern Kentucky University. Health law is an exciting and dynamic practice specialty. Chase is poised to launch unique and impactful new ideas to advance law and health in the coming years.



Professor Jennifer Kinsley, associate dean for professional development and director of the field placement program

LEARNING BY DOING

Within the past few years, American Bar Association standards for legal education have required students to complete at least six credit hours of experiential learning, and Chase has joined a number of law schools in creating a position of an associate dean for experiential learning. With experiential learning a requirement and having the same administrative status as an associate dean for academics, what might be the future of experiential learning at Chase and how will students benefit from it?

Experiential learning is really a fancy way of saying, “learn by doing.” To experience the law, our students observe, practice and ultimately master the skills essential to the practice – interviewing, counseling, negotiation, fact investigation, objective and persuasive writing, oral advocacy and strategic planning.

Our Associate Dean for Experiential Learning, Amy Halbrook, is a highly skilled, dedicated and creative leader in the field who oversees our classrooms and clinics to assure our students’ experiences are as high quality and instructive as possible. In addition, our Associate Dean for Professional Development and Director of the Field Placement Program, Jennifer Kinsley, matches students with workplace settings that expose them to a variety of law practice opportunities. Professor Kinsley joined Chase as an accomplished trial and appellate attorney, thus bringing a keen sense of how best to expose students to the practice of law. Together, this faculty experiential learning team guides students to experiences that both fulfill our required six units for graduation and open their worlds to possibilities that await in their career paths.

3L Diane Williams, who applied her Chase experiences to developing a new entrepreneurial direction for her family farm



NEW IDEAS

Continuing to look back to look ahead, you have said that one thing that impressed you about Chase was that you sensed that there was an openness to new ideas and reforms that would benefit students. What might be some ideas Chase will need to consider – whether it adopts them or not – so there will be an answer in 2029 when someone asks, “Why are we doing this?”

This is an exciting time to work in legal education because the practice of law is becoming more global and diverse. Fewer of today’s graduates will work in a traditional practice environment involving an office point-of-service model, compared to graduates of the past. At Chase, we have already begun this adaptation with our integrated curriculum that matches business and technology skills with legal frameworks.

Moving forward, I anticipate our students will not only advise startups and entrepreneurs – they will be the entrepreneurs who start new enterprises based on what they learn in law school. Our collaborative and creative faculty is already working to create these hybrid law-plus opportunities, and we will most assuredly continue to build upon these early steps.



3L Jenna Rohrig, participant in multiple experiential learning programs to prepare for practice

MORE TOOLS FOR PRACTICE

While all lawyers need to have the same command of fundamental legal concepts, there is a case that can be made that so-called “contemporary courses,” such as the use of technology in law practices, understanding of basic business skills and client development are also important, particularly for students who will be solo practitioners or in small firms. You mentioned the importance of skills such as those at the time you interviewed to become dean. What opportunities might Chase have to further develop those areas during the next few years?

My experience teaching medical students, as a clinical professor of medicine at the University of California, Irvine School of Medicine, gives me an appreciation for the benefits of exposing students to clinical practice at the earliest stages. The medical model integrates classroom learning with patient care from the outset, so that students learn to apply their knowledge from the outset.

Law has been slow to adopt this model, but important advances have been underway for at least the past decade. We currently offer a solid basket of experiential opportunities that

place students in the legal workplace – including courts, law offices, legal clinics, businesses and prisons. I envision enhancing and increasing these opportunities to make certain every Chase student enjoys a well-rounded educational experience that prepares them for the career of their dreams. This means thinking broadly and expansively about what the legal landscape will look like over the next fifty years and taking bold steps to meet that evolving workplace.



Votruba Student Union and Nunn Hall at Northern Kentucky University



Ohio Common Pleas Judge E. Gerald Parker '07, among alumni in government and public service

TRAINING FOR SERVICE

The website law.com recently did an employment analysis of the Class of 2018 nationally and found that Chase ranked fourth among 201 law schools for graduates with jobs in government and public-interest fields. Is there anything in that statistic for Chase to consider as it looks ahead?

I am so proud of Chase’s commitment to public service and access to justice, a feature that drew me to the school at the outset. I’ve now had the chance to meet with many of our alums serving in government and non-profit spheres and find their dedication to the public and underserved communities deeply inspiring.

As lawyers, we are privileged to be equipped with the knowledge and skills to help others in truly life-changing ways. Giving back begins in law school, where our students devote at least fifty hours to pro bono service prior to graduation. This value of service remains with many of our alumni who continue to donate their time and wisdom to those in need, often alongside busy practices in the private sector. I would like to see us expand our service reach in the form of additional clinics and other programming. I hope to share news of these developments in future issues of the magazine.

Professor John Bickers teaching a Constitutional Law class



UNIVERSITY COLLABORATION

As Northern Kentucky University continues to expand its professional programs, such as in business, informatics and health care, what opportunities for cross-discipline collaboration are likely to arise for Chase during the next few years, and how might that collaboration benefit students?

We sit in the midst of a university brimming with energy and innovation, welcoming us to collaborate in myriad ways. Since I arrived in July, I’ve had many conversations with my NKU colleagues to advance joint programming in those areas—business, informatics and health care.

I established the Task Force on Business Law Programming with the support of Dean Hassan HassabElnaby at the Haile/US Bank College of Business, and this group continues to pursue ideas that join law and business students. Dean Kevin Kirby at the College of Informatics invited me to meet with his leadership team to brainstorm about possible collaborations, and we are moving forward with some of those ideas. Health law remains a passion of mine and discussions with Dean Steven Haist at the College of Medicine and Executive Director Valerie Hardcastle at the Institute for Health Innovation have been exciting and productive. At Chase, we can serve as the convener of many interdisciplinary ventures – a path I look forward to taking.

CHANGING LEARNING STYLES

Students who entered Chase during the 2010s entered with different learning styles, perhaps shaped by online usage, family financial circumstances affected by the Great Recession and

general life experiences than those of students who entered during the early 2000s, and certainly those who entered earlier. How does Chase begin to consider the needs and educational approaches for students entering in the 2020s, some of whom are now in high school?

The natural course of history is one of change, and we must be agile and accepting of the changes that our students present. Today's students embrace computer-based learning, thus giving us the opportunity to expand our online learning opportunities to meet their interests and needs.

As technology morphs the practice of law, making it more global and less face-to-face, we are obliged to prepare future lawyers for the reality they will face in their careers. This transformation is underway at Chase with the development of our online Master of Legal Studies degree, a program we plan to launch in the coming months. This degree focuses on law and the digital world, exposing students to a wide range of topics, including data privacy and the legal perils and merits of online commerce.

Students who enroll at Chase should be able to imagine their futures while being taught in a manner that reflects their contemporary expectations.

PREPARING FOR A CHANGING WORLD

Some of the demographic trends that will define the 2020s are already apparent: The Hispanic population will surpass the African American population as the largest racial or ethnic minority, women comprise a majority of the civilian workforce and the foreign-born population is at a more than 100-year high, with a large percentage of that population in the millennial generation. As trends continue and professional and academic bodies emphasize the need for the legal profession to reflect the diversity of the overall population, what role will

Chase have in graduating students to practice in a diverse profession and population?

The demographic figures are well-known and oft-discussed among those in legal academia. I feel it isn't enough to simply enroll a diverse student body at Chase – whether that diversity is measured by race, gender, nationality, sexual orientation, gender identity, religion, socioeconomic status or political viewpoint. While we work to build a diverse community, we must assure that every member of our student body, faculty and staff feels welcome, supported and heard.

Communities can be measured by their numbers, but I think it has more value to measure them by their strengths. Strong communities make for lasting and successful institutions. I have every confidence that Chase's future promises to be strong, impactful and enduring.

Current Chase Kentucky Legal Education Opportunity (KLEO) scholars, selected for various diversity factors, with Kentucky Supreme Court Justice Michelle M. Keller '90.



The Road to Chase

Chase Dean and Professor of Law Judith Daar began her academic career as a lecturer at the University of California, Los Angeles School of Law and has since been involved with:

Administration: She was interim dean of Whittier Law School, Costa Mesa, California, for the 2016-17 academic year, and had been associate dean for academic affairs from 2008 to 2012.

Teaching: As a professor of law at Whittier, she taught such courses as Property, Wills and Trusts, Bioethics, Reproductive Technologies, and Health Law. As a visiting professor of law at the University of California, Irvine School of Law, she taught Constitutional Law, and as a clinical professor of medicine at the University of California, Irvine School of Medicine taught

law-related courses. She has been a visiting professor of law at the University of California, Los Angeles School of Law, the University of Houston Law Center and Loyola Law School, Los Angeles.

Publications and presentations: Within her academic focus in health law, Dean Daar has written three books and more than forty articles, and has spoken extensively at law school and professional symposia on emerging legal issues in the expanding medical field of assisted reproductive technologies. Her most recent academic book is *The New Eugenics: Selective Breeding in an Era of Reproductive Technologies*, published in 2017 by Yale University Press. In 2006, she published the first – and still only – casebook in the field of assisted reproductive technologies, *Reproductive Technologies and the Law*. A second edition was published in 2013.

Professional associations: She is chair of the American Society for Reproductive Medicine

Ethics Committee, a liaison member of the American College of Obstetrics and Gynecology Ethics Committee, an elected member of the American Law Institute and a member of the Society for Assisted Reproductive Technologies Committee on Informed Consent. Her previous leadership roles include president of the American Society of Law, Medicine & Ethics, chair of the Association of American Law Schools Section on Law, Medicine & Health Care and vice-chair of the American Bar Association Real Property, Trusts & Estates Bioethics Committee.

Awards: She has received the Teacher of the Year Award of the Whittier student body, the Teacher of the Year Award of the Whittier Alumni Association, the Jay Healey Distinguished Teaching Award of the American Society of Law, Medicine & Ethics and the Distinguished Service Award of the American Society for Reproductive Medicine.

Innovations Will Guide Chase Into the Future

Dear Alumni and Supporters,

It is with great excitement and pride I write this first dean's greeting to accompany our biannual publication, giving me the honor of updating you on the many happenings on campus and beyond.

Since joining the Chase community on July 1, 2019, as our sixteenth dean, I've been warmly welcomed by so many who share a passion for our law school. Vibrancy and collegiality pervade the law school environment, matching talented and dedicated faculty with curious and engaged students.

Our alumni base, now over 5,000 strong, has displayed leadership and acumen in a host of positions, from Congress, to the bench and bar, to the C-suite. The Chase community's devotion to advancing justice and enterprise is inspiring, exemplifying the vital role law plays in an evolving society.

My journey to Chase began as a Southern California law professor straddling the disciplines of law and medicine. Teaching at both law and medical schools at the University of California, Irvine, I gained an appreciation for the value of linking people in seemingly disparate worlds by exposing their shared interests and values. It was this interest in helping make connections that drew me to the dean market and ultimately, happily, to Chase. I would like to share my vision for guiding us toward connections that will inure to Chase's benefit and yield impact well into the future.

First, I invite you to make a connection with the next generation of Chase students by serving as an interviewer for a new initiative we are calling the Dean's Merit Scholarship. The scholarship is a merit-based, renewable scholarship available to certain accepted applicants to the law school, above and beyond the financial aid or scholarship package they received upon acceptance. Eligible admittees who apply for the Dean's Merit Scholarship will be matched with a Chase alum in their area who then interviews the candidate and provides feedback to our Office of Admissions. In collaboration, our alumni interviewers and admissions professionals will determine the allocation of these prestigious awards. We are confident that once an admitted student meets with one of our talented alums, the only choice for that budding attorney will be Chase.

A second connection pairs Chase students with learners at the Northern Kentucky University Haile/US Bank College of Business to advance entrepreneurship and innovation in the modern era. We have formed a Working Group on Law & Business Collaboration with members of the law and business school communities. The working group's charge is to develop curricula and programming that joins legal and business-centric thinking, enabling students to develop and launch startup companies fueled by these dual foundations. Law and business expertise, often maintained in separate silos, can be merged to excellent effect, and we are committed to capturing those synergies.

A final connection involves Chase stepping into the health-care arena to bring value to a burgeoning field that is vital to the region, the nation and the world. Our initial steps involve recruiting a top-notch faculty member to teach courses and produce scholarship in health law, followed by the establishment of a center for impactful research and policy analysis that informs influencers and lifts lives. Please stay tuned and provide your thoughts as we consider Chase's best path forward in this space.

I express my gratitude for the opportunity to steward this remarkable institution to the next great chapter in its ongoing narrative. Please join me in planning, supporting and celebrating our Chase future.

Sending warmest regards,



Judith Daar

DEAN AND PROFESSOR OF LAW



Alumni from Decades of Classes Gather for Welcoming Reception

Chase alumni, ranging from the Class of 1970 through the Class of 2019, welcomed Dean Judith Daar to Chase at a reception in mid-September at Hotel Covington, in downtown Covington, Kentucky. These are some of them, along with Dean Daar.



Judge Rick Brueggman '04 (center), Dennis Repenning '79



Ann Schoen '94, Angela Penick '11, David Bender '79, Dean Judith Daar, Sara Kelley '11



Dean Judith Daar, Tory Finley '18, Mary Hayes '83



Kelly Farrish '78, Dean Judith Daar, Stephanie Scott '17, Mary Healy '78



Chrissy Dunn Dutton '05, Courtney Moran '19



The Hotel Covington reception

The Alumni Association Recognizes Four Alumni who Exemplify Chase Ideals

The diverse professional pathways from Chase College of Law have taken Bea Wolper to founding a law firm focused on small businesses, Daniel Mecklenborg to executive positions with river shipping companies, Candace Smith to the federal bench in Kentucky and Joe Cunningham to a seat in the United States House of Representatives. In mid-October, their personal pathways intersected, as each received a major Chase Alumni Association award at the annual Chase Alumni Association Luncheon.

The association presented Bea Wolper '78 with the Lifetime Achievement Award, Daniel Mecklenborg '81 with the Professional Achievement Award, Candace Smith '92 with the Distinguished Service Award and Joe Cunningham '14 with the Outstanding Alumnus of the Past Decade Award. The four join 106 previous recipients of the awards.

On the following pages are the pathways each took from Chase and how Chase helped set them on their ways, along with scenes of some of the approximately 200 alumni and friends of Chase at the awards luncheon in the Hall of Mirrors of the Hilton Cincinnati Netherland Plaza.

At the luncheon, Alumni Association Immediate Past President John Garvey III, Northern Kentucky University President Ashish Vaidya, Bea Wolper, Dan Mecklenborg, Dean Judith Daar, Magistrate Judge Candace Smith and U.S. Representative Joe Cunningham.





BEA WOLPER

Class of 1978

President, Emens & Wolper Law Firm, Columbus and St. Clairsville, Ohio

Lifetime Achievement Award

Presented to a graduate who exhibits the ideals of Chase and whose professional accomplishments and service to the community have brought honor, recognition, and distinction to Chase

Ms. Wolper is co-founder and president of Emens & Wolper Law Firm and a co-founder and advisory board member of the Conway Center for Family Business, a nonprofit that provides educational resources and programs for family-owned businesses in central Ohio. In her practice, she focuses on family-owned businesses, succession planning, mergers and acquisitions, estate planning, contracts and oil and gas law.

Education role: Ms. Wolper is a lead instructor for the Ohio State Bar Association continuing legal education course Family Business Succession. She has taught family business courses at Ohio Dominican University, and in spring 2020 will be an adjunct professor in estate planning at The Ohio State University Moritz College of Law. She is co-author, with her husband Dick Emens, of the book *Family Business Basics: The Guide to Family Business Financial Success*.

Community recognition: She is Ohio past-president of the International Women's Forum, having been president

from 1993 through 2015. She is also a member of legal advisory boards for the Columbus Foundation, Nationwide Children's Hospital and Central Ohio Planned Giving. She previously served on executive committees of the Greater Columbus Chamber of Commerce, Columbus Center of Science and Industry, Women's Business Board, Greater Columbus Arts Council, Mount Carmel College of Nursing and the Greater Columbus News Bureau. She was a delegate to the White House Conference on Small Business in 1995.

She has received numerous awards, including the Women Who Make a Difference Award of the International Women's Forum and the Women in Business Advocate Award of the United States Small Business Association.

Her memory of Chase: "When I went to law school, I was an older, single mom. Chase offered me a tremendous opportunity. I could work full-time during the day and attend law school at night. What a wonderful opportunity."



DAN MECKLENBORG

Class of 1981

Chief Legal Officer and Secretary, Ingram Barge Company, Nashville, Tennessee

Professional Achievement Award

Presented to a graduate who exhibits the ideals of Chase through professional achievement

Mr. Mecklenborg joined Ingram Barge Company, an inland dry-cargo barge carrier, in 1996 as vice president, general counsel and secretary. He became senior vice president and chief legal officer in 2002, responsible for the company's legal, claims, safety, environmental and governmental affairs matters. Prior to joining Ingram, he worked for fifteen years in the legal department of The Ohio River Company, in Cincinnati.

Professional boards: Mr. Mecklenborg has been a trustee of the National Waterways Foundation, an industry public-education group, since 2014, and was named chairman in 2016. He has been a member of the steering committee of America's Watershed Initiative, an association focused on issues affecting the Mississippi River and its tributaries, since 2010, and became chairman in 2018. He serves on the board and executive committee of the Waterways Council, an industry group involved with inland waterways and ports,

and was chairman from 2007 through 2009. He held a four-year term, including serving as chairman, from 1999 through 2003, on the Inland Waterways Users Board, an advisory board that monitors the federal Inland Waterways Trust Fund and recommends uses for it. He rejoined the board in 2013 as the Ingram representative. He was Chase College of Law Distinguished Practitioner in Residence in 2011.

His memory of Chase: "Over the nearly 40 years since I graduated from Chase, I've often thought about the tremendous opportunities that my Chase law school experience has afforded me. The skills I learned at Chase, through serving on the law review and moot court team, are skills I've built upon throughout my career. Good writing and communication skills are just as important in the corporate world as they are in a courtroom. Although my Chase experience was a long time ago, it's the foundation upon which I've built a very rewarding professional career."



CANDACE SMITH

Class of 1992

Magistrate Judge, United States District Court for the Eastern District of Kentucky

Distinguished Service Award

Presented to a graduate who exhibits the ideals of Chase through exceptional service to Chase and/or the community

Judge Smith began her service as a United States District Court magistrate judge in the Eastern District of Kentucky, at Covington, in March 2010. She was appointed to a second term in March 2018.

Her career: Following graduation, Judge Smith held a one-year judicial clerkship with United States District Judge William O. Bertelsman, in the Eastern District of Kentucky. From 1993 until 2002, she practiced in the firm of Arnzen, Parry & Wentz, in Covington, Kentucky. She was a career law clerk for United States District Judge David L. Bunning of the Eastern District from 2002 until her appointment as magistrate judge.

Professional boards: Judge Smith has served on numerous boards and committees. In the Kentucky Bar Association, she has been a member of the Publications Committee, Diversity in the Profession Committee and Young Lawyers Division Outstanding Young Lawyer Award

Selection Committee. In the Northern Kentucky Bar Association, she has been a member of the Board of Directors, Lex Loci Committee and Judge Judy M. West Scholarship Selection Committee. In the John W. Peck Cincinnati-Northern Kentucky Chapter of the Federal Bar Association, she has served on the Executive Committee. At Chase, she has been a member of the Alumni Council and the Board of Visitors. She has been a member and officer of the Chase College Foundation Board of Directors and the Salmon P. Chase American Inn of Court Executive Committee.

Her memory of Chase: “Chase was the ‘but for’ as well as the proximate cause for my being with the federal courts. I would not have been able to attend law school without the Chase part-time program. Chase did not just prepare me with a quality legal education, but it helped me get my foot in the door with the federal courts.”



JOE CUNNINGHAM

Class of 2014

Member, United States House of Representatives from South Carolina

Outstanding Alumnus of the Past Decade

Presented to a graduate of the past ten years who exhibits the ideals of Chase through professional accomplishments and service to the community

Representative Cunningham was elected to the United States House of Representatives from the First Congressional District of coastal South Carolina in 2018 and serves on the House Natural Resources and Veterans Affairs committees.

In Congress: Representative Cunningham developed an interest in shoreline protection through his initial career as an ocean engineer in Florida, prior to his enrollment at Chase, in 2011, and through his work following graduation, in 2014, as an associate with a Charleston law firm. In the House of Representatives, he introduced successful environmental legislation to prohibit offshore oil exploration in coastal waters. He has been primary sponsor of sixteen other bills, including legislation involving free trade, female military veterans’ health care and medical prescription prices.

His beginnings in public service: Representative Cunningham began his public service while a student

at Chase, first as a legal intern with the Kentucky Auditor of Public Accounts and later as a law clerk with the Boone County Commonwealth’s Attorney. Following graduation, he worked as a law clerk for the United States Attorney for the Southern District of Ohio before moving to South Carolina, where he had attended College of Charleston after graduation from high school in western Kentucky.

His memory of Chase: “When I was there, Chase looked like the face of America. Salmon P. Chase College of Law taught us not just to be lawyers, but to be leaders. Those are skills I take to Congress as the representative of the First District of South Carolina.” He was a president of the Student Bar Association, member of the national trial team, member of a dean search committee and national Student Bar Association vice-chair of the American Bar Association Law Student Division.

At the Luncheon

Some scenes from the 2019 Alumni Luncheon at the Hilton Cincinnati Netherland Plaza.



Dean Judith Daar



Bernice Walker '93, Tina Topazio '93, Greg Moser '92



Jennifer Lawrence '96, Lindsay Lawrence '09, Richard Lawrence '71, Mike Lyon '75, Judge John West '71, Judge Charles Kubicki '93



Bob Sparks '90, Kentucky Supreme Court Justice Michelle Keller '91, Olivia Keller, Margie Cunningham '04



Robert Davis '58, David Barth '78, Dan Mecklenborg '81



Northern Kentucky Bar Association Executive Director Julie Jones, Jennifer Lawrence '96, Lindsay Lawrence '09, Kentucky Representative Ed Massey '92



The Hall of Mirrors

Alumni Upgrade Advice on Data Security

A TWELFTH ANNUAL PROGRAM CHASE CO-SPONSORS PROVIDES A FORUM FOR NEW ADVICE ON DEALING WITH ONGOING THREATS FROM HACKERS AND EMAIL PHISHERS

Just as software version 2.1 might fix security gaps in version 2.0, the Northern Kentucky University Cybersecurity Symposium 12 that Chase College of Law co-sponsored updated participants on how to avoid security lapses hackers have exploited ever since the first conference and explained

how to deal with the legal fallout that can unspool. Some of the insights at the symposium in early October at NKU came from six Chase alumni: Michael Nitardy '05, Dennis Kennedy '95, JB Lind '08, Scott Van Nice '08, Zach Briggs '16 and Chuck Rust '17. Their takeaways:



Michael Nitardy
Member, Frost Brown Todd, Cincinnati

For any entity that handles individuals' personal data, among the questions to ask and address are:

Does the organization have an independent duty to protect data it collects, uses and maintains?

If a duty exists, what are its limits?

Does the duty apply equally to all organizations, no matter the size or type of data?

Bottom line: Answers may be in statutes or regulations, or may be predictable by identifying what an organization would not want to face in a lawsuit.



Dennis Kennedy
Partner, Dressman Benzinger

LaVelle, Crestview Hills, Kentucky

Information management involves more than bits and bytes. It also involves ethical and legal duties to protect electronic data and to respond to data breaches. For example, a lawyer must:

Take reasonable steps to protect client data.

Notify clients if client information is improperly accessed, disclosed or lost.

Properly supervise nonlawyers, including third-party contractors, to ensure client data is safe.



JB Lind
Partner, Vorys, Sater, Seymour and Pease, Cincinnati

"Virtually all of the information handled in the health care industry is highly confidential and protected by law. As evolving technologies and opportunities invite new risks and threats, remaining vigilant in cybersecurity practices is a daily obligation for everyone in the industry." Among the threats:

Email phishing to trick disclosure of confidential information.

Ransomware attacks to deny access to data until ransom is paid.

Potentially life-threatening attacks on connected medical devices.



Scott Van Nice
Procter & Gamble Co. subject matter expert focused on computer

forensics and electronic discovery

"The big takeaway [for managing an internal investigation] is that there are many important aspects to a good investigator. While it is incredibly important to be technically proficient and be able to navigate the 'binary world' [of absolutes], there are many overlooked areas that can make an investigator, especially if the investigator wishes to be considered an expert witness in a court of law." Among them:

Document every step of an investigation.

Look at data, build a timeline and develop a narrative.



Zach Briggs
Corporate compliance counsel, Paycor, Cincinnati

Workaday reality, data protection and insurance are intersecting. Companies without cyber insurance are assuming increasing risks, and companies

with it need to use it effectively. To do that, companies should:

Analyze current risks.

Determine acceptable risks, such as by understanding contractual responsibilities and protections, and by purchasing cyber insurance.

Control risks, such as by encrypting or masking personal information.



Chuck Rust
Attorney, Lerner, Sampson & Rothfuss, Cincinnati

Seeing is not always believing, particularly in an era when computer-generated images and manipulations have gone beyond the harmless special effects of Hollywood studios and into political and business realms. It is now easy for:

Computer programs to manipulate facial expressions and alter motions.

Websites to enable users to create entirely fake videos.

A victim of that type of manipulation should consider if there are causes of action, such as defamation, invasion of privacy or intentional interference with business relations.

Thirty-Six Chase Alumni Are Admitted to the Supreme Court of the United States Bar





The group admission was the ninth trip to Washington, D.C., the Chase Alumni Association has arranged

The Chase admission group, from front row left, Amanda Barreto '09, Barry Spurlock '11, Melissa Crump '11, Leslie Yelton '07, Tracy Smith '95, Marye Boggs, Tiffanny Smith '14, Dean Judith Daar, Nazly Mamedova '13, Erin Sizemore, Corey Plybon '08, Vicki Luoma '78, Laura Fitzer '16, Patricia Casarez-Lodhi '09, Andrea Zeidler '14, Matt Rosen '81, Catherine Fuller '02 and Judge Karen Thomas '85, who made the motion to admit the applicants. Back row, from left: Haley Stamm '07, Aaron Beck '06, Tim Maloney '10, Acena Beck '09, Allison Hudson '15, Erica Blankenship '14, Jeff Blankenship '84, Parker Boggs '87, Greg Moser '91, Judge Bo Leach '03, Nate Lennon '14, Danielle Mason '14, Tim Bramble '10, Bryce Rhoades '09, Eric Butler '13, Zach Peterson '12, Mike Baker '07, Colby Cowherd '12, Sally Schatteman '81, Sam Short '10, Mike West '06 and Karen Oakley '96.

What is it like to stand before justices of the Supreme Court and take the oath of admission? Some of the Chase alumni share their reflections on the experience on the following pages. →

Alumni Reflect on a Day to Remember

The oath for admission to the Bar of the Supreme Court of the United States is brief – a promise of orderly conduct and to support the Constitution. Unspoken is the overwhelming sense of history and transcendence in every word.

For thirty-six Chase alumni and two friends of the college, that time of professional awe occurred in mid-November, during the ninth Chase Alumni Association-sponsored group admission to the Supreme Court Bar. It began in the courtroom – with the motion by Campbell County District Court Judge and Alumni

Council President Karen Thomas to admit the thirty-eight applicants to practice before the court – and continued at a reception in a Supreme Court reception room. There, with a portrait of Chief Justice Salmon P. Chase hanging high on a wall, admittees heard Chief Justice John Roberts talk of the former chief justice and Associate Justice Ruth Bader Ginsburg speak of the first woman admitted to practice before the court.

In the words of some of the admittees, this is how they remember the day and its impact on them:



Bo (William) Leach '03

Judge, Kentucky District Court for Estill, Lee and Owsley Counties

As a judge, people have asked me why I wanted to be sworn in when I have no desire to practice law in the foreseeable future. It kind of confused me. To stand where the giants of our profession have stood and to be in the room where decisions that affect a nation are made is awe inspiring. Wherever I go from here will be impacted because my career path went through the U.S. Supreme Court.

The most memorable part was, without a doubt, spending time with Chief Justice Roberts and Justice Ginsburg. The chief justice talked with us like he had gone to Chase, and made us all feel welcome, as if we were back home in our own courthouse. As for Justice Ginsburg, you could not help but feel her presence when she entered the room, whether you agree with her decisions or not. My wife, Erin, most definitely does not agree with her, but was brought to tears when Justice Ginsburg entered the room. When the justices left the bench, it was Justice Thomas who helped Justice Ginsburg down the stairs of the bench. It taught a good lesson, that we can disagree without being disagreeable.

Melissa Crump '11

Partner, Crump Spurlock Attorneys Paris, Kentucky

Simply stating that I am a member of the Bar of the Supreme Court of the United States is empowering. Although I may never argue a case in front of the court, I now have the ability and the authority to do so. When the justices entered the courtroom, the feeling that came about was momentous. I will forever remember those first moments when the justices walked into the room and the process began. These individuals help to make the law of our country, and I was in their presence. The role they hold is so important, and at least one of the cases these individuals will rule on will have an effect on each person who was admitted on that day.



Sam Short '10

Hearing Officer, Kentucky Cabinet for Health and Family Services

Frankfort, Kentucky

The most memorable aspect of this experience was sharing it with my wife, Marintha, my daughter, Samantha, and my son, Lukas. It is not lost on me that grace and my father's

footsteps permitted me to experience this milestone. Sharing the light of our great, undivided nation with our children is an important obligation bestowed by this opportunity. It ensures an enjoyable present in which we can create a future based upon respect for the past.

Amanda Baretto '09

Associate, Schneider Smeltz Bell

Cleveland

I will always remember Justice Ruth Bader

Ginsburg speaking to our Chase group after the admission ceremony. Justice Ginsburg told the story of Belva Lockwood, the first female admitted to practice in the Supreme Court. After being initially rejected, she successfully petitioned Congress to change the law in 1879. These words were a great reminder of the progress of female attorneys, and made me thankful for my excellent Chase education and the opportunities it has provided me to be able to gain admission to the Bar of the Supreme Court.





Zachary Peterson '12

*General Counsel and
Chief Financial Officer,
Evans*

Cincinnati

The most memora-
ble aspect of the
experience for me

was the ceremony inside the courtroom. After reading countless Supreme Court decisions, I felt as though I knew the justices without ever having met them. But seeing them in person, on the bench, in such a magnificent and impressive courtroom, helped to breathe life into their words, as expressed in their opinions.

Jeffrey Blankenship '84

*Member, Monohan &
Blankenship*

Florence, Kentucky

Being admitted to the Bar of the United States Supreme Court is a great honor and a pinnacle of my career. This honor is particularly special to me because my daughter, Erica, and I were sworn in together. Even though I have been in practice for thirty-five years and have practiced before many state and federal courts, being admitted to the highest court in the land with my daughter will always hold an extraordinary memory for me.



Chief Justice of the United States John Roberts talks with Chase alumni and others about the court and former Chief Justice Salmon P. Chase, whose portrait is at the far left.



Supreme Court of the United States Justice Ruth Bader Ginsburg, center, stands with Chase alumni and others with the college in the Supreme Court Building following the group admission.

BACK TO THE BEGINNING

Professor **Michael J.Z. Mannheimer** has a national reputation as a constitutional scholar through his research and legal theories on the Bill of Rights to the United States Constitution. To him, much of the contemporary analysis stops historically short of what he thinks the framers of the Constitution had in mind.

To set the stage, Professor Mannheimer’s scholarly research focuses primarily on two amendments to the United States Constitution, the Fourth Amendment protection from unreasonable searches and seizures, and the Eighth Amendment prohibition of cruel and unusual punishments. His Fourth Amendment analysis takes a historical approach, with some of it looking at the common law at or before the founding and some looking at the development of the common law more generally. The tracks and how they developed:

Professor Mannheimer: My first two law review articles in this area – *The Contingent Fourth Amendment*, 64 EMORY L.J. 1229 (2015) and *The Local-Control Model of the Fourth Amendment*, 108 J. CRIM. L. & CRIMINOLOGY 253 (2018) – looked very closely at the history surrounding the adoption of the Fourth Amendment. I explored the motivations of the Anti-Federalists, who at first opposed ratification of the Constitution and later reluctantly acceded to ratification in exchange for a Bill of Rights. It’s because of them that we have a country, so we should interpret the Bill of Rights in light of how they viewed it.

And how did they view it?

Their goal with the Bill of Rights was to constrain the federal government in the same way that state constitutions, state bills of rights and state common law constrained the states. In some cases, this meant requiring that federal officials abide by state law. So, the word “unreasonable” in the Fourth Amendment, I contend, meant “in violation of state law.” A corollary to this, of course, is that the amendment might constrain search-and-seizure authority differently in different states. For example, state officials needed a warrant to search warehouses in Maryland but not in Pennsylvania. Therefore, federal officials would likewise be free to search a warehouse without a warrant in one state but not the other.

If different states could produce different results, how does that affect an understanding of a “common law” we rely on today?

In the *Contingent* piece, I also looked at the justice of the peace manuals in use from the 1760s to the 1790s, which instructed constables and justices of the peace on the common law of search and seizure. I found that our assumptions about there being a uniform body of common law constraints on searches and seizures are a bit off. Although the manuals were very similar, there were some important differences, depending on when and where the manual was published, so search-and-seizure law varied somewhat by colony and then by state. Most scholars and courts agree that the Fourth Amendment was designed to incorporate common-law constraints on searches and seizures. But if those constraints varied by state, and the framers and ratifiers of the amendment understood this, it makes sense that they understood the amendment itself as imposing constraints on the federal government that would also vary by state.

Is the general concept of local control related to this?

In *Local Control*, I looked at three episodes during the thirty years straddling the founding: the writs of assistance controversy of the 1760s, which led directly to our break with Britain; the failed imposition of an impost tax under the Articles of Confederation in the 1780s; and early federal legislation on searches and seizures, from the 1789 to 1792 timeframe. My conclusion, again, is that what the framers and ratifiers of the Fourth Amendment were going for, particularly the Anti-Federalists, was local control of search-and-seizure policy. To put it another way, the Fourth Amendment doesn’t impose particular substantive rules on the federal government but is more of a procedural constraint: It requires that the Feds follow whatever state law happens to be.



If it does not impose substantive rules on the federal government, how does one know if there has even been a search?

My latest piece, *Decentralizing Fourth Amendment Search Doctrine*, 107 Ky. L.J. 169 (2019), addresses the “what is a search?” question under the Fourth Amendment. It was inspired by the fact that the Supreme Court now uses two tests to determine whether government conduct constitutes a Fourth Amendment search: The “reasonable expectation of privacy” approach asks whether the government has infringed a person’s expectation of privacy that society deems justifiable or reasonable; and the “trespass” approach asks whether the government has physically intruded on property for the purpose of gathering information. My work shows that the two tests are really two sides of the same coin because our expectations of privacy and our notions of property rights come from the same source: societal norms about security from intrusion by third parties.

And does that relate to original understanding, as in the other pieces?

Absolutely. Consistent with the other two works, my latest piece also discusses how the framers and ratifiers of the Fourth Amendment knew that tort remedies for intrusions on privacy would be based on state law, and would therefore vary by state. And, as you can probably tell from the “decentralizing” title, it argues that the societal norms that we must consult to determine what a search is can differ by state and even by locality. Therefore, what is a search in one place might not be a search in another place. For example, in one community, it might be customary to allow children to cut through your backyard on the way to school, so that if a police officer goes into your backyard looking for drugs, it’s not a search. By contrast, people in other communities might be more fastidious about asserting their property rights.

Looking at the Eighth Amendment, your analysis, as you have applied it to administration of a death penalty, appears to focus heavily on state control. Specifically, you argue that imposition of a death sentence for a federal crime committed in a state that does not allow for the death penalty for state crimes amounts to a cruel and unusual punishment, in violation of the Eighth Amendment, in that state.



Again, I rely very heavily on the Anti-Federalists and their general attitude toward federalism. Unfortunately, there is only a very small handful of statements from the framing period about cruel and unusual punishments, and almost all of them are pretty unilluminating. But it’s generally understood that the prohibition on cruel and unusual punishments was meant to constrain the federal government from imposing punishments that had fallen out of usage, that were no longer acceptable under common-law principles. And since the common law differed by state, and the framers and ratifiers of the Eighth Amendment recognized that it did, particularly the Anti-Federalists, then they would have understood that this constraint, which was tied to the common law, would also vary by

state. That’s the argument I make in *When the Federal Death Penalty Is “Cruel and Unusual,”* 74 U. CIN. L. REV. 819 (2006). And in *Cruel and Unusual Federal Punishments*, 98 IOWA L. REV. 69 (2012), I provide more support for this position and I expand it from the death penalty context to cover non-capital sentences as well.

If “common law” meant different things in different colonies and later states, are there also different

understandings of what would constitute “cruel and unusual punishment”?

There is some powerful evidence that the term was sometimes used and understood in a state-specific way. State legislation in Georgia, Massachusetts, New Hampshire and South Carolina during the Articles of Confederation period, in the 1780s, forbade the Confederation Congress from “inflict[ing] punishments which are either cruel or unusual in this state” (or in Massachusetts, “in this commonwealth”). And the Anti-Federalists wanted the Bill of Rights to revive a bit of the spirit of the Articles of Confederation. The Articles vested most power in the states, and the Constitution came and swept much of that power into hands of the federal government. The Bill of Rights was designed to move the power structure one notch closer to what it had been like under the Articles.

Even though the Fourth and Eighth Amendments address different rights, you take sort of a unified approach to the understanding and application of them – and maybe even other amendments.

The Anti-Federalists' concern with preserving state power in the face of this new, powerful central government obviously cuts across many of the provisions of the Bill of Rights. In a sense, I've just scratched the surface. For example, it may be that when they wrote "due process of law" in the Fifth Amendment, they also had state law in mind. But there is an especially close kinship between the Fourth Amendment and the Eighth: One uses the word "unreasonable" and the other "unusual." I'm a textualist, so I have to think there is a strong connection there. What do both words have in common? Both invite a comparison: Unreasonable or unusual compared to what? What is the benchmark? To me the answer is state law.

So, what started your thinking on these amendments?

I've been interested in the Constitution since I was a kid, but my interest really took off in college. I had a wonderful teacher and mentor, named John Arthur, who taught me a lot about the Anti-Federalists, whom I'd never really heard of before. Then, in law school, at Columbia, I took a seminar on the Bill of Rights with Akhil Amar, and it totally blew my mind. He taught me how the Bill of Rights was really an Anti-Federalist project, and that the Anti-Federalists believed that individual rights and federalism were inextricably intertwined. I learned that federalism isn't necessarily a conservative doctrine, but it has often been hijacked to further conservative goals, like resistance to desegregation in the 1950s and '60s.

Fast forward to 2004, when I entered academia, and I learned that there were a small number of federal death row inmates who had been sentenced to death for federal crimes committed in states that had abolished the death penalty. That struck me as inconsistent with federalism principles, but not necessarily unconstitutional. But the more I looked at the original understanding of the Cruel and Unusual Punishments Clause, the more I came to realize that "unusual,"

meant "contrary to law." And the law they had in mind was the law of the states. When I thought I had written about all I could on the Eighth Amendment, I turned to the Fourth. I teach Criminal Procedure and about the first two-thirds of the course is on the Fourth Amendment. So it became increasingly interesting to me and I realized that a lot of what I had written about the Eighth Amendment had relevance for the Fourth as well.

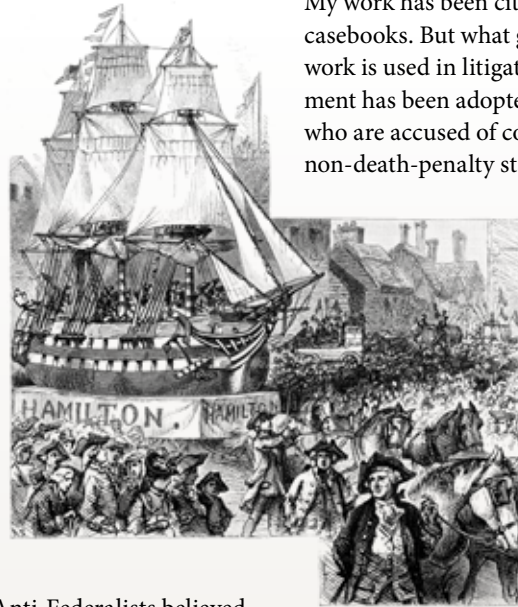
What has been the reception to these analyses, either academic or judicial?

My work has been cited by numerous commentators and a few casebooks. But what gives me the most satisfaction is when my work is used in litigation. My argument on the Eighth Amendment has been adopted by many federal capital defendants who are accused of committing their crimes in non-death-penalty states. Before my *Federal Death Penalty*

article was published, I don't think many such defendants made the federalism argument. Now they do almost as a matter of course, and that gives me great satisfaction. Even if they don't make precisely the same argument that I make, it's pretty obvious that they've been influenced by my work. One of my proudest moments was when I was contacted by a capital defense attorney who had unsuccessfully raised the argument, and he predicted that someday it would be a winner.

Has it been a winner?

So far, the few courts that have addressed the federalism issue have rejected it. Mostly, these have been district courts, in Iowa, New Mexico, Vermont and West Virginia. The most recent, and most elaborate, discussion was in a Second Circuit case, *United States v. Aquart*, 912 F.3d 1 (2d Cir. 2018). The panel there, too, rejected the argument, which I fully expected, but Judge Guido Calabresi didn't join that part of the opinion and left open the possibility that the federalism argument might have some merit. So that gives me some hope. The law evolves slowly but it does evolve. As a law professor, you have to take the long view.



About Professor Mannheimer

At Chase, Professor Mannheimer has taught Criminal Law, Criminal Procedure, Death Penalty, Evidence and Sentencing. He is the faculty coordinator for the Kentucky Innocence Project.

His research and scholarship includes law review articles and presentations on topics such as the death penalty, coerced confessions, and constitutional matters involving establishment of religion, freedom of speech, self-

incrimination, confrontation and cruel and unusual punishments. His recent law review articles include *Vagueness as Impossibility*, 98 TEX. L. REV. ____ (forthcoming 2020); *Decentralizing Fourth Amendment Search Doctrine*, 107 KY. L.J. 169 (2019); *The Local-Control Model of the Fourth Amendment*, 108 J. CRIM. L. & CRIMINOLOGY 253 (2018); *The Coming Federalism Battle in the War Over the Death Penalty*, 70 ARK. L. REV. 309 (2017); *The Two Mirandas*, 43 N. KY. L. REV.

317 (2016) and *The Contingent Fourth Amendment*, 64 EMORY L.J. 1229 (2015).

Professionally, he co-chaired the Kentucky Death Penalty Assessment Team for the American Bar Association, and recently testified on its findings before a Kentucky General Assembly committee.

FIRST-PERSON ACCOUNT

As a Chase professor, **Jack B. Harrison** bridges academia and jurisprudence with his writing on gender identity and protections – including a recent amicus curiae brief he co-authored in a potentially landmark case before the Supreme Court of the United States.

By PROFESSOR JACK B. HARRISON

While much justifiable celebration occurred among gay and lesbian persons and their allies following the marriage equality decision in *Obergefell v. Hodges*, the decision left gay and lesbian persons in a rather odd position.

On one hand, their marriages are protected by law in every state in the union and at the federal level. Yet, at the same time, LGBTQ persons are denied protection against discrimination in employment, housing or public accommodations at the federal level, and in the twenty-nine states that do not have statewide protections based on sexual orientation or gender identity. Thus, for example, gay and lesbian couples can be married and have their marriage legally recognized in Ohio or Kentucky today, and then be lawfully fired from their job or evicted from their home tomorrow simply for being gay or lesbian, a fact that might be revealed when employees exercise their constitutional right to marry someone of the same gender.

Many Americans simply assume that federal law prohibits discrimination because of sexual orientation and gender identity in the workplace, but that is far from true. Currently, LGBT employees are largely unprotected from employment discrimination. Thus, discrimination in the workforce remains a constant in the lived experience of LGBT persons.

Over the last few years, the focus of my scholarship and my public engagement has been on the intersection of LGBTQ persons and discrimination in education and employment. In 2017, I published an article, “*To Sit or Stand*”: *Transgender Persons, Gendered Restrooms, and the Law*, 40 U. HAW. L. REV. 49 (2017), examining the development of gendered restrooms in America, the current debate over which restrooms transgender students are to use and whether the text of Title IX of the Education Amendments Act of 1972 itself includes protection from discrimination in education because of gender identity. Then, in late 2018, I published an article, *Because of Sex*, 51 LOY. L.A.L.REV. 91 (2018), in the Loyola Los Angeles Law Review, arguing that the text of Title VII of the Civil Rights Act of 1964 itself includes protection from discrimination in the workplace based on sexual orientation and gender identity.

On October 8, the United States Supreme Court heard oral argument in *EEOC, et. al v. R.G. & G.R. Harris Funeral Homes*, addressing the question of whether Title VII’s prohibition against discrimination because of sex encompasses a prohibition against discrimination based on gender identity. On the same day, the Court also heard arguments in two other cases, one from the Second Circuit, *Altitude Express v. Zarda*, and one from the Eleventh Circuit, *Bostock v. Clayton County*, addressing the issue of whether Title VII’s prohibition against discrimination because of sex includes a prohibition against discrimination based on sexual orientation.

Joined by other law and history professors around the country, I submitted an amicus curiae brief in *Harris Funeral Home* on behalf of Aimee Stephens, the employee. The brief argued that because the plain text of Title VII unambiguously prohibits the employment discrimination that Ms. Stephens suffered because of her sex, simply no reason exists for the court to speculate about the intent of Congress with respect to whether transgender individuals are covered under Title VII.

The brief further argued that even if the court attempted to discover the intent of the various members of Congress that enacted and amended Title VII, no indication exists that Congress ever intended to exclude transgender individuals from the reach of Title VII. In fact, by the time Congress enacted Title VII, the American popular press was filled with stories about individuals who presented in a manner that appeared inconsistent with their sex assigned at birth as a result of so-called “sex change surgeries.” Yet, even as medical technology and culture increasingly allowed transgender individuals to seek medical treatments and to live consistently with their gender identities, laws and regulations at the state and local levels sought to police those boundaries, many explicitly requiring individuals to conform to the “sex” assigned to individuals at birth.

Given this history, in the years immediately leading up to the passage of Title VII, the public and, importantly, members of Congress, would have been well aware of transgender people and would have understood the term “sex” to include them.

In *Harris Funeral Home*, Ms. Stephens, a transgender woman who worked as a funeral director, began her employment at Harris Funeral Home presenting as male, the sex to which she



was assigned at birth. However, in 2013, Ms. Stephens informed her supervisor, Thomas Rost, that she had been diagnosed with a gender identity disorder and that she intended to transition. In response to this disclosure, Mr. Rost promptly terminated her. Mr. Rost later testified that he terminated Ms. Stephens because “he was no longer going to represent himself as a man,” and because Mr. Rost believed that gender transition “violat[es] God’s commands” because “a person’s sex is an immutable God-given fit.” The Equal Employment Opportunity Commission sued on Ms. Stephens’ behalf, alleging that the acts of the funeral home constituted unlawful sex discrimination under Title VII.

In *EEOC, et. al v. R.G. & G.R. Harris Funeral Homes*, the district court held that Ms. Stephens had been subjected to sex discrimination in violation of Title VII because, consistent with *Price Waterhouse v. Hopkins*, she was subjected to impermissible sex stereotypes. However, the district court then concluded that even though Ms. Stephens had been the victim of sex discrimination, the funeral home had a right to terminate her under the Religious Freedom Restoration Act, holding that the act protected personal religious beliefs, even when those beliefs resulted in otherwise unlawful sex discrimination.

In 2018, the United States Court of Appeals for the Sixth Circuit reversed this decision. In its decision, the Court of

Appeals moved beyond the sex stereotyping rationale of *Hopkins*, holding that Title VII specifically outlaws employment discrimination against transgender persons.

Before the Supreme Court, David Cole of the ACLU presented the argument on behalf of Ms. Stephens. In the opening of his argument to the court, Mr. Cole broke the case down into its simplest terms, stating:

“When Harris Homes responded by firing her, it discriminated against her because of her sex for three reasons. First, in firing her for failing to conform to its owner’s explicitly stated stereotypes about how men and women should behave, it discriminated against her in the same way that Price Waterhouse discriminated against Ann Hopkins for failing to walk and talk more femininely. It can’t be that Ann Hopkins would lose her case on the same facts were she transgender.”

As Mr. Cole pointed out in his argument, Ms. Stephens was fired for “identifying as a woman only because she was assigned a male sex at birth.” In firing her for this reason, Harris “fired her for contravening a sex-specific expectation that applies only to people assigned male sex at birth; namely, that they live and identify as a man for their entire lives.”

While the justices focused many questions on the issues of restrooms and athletics, neither of which were before the court, Justice Neil Gorsuch acknowledged that the question of



whether or not the text of Title VII encompassed protections against discrimination based on sexual orientation and gender identity was “close.” However, Justice Gorsuch expressed some concern about “the massive social upheaval” that might result from the decision. Yet, as Mr. Cole pointed out in response to Justice Gorsuch, “federal courts of appeals have been recognizing that discrimination against transgender people is sex discrimination for twenty years” and “[t]here’s been no upheaval.”

In *Zarda* and *Bostock*, argued the same day as *Harris Funeral Home*, the court addressed the claims of two men who asserted that they were fired from their jobs because they were gay, in violation of Title VII. Donald Zarda (who died in 2014 in a base-jumping accident in Switzerland) had been working as an instructor for a skydiving company now known as Altitude Express, while Gerald Bostock had worked as a child-welfare-services coordinator in Clayton County, Georgia.

In arguing on behalf of the two men, Stanford Law School Professor Pamela Karlan also faced a number of questions by the justices regarding restrooms and dress codes, issues that were clearly not before the court in these cases. In responding to these questions, Professor Karlan pointed out that Title VII specifically addresses the situation regarding restrooms, with the central question being whether providing same-sex bathrooms denies someone an employment opportunity. As to the issue of dress codes, Professor Karlan indicated that, ultimately, the justices would be forced to address the issue, no matter how they ruled in these cases.

However, the primary issue raised during the oral argument in *Zarda* and *Bostock* was whether, in passing Title VII in 1964, Congress intended to bar discrimination based on sexual orientation and whether, from a textual interpretive perspective, that mattered at all. As Professor Karlan pointed out, the Supreme Court has recognized many other claims under Title VII that Congress could not have contemplated in 1964, including both opposite-gender and same-gender sexual harassment and claims based on sex stereotyping.

Justice Gorsuch was also very active in the *Zarda* and *Bostock* oral arguments, challenging

arguments by Jeffrey Harris, counsel for the employers, attempting to draw a clear line between definitions of “sex” and “sexual orientation” as the basis for the termination of the employees in these cases. For example, Justice Gorsuch pushed Mr. Harris on this point:

“I think the response from the other side is: But the statute has a more generous causal formulation, a but-for causal formulation, so perhaps you’re right that, at some level, sexual orientation is surely in – in play here. But isn’t sex also in play here because of the change of the first variable? And isn’t that enough? It – you know, the statute talks about a material causal factor or some formulation like that, not the sole cause, not the proximate cause, but a cause. And ... in what linguistic formulation would one – would one say that sex, biological gender, has nothing to do with what happened in this case?”

Justice Gorsuch returned to this theme during the argument of U.S. Solicitor General Noel Francisco, who appeared on behalf of the federal government as a “friend of the court,” supporting the employers in this case. When the solicitor general attempted to draw a line between the meanings of sex and sexual orientation, Justice Gorsuch again responded that at least one contributing cause of the plaintiffs’ firings here does appear to be sex.

In concluding his argument in all three cases, the solicitor general argued that a ruling for the employees in these cases would ignore religious objections that employers might have to hiring LGBT employees, while, at the same time, greatly expanding the rights of LGBTQ employees. For this reason, among others, the solicitor general argued that this decision should be left to Congress to resolve.

Following the oral arguments in these cases, it is difficult to predict whether five votes exist for holding that Title VII’s prohibition against discrimination because of sex encompasses sexual orientation and gender identity. Based on the oral argument, it would seem that Justice Gorsuch’s vote might well be at play, given his acknowledgement that the text of Title VII made this a close call. This confirms the strategic decision by those who submitted briefs and amici on behalf of the employees to focus on the text of Title VII itself.

About Professor Harrison

At Chase, Professor Harrison has taught such courses as Civil Procedure, Torts, Trial Advocacy, Family Law and Sexual Identity and the Law. He is faculty coordinator of the National Trial Competition Team and director of the Center for Excellence in Advocacy.

His research and scholarship focuses on issues related to civil procedure and the federal courts and sexual identity and the law. His recent law review articles include *Because of Sex*, 51 *LOY. L.A.L. REV.* 91 (2018), “*To Sit or Stand*”: *Transgender Persons, Gendered Restrooms, and the Law*, 40 *U. HAW. L. REV.* 49 (2017) and *Registration, Fairness and General Jurisdiction*, 95 *NEB. L. REV.* 477 (2016)

Professionally, he chairs the Sexual Orientation and Gender Identity Issues Section of the Association of American Law Schools and frequently presents his research on various topics at law schools and professional symposia.

A PROFESSOR AND AN AMICUS

As a law student, Professor **Amy Halbrook** worked with a professor at Northwestern University School of Law on an amicus curiae brief in a case before the Supreme Court of the United States that would become the landmark decision that prohibited a death-penalty sentence for crimes committed by youths seventeen years old or younger. Now, as a professor, she has engaged Chase College of Law students in the research for an amicus brief she wrote and filed with the Supreme Court of Kentucky in a case that could extend the death-penalty prohibition in Kentucky through the age of twenty.

In this account of the case, *Commonwealth v. Bredhold*, Professor Halbrook, who is director of the Chase Children's Law Center Clinic, writes about the law prior to it, the reasoning behind the legal arguments in it and the impact of her experience. Her brief was filed on behalf of the National Association for Public Defense (where Professor Jennifer Kinsley is a member of the Amicus Committee) and the Kentucky Association of Criminal Defense Lawyers. Separately, Acena Beck, a Chase graduate who is executive director of the Covington, Kentucky-based Children's Law Center, filed a brief as counsel for the Children's Law Center, the Juvenile Law Center and more than fifteen other organizations.

By PROFESSOR AMY HALBROOK

In *Commonwealth v. Bredhold*, the Supreme Court of Kentucky was asked to review whether the death penalty constitutes cruel and unusual punishment when imposed on people who committed capital-punishment-eligible crimes at ages eighteen through twenty. When it rules, Kentucky may be the first of the fifty states to declare the death penalty categorically unconstitutional when imposed on this population

The Eighth Amendment of the United States Constitution requires courts to assess a challenged sentencing practice in light of the “evolving standards of decency that mark the progress of a maturing society.”¹ To determine evolving standards of decency, courts are to consider objective criteria and their own independent judgment.² A court may exempt a class of offenders from a punishment if it finds a national consensus against that practice and the court independently determines that the punishment is disproportionate to the level of culpability of the offender.³

After considering national trends and newly discovered brain science and developmental data, in 2005 the Supreme Court in *Roper v. Simmons* declared the death penalty unconstitutional when applied to youths seventeen and under.⁴ In deciding *Roper*, the court held that juveniles are less blameworthy than adults, even in the case of capital murder, and that the application of different sentencing principles is required for them under the Eighth Amendment.⁵

In 2010, the court in *Graham v. Florida* categorically exempted youths seventeen years old and under from juvenile life without the possibility of parole sentences (often referred to as JLWOP).⁶ In *Graham* the court found a national consensus against JLWOP for non-homicide crimes where the practice was rarely imposed even though statutorily allowed, with one state imposing a “significant majority” of JLWOP sentences

and ten others imposing the remainder.⁷ In *Miller v. Alabama*, the court categorically exempted youths seventeen and under from mandatory JLWOP sentences, emphasizing that youths presented greater possibility of rehabilitation than adults.⁸

The court noted that mandatory imposition of JLWOP sentences “prevents those meting out punishment from considering a juvenile’s ‘lessened culpability’ and ‘greater capacity for change’ and runs afoul of our cases ‘requirement of individualized sentencing for defendants facing the most serious penalties.’”⁹ The court based its holding “not only on common sense ... but on science and social science”¹⁰ which demonstrated fundamental differences between juveniles and adults.

In 2012, the court in *Montgomery v. Louisiana* further expanded its analysis of JLWOP and held that *Miller* barred JLWOP “for all but the rarest of juvenile offenders, those whose crimes reflect irreparable corruption.”¹¹

Taken together, these are used to show that the court recognizes that age and the special developmental status of juveniles play a critical role in determining whether a particular sentencing scheme is inappropriate under the Eighth Amendment. The cases show three key differences between youths and adults: Youths have a “lack of maturity and an underdeveloped sense of responsibility; youths are “more vulnerable or susceptible to negative influences ... including peer pressure;” and their “characters are not as well formed.”¹²

The Case of *Commonwealth v. Bredhold*

Travis Bredhold was indicted on charges of murder, first-degree robbery, theft by unlawful taking of \$10,000 or more and three Class A misdemeanors in the Fayette County (Lexington) Circuit Court. He was eighteen years and five months old at the time of the alleged events. The commonwealth noticed the intent to seek the death penalty if he was convicted of



eligible offenses. Mr. Bredhold, through counsel, filed a motion to declare the Kentucky death penalty statute unconstitutional – in violation of the Fifth, Eighth and Fourteenth Amendments to the United States Constitution and Sections Two, Eleven and Twenty-Six of the Kentucky Constitution – insofar as it permitted capital punishment for defendants aged eighteen through twenty at the time of their offense.

The court heard expert testimony from Dr. Lawrence Steinberg, an expert on brain development. Dr. Steinberg's testimony had been relied on in *Roper v. Simmons*, the 2005 U.S. Supreme Court case declaring the death penalty unconstitutional as applied to juveniles under eighteen.

In *Bredhold*, Dr. Steinberg confirmed the data that was available when *Roper* was decided: The pre-frontal cortex of the brain – the part of the brain responsible for executive functioning and thinking through consequences – is immature in teens and young adults. Dr. Steinberg further testified that impulsive thrill-seeking and the desire for immediate gratification peaks around age nineteen before declining through a person's twenties. This means that a person aged eighteen through twenty does not yet have the cognitive control system to avoid risky behavior and, at the same time, he or she has a social-emotional system that encourages sensation-seeking behaviors. Dr. Steinberg testified that “[k]nowing what we know now, one could have made the very same arguments about eighteen-, nineteen- and twenty-year-olds that were made about sixteen- and seventeen-year-olds in *Roper*.”

Judge Ernesto Scorsone in Fayette County Circuit Court sustained Mr. Bredhold's motion, stating, “[I]f the science in 2005 mandated the ruling in *Roper*, the science in 2017 mandates this ruling.”

The case was transferred directly to the Kentucky Supreme Court and consolidated with two other matters addressing the same issue. The court heard oral arguments on September 19, related to whether the death penalty constitutes cruel and unusual punishment when imposed on people who committed capital-punishment-eligible crimes at ages eighteen through twenty.

Summary of the Arguments

In the parties' briefs, the commonwealth argued that the trial court erred by extending the “bright-line rule” set forth in *Roper* to people aged eighteen through twenty. It argued that attempts to extend *Roper* have failed in other jurisdictions, that there is not a national consensus against the practice of executing eighteen- through twenty-year-olds, and that the new scientific evidence presented in the trial court is “simply not new.” It argued that the Supreme Court in *Roper* explicitly recognized the idea that adolescent development continues into early adulthood when it stated, “[The] qualities that distinguish juveniles from adults do not disappear when an individual turns eighteen,”¹³ but the Court elected to draw a bright line rule at eighteen anyway.

The appellee's brief argued that imposition of a death sentence for an adolescent under twenty-one is cruel and unusual punishment because the death penalty serves no legitimate penological purpose for that population. The brief argued that *Roper* and its progeny made it clear that no legitimate penological interests were served by executing individuals aged eighteen and under at the time of the offense, and that new psychological and neurobiological



research now supports the extension of *Roper's* reasoning to eighteen- through twenty-year-olds. The brief argued that there is a national trend against the death penalty, especially for the eighteen-through-twenty population, and that social practices also support the extension.

The amicus brief I submitted in support of Mr. Bredhold on behalf of the National Association for Public Defense and the Kentucky Association of Criminal Defense Lawyers focused on the ways in which youths aged eighteen through twenty are a unique class because they are treated differently under many Kentucky and federal laws than adults aged twenty-one and over. The brief highlighted academic research related to emerging adulthood to support the idea that youths aged eighteen through twenty are subject to different cultural norms and expectations than older adults.

The brief also highlighted the developmental differences between youths aged eighteen through twenty and older adults, as supported by research provided in the ABA Section on Civil Rights and Social Justice's 2018 Resolution and Report against the death penalty for eighteen- to twenty-one-year-olds. In addition, the brief argued that there is indicia of a national consensus against the practice because "thirty-six states have either abolished the death penalty, have executions on hold or have not carried out an execution in the last five years."¹⁴

For the eighteen-through-twenty population, the numbers were even lower than the general population. "Between January 1, 2005 (the year *Roper* was decided), and March 1, 2018, fourteen states executed ninety youths aged eighteen through twenty at the time of the offense, with over sixty-five percent of those executions occurring in only two states (Texas and Ohio); Texas alone accounted for fifty-two of the ninety (57.8%)."¹⁵

The amicus brief submitted in support of Mr. Bredhold by the Children's Law Center, the Juvenile Law Center and other organizations argued that objective indicia of evolving standards of decency require the abolition of the death penalty for those aged eighteen through twenty.

The brief focused heavily on arguments related to adolescent development. It argued that neuroscience now establishes that the developmental characteristics of youth which barred the death penalty in *Roper* persist into young adulthood. It cited developmental research to show that young adults exhibit the same immaturity and susceptibility to peer pressure as youths under eighteen. It also argued that young-adult brain functions relevant to culpability develop later than the areas of the brain associated with decision-making and judgment. The brief cited an article by Dr. Steinberg that stated:

"[T]o the extent that we wish to rely on develop-

mental neuroscience to inform where we draw the age boundaries between adolescence and adulthood for purposes of social policy, it is important that we match the policy question to the right science ... for example, although the [American Psychological Association] was criticized for apparent inconsistency in its positions on adolescents' abortion rights and the juvenile death penalty, it is entirely possible for adolescents to be too immature to face the death penalty but mature enough to make autonomous abortion decisions, because the circumstances under which individuals make medical decisions are very different and make different sorts of demands on individuals' abilities."¹⁶

Going Forward

The *Bredhold* case was pending before the Kentucky Supreme Court as of early February. When it rules, Kentucky may be the first of the fifty states to declare the death penalty categorically unconstitutional when imposed on eighteen- through twenty-year-olds. Ms. Beck states: "Kentucky has been a national leader on juvenile justice reforms. I am optimistic that Kentucky will be a leader on this issue as well." But Kentucky is not alone: The issue has also been recently raised in Idaho, Ohio and Florida. Criminal defense attorneys, youth advocates and death penalty opponents are likely to continue to raise the issue in other jurisdictions. The outcome will be significant however the case is decided.

Looking back on my experience, I worked with a professor and other students on an amicus brief submitted to the United States Supreme Court in *Roper v. Simmons* when I was a law student. I have been interested in Eighth Amendment jurisprudence since then, especially as it relates to juveniles and young adults. I was really happy to share the same kind of experience with Chase students. I think the experience is immeasurably valuable, both in skill development and in the pride students take in advocating for a cause.

About Professor Halbrook

At Chase, Professor Halbrook is director of the Children's Law Center Clinic and associate dean for experiential learning. She has taught such courses as Family Law, Juvenile Law and Children's Law Trial Practice.

At Northern Kentucky University, she is a faculty fellow in the Institute for Health Innovations and in spring will lead a group of Chase students in a project to help fathers and sons at an immigration detention center understand legal issues they face and for the students to develop skills for working with social workers, interpreters and health professionals in legal matters.

Professionally, she is a frequent presenter and panelist at symposia involving children and family law matters.

Endnotes

¹ *Trop v. Dulles*, 356 U.S. 86, 100-01 (1958).

² *Atkins v. Virginia*, 536 U.S. 304, 311-12 (2002).

³ *Roper v. Simmons*, 543 U.S. 551, 564 (2005).

⁴ *Id.*

⁵ *Roper*, 543 U.S. at 571.

⁶ 560 U.S. 48, 50 (2010).

⁷ *Id.* at 64.

⁸ *Miller v. Alabama*, 567 U.S. 460, 471 (2012) (citing *Roper*, 543 U.S. at 570).

⁹ *Miller*, 567 U.S. at 480.

¹⁰ *Id.* at 471.

¹¹ 138 S.Ct. 718, 734 (2016).

¹² *Montgomery*, 577 U.S. at 733 (quoting *Miller*, 567 U.S. at 471).


¹³ *Roper*, 543 U.S. at 574.

¹⁴ See <https://deathpenaltyinfo.org/node/5829> (last visited June 19, 2018).

¹⁵ <http://clarkprosecutor.org/html/death/esexecute.htm> (last visited June 19, 2018).

¹⁶ Laurence Steinberg, 64 *Am. Psychologist* 739, 744 (2009); cf. *Roper*, 543 U.S. at 620 (O'Connor,

J., dissenting) (questioning why the age for abortion without parental involvement "should be any different" given that it is a "more complex decision for a young person than whether to kill an innocent person in cold blood").



Professor Jennifer Jolly-Ryan kayaking at Nantahala Falls, North Carolina

FEATURED SCHOLARSHIP

Like submerged river rocks, an unanticipated legal problem can add turbulence to a day of kayaking or canoeing. In this adaptation of her law review article, *Don't Go Chasing Waterfalls: The Intrepid, Pioneering, Whitewater Paddler's Right to Stop on Private Land*, published in the *University of New Hampshire Law Review*, Professor **Jennifer Jolly-Ryan** applies her legal scholarship and whitewater kayaking experience to analyze some of the law paddlers might encounter as they glide by riverbanks and lake shores.

The river roars from the thunder of waterfalls and swift currents. Its water runs wild between large boulders and steep banks. And kayaks and canoes are now designed to navigate whitewater rapids that many people believe are unnavigable. That is just one reason conflicts often arise between private landowners and paddlers. Some private landowners have shot at paddlers or have strung barbed wire across creeks and streams, creating a wicked noose.

The conflicts between landowners and paddlers have only increased as innovations in kayak and canoe design have fueled the growth of paddling and made it possible for paddlers to access waters along remote, private property. The sport of running wild-water rapids and waterfalls in a kayak or canoe pushes to the limits both paddlers' sporting skills and the property rights of landowners along the streams which paddlers navigate. Much to the dismay of private landowners along waterways, recreational boaters, including kayakers and canoeists, occasionally get out of their boats to eat lunch, rest or take advantage of nature's bathrooms along the water's edge. Sometimes paddlers patiently wait out storms on private land, until they can safely cross turbulent water tossed by the wind.

Trespass law is at the heart of conflicts between paddlers and private landowners. Paddlers' rights are balanced against landowners' bundle of rights. The rights to exclude others and reasonably defend private property are essential sticks in the bundle of property rights. A paddler's incidental and necessary use of private land determines the line between trespass and permissible use of private property along the water.

Paddlers often stop along the river's edge to eat lunch, stretch or rest. Paddlers may stop on private land to a reasonable and limited extent, as long as entry is reasonable and does not cause unnecessary injury to the landowner or to the land. "Incidental contact" is contact that is "reasonably necessary and convenient for the effective enjoyment of the public's easement [to enjoy recreational activities]."¹ Kentucky landowners own to the center of the stream or river.² But a paddler's "incidental contact" with private riverbeds definitively includes the right of temporary anchorage and likely includes minimal contact with the riverbed resulting from fishing, swimming and boating.³

Lawful, incidental contact with the land likely includes the right to portage rapids or dams, as long as entry on land is accomplished in the least intrusive manner and does not cause unnecessary harm to the property. In Ohio, for example, a paddler's entry on private land to portage around a dam is "reasonably necessary" and a "privileged intrusion on the property of the landowner."⁴

The waterway's ordinary high water mark often balances private property rights and the public's limited, reasonable incidental use of private land.⁵ Up to the ordinary high water mark, the public can legally do many things. The public may stand on the bank, eat lunch, rest or even fish. But determining the ordinary high water mark may prove difficult for paddlers, navigating downstream. The ordinary high water mark is never a static line. Although the elevation of the ordinary high water mark may not change, "the physical location of the ordinary high water mark moves with the erosion and deposit (called 'accretion') of sand or [soil] along the shoreline [or stream or river bank] due to natural causes."⁶

The area "where the vegetation and soil show the effects of water" is open to the public to "use this land for walking, fishing, resting, camping, and other non-destructive visits."⁷ That is the paddlers' boundary for reasonable incidental contact of private property. Swimming to the bank, portaging or emptying a kayak full of water so that the paddler can continue safely downstream are, at the very least, incidental activities in paddling. Stopping to rest or eat lunch are also incidental uses of the land.

Since the ordinary high water mark is often not obvious, the privilege of necessity is useful to paddlers. Paddlers may lawfully make greater use of the land along the water, even above typical boundaries like the ordinary high water mark, where safety dictates. Paddlers touching the bank or shore is inevitable and a necessity in many circumstances during paddling.

The area to the ordinary high water mark may only be a matter of feet, depending on its natural characteristics. However, paddlers' very necessary activities, including portaging or potentially life-saving rescue maneuvers may require greater space than the ordinary high water mark.

Necessity creates a privilege to do what otherwise would be trespass upon another's land.⁸ The paddler's entry onto another's land must be, or must reasonably appear to be, necessary to prevent harm.⁹

To protect private property interests, paddlers' incidental rights to navigate down the river, lake or stream, including the privilege to enter the adjacent, private land, are strictly construed. The right to portage, as an incidental use of a waterway, requires that the paddlers take the most direct route that does not damage private property.¹⁰ However, the doctrine of necessity will likely give the paddler much greater rights if safe paddling dictates.

In summary, paddlers may stop to eat lunch, rest or stretch their legs as an incidental use of the waterway. They may also portage around obstacles and conduct rescue operations from the water's edge. These activities are, at the very least, incidental to paddling. When life and safety are at risk, paddlers' rights to use the land are also best understood as a matter of reasonable necessity. When safe paddling and rescue maneuvers are implicated, paddlers' use of private land may exceed typical boundaries, like the ordinary high water mark.

Adapted from *Don't Go Chasing Waterfalls: The Intrepid, Pioneering, Whitewater Paddler's Right to Stop on Private Land*, 17 U.N.H. L. REV. 129 (2018), with permission of the University of New Hampshire Law Review. Research assistance was provided by Jeffrey Rosenberger '19 while a Chase student.



About Professor Jolly-Ryan

At Chase, Professor Jolly-Ryan has taught such courses as Advanced Appellate Advocacy, Basic Legal Skills—Writing, Introduction to Legal Studies and The Practice: Appellate and Trial Advocacy.

Her previous law review articles include *Balancing Interests and Risk of Error: What Quarantine Process Is Due After Ebolomania?* 96 NEB. L. REV. 100 (2017).

Endnotes

¹ See *Conatser v. Johnson*, 2008 UT 48, ¶ 23, 194 P.3d 897, 903 (2008).

² *Pierson v. Coffey*, 706 S.W.2d 409, 412 (Ky. Ct. App. 1985) (The court held that the public's right to use the waterways for navigation also included a right of use for recreational purposes. The court confirmed that this necessarily

includes a right of temporary anchorage and the right of incidental use of the riverbed).

³ *Id.*

⁴ Robert W. Teeter, 1980 Ohio Op/Atty. Gen. 2-362 (1980).

⁵ *Pollard v. Hagan*, 44 U.S. 212, 215-16 (1845).

⁶ Ind. Dep't of Nat. Resources, *Ordinary High Water Marks*,

In.gov., <https://www.in.gov/dnr/water/3658.htm> (last visited Dec. 26, 2017) *Id.*

⁷ National Organization for Rivers, *River Law: Fact of Fiction*, <http://nationalrivers.org/river-fact-or-fiction.html> (last visited Jan. 11, 2018). *Ill. Central*, 146 U.S. at 460.

⁸ See 75 Am. Jur. 2d *Trespass* § 69, Westlaw (database updated Nov. 2017).

⁹ *Id.* (For the defense of necessity to apply, the entry onto land of another must be, or reasonably appear to be, necessary to prevent harm in a certain category of harms. These harms include: harm to the actor or his chattels or harm to a third party or his chattels).

¹⁰ See *Montana Coal. for Stream Access, Inc. v. Curran*, 682 P.2d 163, 172 (Mont. 1984) ("[T]he public is

allowed to portage around such barriers in the least intrusive way possible, avoiding damage to the private property holder's rights.") See also *Townsend v. Damico*, A 2014 WL 2194453 (Tenn. Ct. App. 2014) (tuber floating the Smoky Mountain's Little River exceeded the privilege to enter private land to portage around dam when he entered private campground).

Patricia Herbold Establishes Two Scholarships for Students

Former United States Ambassador Patricia L. Herbold hopes current Chase students will be able to have the type of exciting career she has had since her graduation from Chase College of Law in 1977.

“I pursued a law degree at Chase because I believed it would open the door to a variety of career options,” she says. “More than four decades later, I’ve been blessed to have experienced being a sole practitioner, working in a law firm, serving as in-house counsel for a large company and a bank, being an elected official and judge in Mayor’s Court and, finally, serving as a United States ambassador. By establishing scholarships for two students I hope that other Chase law students will also have exciting opportunities in their legal careers.”

The Ambassador Patricia L. Herbold Scholarship will be awarded to two evening division students who are Ohio residents, who demonstrate high academic promise, have financial need and who are interested in real estate law, contract law or business and technology law.

The career doors that the Chase evening division opened for Ambassador Herbold were initially in Ohio, as associate regional counsel for Prudential Insurance Company, general counsel for Bank One, attorney with Taft, Stettinius & Hollister, and later an ocean away, in Singapore, as United States ambassador. Along the way, she was a city council

member and mayor in the Cincinnati suburb of Montgomery, Ohio.

After moving to Washington state in 1995, when her husband, Robert Herbold, became executive vice president and chief

operating officer of Microsoft Corporation, she received a gubernatorial appointment to the Washington State Gambling Commission. In 2005, President George W. Bush appointed her United States ambassador to Singapore, a post she held until she resigned in 2009, as is traditional for non-career appointees when administrations change.

In 2014, Ambassador Herbold, who had lived four years of her childhood in an orphanage, received the Horatio Alger Association of Distinguished Americans Award, given to individuals who overcome personal adversity to achieve success. She hopes that her story, and these scholarships, will lead to success for more Chase students.



Patricia Herbold

David Swift Endows Scholarship for Evening Students



David Swift

David Swift traveled a curving road through the three-nights-a-week evening program of Chase College of Law when it was located in downtown Cincinnati. He went to class, then he went on the road for his job as a sales representative for American Hospital Supply. He went to class, then he went on the road, again. “I traveled on off-days.

Tuesday mornings I would be up and on the road,” he recalls of the start of his week.

Mr. Swift, who graduated in 1966, wants to make it easier for evening division students to travel through Chase, at least financially, by his endowment of the David L. Swift Endowed Scholarship.

Following graduation, his road from Chase became a straight line in corporate leadership, in legal and administrative positions. He worked in human resources with Kroger and later was corporate counsel for Reliance Electric Co., a Cleveland-based maker of industrial electrical equipment. After that,

he became general counsel and vice president for administration of Acme-Cleveland Corporation, a manufacturer of industrial tools. In 1987, he became president and chief executive of the company, and later became chairman of the board.

He had enrolled at Chase to prepare for a career. “I had an undergraduate business degree, and I felt a law degree would prepare me better [than a graduate business degree]. I saw a lot of newspaper articles about guys at Chase, and thought that was not a bad way to go. It was a good learning experience,” he says.

His involvement with Chase has continued as a member of the Board of Visitors, an advisory panel for the dean, and now with creation of the David L. Swift Endowed Scholarship. “I hope the scholarship will benefit Chase and its students. It is something of a token payback opportunity for my legal education at Chase and what it opened up for me. I am very fortunate for the part that Chase has played in my life.”

Denise Kuprionis works to find solutions. She is founder and president of The Governance Solutions Group, a board advisory practice. She shares the knowledge she has gained from twenty-five years in public, private and nonprofit boardrooms and helps directors increase board effectiveness. As a Chase College of Law alumna, she and her husband, John Kuprionis, have provided a solution for Chase students by endowing the Denise and John Kuprionis Endowed Scholarship in Business Law and Board Governance. It will be awarded to students who are graduates of the Northern Kentucky University Haile/US Bank College of Business and who demonstrate high academic promise, with preferences for students interested in business law and board governance and who have financial need.

“My husband’s and my gift, we hope, does three things: Most importantly it will help students who, without financial assistance, would not be able to attend law school. This can enable more diversity within classes,

which allows all students and faculty greater learning opportunities. Finally, we hope this gift encourages others to give back, which helps to ensure the sustainability of Chase College of Law,” she says.

Ms. Kuprionis graduated from Chase in 1994, and in 2009 her career accomplishments led to her receiving the Chase Alumni Association Professional Achievement Award. Prior to forming her company, she spent more than thirty years with Cincinnati-based E.W. Scripps Co., including as vice president, secretary and chief compliance and ethics officer of the media company.

At Chase, she has been a member of the Board of Advisers of the Transactional Law Practice Center, now the Center for Law and Entrepreneurship.

“I appreciate the time I spent at law school, and earning my degree helped me advance my career,” she says. “Now, I’m blessed to be in a position to financially support Chase College of Law, and feel privileged to do so.” It is a feeling that led her to a solution.

Denise Kuprionis Endows Scholarship for NKU Graduates at Chase



Denise Kuprionis

Frank Allen Fletcher Endows Scholarship with Regional Recognition



Judge Frank Allen Fletcher

Frank Allen Fletcher could have followed his father and been a funeral director in eastern Kentucky. “I had a lot of pressure from family to stay in the business,” he recalls. Instead, he decided to attend Chase College of Law, become a lawyer and return to eastern Kentucky to practice, and eventually to become circuit judge for Breathitt, Powell and Wolfe counties.

His professional path since graduation in 1985 has now returned full-circle to Chase, through his endowment of the Frank Allen Fletcher, Circuit Judge, Endowed Scholarship. The scholarship will be awarded to Chase students who demonstrate high academic promise, with a preference for those from eastern Kentucky.

“Chase was an opportunity for me to go into the legal field,” says Judge Fletcher, who began his career in a private practice that included some

criminal defense work and expanded to focus primarily on matters involving personal injury and workers’ compensation. During an eventual twenty years in practice he was also Breathitt County Attorney for four years. Then, in 2006, he was elected circuit judge and subsequently re-elected in 2014 without opposition. He now serves as Chief Circuit Judge of the Thirty-Ninth Judicial Circuit.

“I wanted to give back to the profession, and the best way to do that was to make a donation to Chase, which had educated me and has been very good to me,” he says. Judge Fletcher has previously supported Chase students through a fund he created to provide student recognition awards.

Even though he did not follow the original family business, he has made Chase something of the family law school. His brother, George Fletcher, graduated from Chase two years after he did, in 1987, and the two practiced together for twenty years as Fletcher and Fletcher.

Ralph Ginocchio Endows Scholarship for High Achievers



Ralph Ginocchio

Ralph Ginocchio has big hopes for what a scholarship can mean to a student.

Mr. Ginocchio, who graduated from Chase College of Law in 1977, has endowed the Ralph P. Ginocchio Endowed Scholarship with one

purpose in mind: “My hope is that one or two excellent students a year will be able to attend or continue to attend Chase. Chase has to compete for good students, and scholarship aid will help attract them,” he says. The scholarship will be awarded to students who demonstrate high academic promise.

Mr. Ginocchio, a partner in the Cincinnati firm of Schimpf, Ginocchio and Kehres, concentrates his practice in the areas of family law, estate planning, probate and estate administration, personal injury and civil litigation. He is an Ohio State Bar Association board-certified specialist in family relations law and a frequent

lecturer in the annual Family Law Institute of the Cincinnati Bar Association.

Within the profession, he is a past president of the Cincinnati Bar Foundation, the charitable giving arm of the Cincinnati Bar Association for law-related projects, and a past chair of the Cincinnati Bar Association Domestic Relations Committee and of the Fee Arbitration Committee. He is a founding member and board member of the Cincinnati Academy of Collaborative Professionals, a consortium of lawyers and family-relation specialists that guides separating couples toward amiable resolutions.

Mr. Ginocchio understands how funding of public education has changed since he was a student. “Law schools are not fully funded by state governments, and need the support of alumni to help make up the difference,” he says. “As alumni, we have an obligation to give back to the schools we attended.”

With his creation of the Ralph P. Ginocchio Endowed Scholarship, he is both giving back to Chase and giving to its future.

Julie Schoepf Endows Scholarship for Promising Students

Julie Schoepf was thinking about a career change when she enrolled at Chase College of Law.

“Chase helped me launch my legal career after owning my own business and working in the corporate sector. Without the flexibility of the evening program and the dedicated faculty and staff who support it, I would not have considered law school,” she says. Now, more than fourteen years after her graduation in 2005, she has endowed the Julie A. Schoepf Endowed Scholarship for students with high academic promise to follow her to becoming a lawyer.

“I truly value the relationships I built at Chase, and the people who helped me along the way. Giving back to Chase is a way for me to show my thanks, and help future generations of Chase lawyers,” says Ms. Schoepf, a partner in the Cincinnati firm of Dinsmore & Shohl, where she focuses on commercial lending, workouts and restructuring. She also handles matters involving multi-state commercial loans, construction loans, low-income housing loans and asset-based loans.

From that professional experience, she has taught about legal issues involved in real estate transactions as an adjunct

professor at the University of Cincinnati Carl H. Lindner College of Business. At Chase, she is a member of the Board of Visitors, an advisory panel for the dean, a member and past president of the Alumni Council, the governing body of the Chase Alumni Association, and the 2014 recipient of the Alumni Association Outstanding Alumna of the Past Decade Award.

For students, she hopes the Julie A. Schoepf Endowed Scholarship will be an opportunity for reflection as well as for financial assistance. “I hope my gift will encourage students to consider how much Chase has to offer, and how many successful graduates have passed through its doors. At Chase, students have so many opportunities to learn and develop the skills that will help propel them to the next level. And one day, I hope those students will continue the tradition of supporting the college themselves.”



Julie Schoepf

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1969



Beatrice Larsen published *The Third Person in the Room: Stories of Relationships at a Turning Point*,

a book that describes behaviors she observed as a public defender, divorce lawyer, mediator and confidant. She was the first woman to be president of the Cincinnati Bar Association, during 1986-87, and was a founding board member of the Center for Resolution of Disputes in Cincinnati.

1971



Richard D. Lawrence, founding partner of The Lawrence Firm, in Covington, Kentucky,

received the Craig Spangenberg Distinguished Advocate Award from the Ohio Justice Association for his work as a trial lawyer. His focus is plaintiff medical malpractice. He is a member of the Chase Board of Visitors, and in 2008 received the Lifetime Achievement Award of the Chase Alumni Association.

1972

Edward Pechar, board chairman of McCormick Distilling Co., Weston, Missouri, is completing fifty years in the spirits industry. He began his career in the purchasing department of Schenley Distillers, Lawrenceburg, Indiana, while a student at Chase.

1974

Norman Zoller received the Marshall-Tuttle Award of the Military Legal Assistance Program Committee of the Georgia Bar Association for his work coordinating the association's military legal assistance program for military personnel and veterans. He retired in 2008 as circuit executive of the Atlanta-based United States Court of Appeals for the Eleventh Circuit and had previously been Hamilton County (Ohio) Courts Administrator. He retired from the military in 1993, after 22 years of service that included two tours in Vietnam during the Vietnam War and as a Judge Advocate General officer in the Army Reserves and National Guard.



1976



Ridley Sandidge joined McBrayer law firm as a member in the Louisville, Kentucky, office.

His focus is business disputes, insurance defense and other defense work.

1977

Thomas Hattersley published *A Funny Thing Happened in Prison the Other Day, Stories from Inside an Ohio Prison*, a book based on his three years as a volunteer at the Lebanon Correctional Institute. It is a study of prison culture and a discussion of penal policy. He is a partner in Pathway Guidance, Cincinnati, where his consulting practice focuses on executive coaching.



Hank Menninger, senior partner in Wood & Lamping, Cincinnati, received the

Greater Harrison Lifetime Achievement Award at the

Greater Harrison Chamber of Commerce Annual Membership Dinner. He has been a member of the Harrison (Ohio) City Council since 2012 and has served on the city's planning commission, board of zoning appeals and as a juvenile referee.

1979



Thomas A. Sweeney joined Adams, Stepner, Woltermann & Dusing, Covington, Kentucky, as of

counsel. His focus is litigation, with emphasis on personal injury, product liability and medical malpractice.

1980



Robert J. Gehring, shareholder in Buechner Haffer Meyers and Koenig, Cincinnati, was

appointed chair of the Ohio State Bar Association Certified Grievance Committee. His practice focus is municipal liability, insurance law, business

litigation, professional malpractice, civil rights law and mediation. He is a past president of the Cincinnati Bar Association and is certified as a Civil Trial Advocate by the National Board of Trial Advocacy.

1983



Rick Robinson published *Opposition Research*, his latest book in his Richard Thompson

series of political thrillers.

1988



Craig Clymer was elected McCracken County (Kentucky) Judge Executive. He

retired from the bench after six years as McCracken County District Court Judge and seventeen years as a Second Judicial Circuit Court Judge for McCracken County. He has been a mediator for the United States Department of Defense since 2004.

Howard Keith Hall was re-elected Pike County (Kentucky) Attorney in 2018.

Robert Mattingly, former judge of the Forty-Second Kentucky Judicial Circuit, Family, for Calloway and Marshall counties, returned to private practice with Johnson & Mathis, Benton, Kentucky, where he began his career, and was appointed Benton City Attorney.

1990



James Frooman, executive committee member of Frost Brown Todd, Cincinnati,

was appointed chair of the firm's Mobility and Transportation Industry Team. His focus is business litigation and general corporate law.

1994

Dana Cox Nickles was named executive director of the Kentucky Health Departments Association, based in Frankfort, Kentucky.

Jon Woodall, member of McBrayer law firm, Lexington, Kentucky, was named a *U.S. News – 2020 Best Lawyers in America*. His focus is construction law, commercial litigation and land use law.

1995



Glenn Denton, partner in the Denton Law Firm, Paducah, Kentucky, was elevated to chair of the

Mercy Health Foundation-Lourdes Board. He also serves on the boards of directors of Paducah Bank & Trust Company and Lawyers Mutual Insurance Company of Kentucky. His practice focus is litigation.

Kathryn Gregory Slone was re-elected without opposition as District Court Judge of the Twenty-Eighth Kentucky Judicial District for Pulaski and Rockcastle counties in 2018. She was appointed in 2005, when she was thirty-six years old, elected in 2006 and re-elected in 2010 and 2014 prior to her recent re-election.

1996



Jill P. Meyer, president and chief executive of Cincinnati USA Regional Chamber, was appointed to

the board of directors of Cincinnati Financial Corporation as an independent director and to the audit committee.

1997



William D.G. Baldwin, partner in Vorys, Sater, Seymour and Pease, Cincinnati, is a 2020 Best

Lawyers in America in real estate law. His focus is commercial real estate.

Amy Burke was appointed a Kentucky assistant deputy attorney general by newly elected Attorney General Daniel Cameron to oversee criminal justice matters. She previously was chief prosecutor for the Kenton County (Kentucky) Attorney.



Lisa Marie Clark joined Schimpf, Ginocchio & Kehres, Cincinnati. Her focus is Ohio

workers' compensation, Social Security disability, personal injury, estate planning and probate administration.



Dwane Mallory was re-elected this past November as a judge of Hamilton County

(Cincinnati) Municipal Court.

1999



Carey K. Steffen joined Aronoff, Rosen & Hunt, Cincinnati. Her focus is residential and

commercial real estate, title insurance claims defense and foreclosure.

2001



Monica Dias, member in Frost Brown Todd, Cincinnati, delivered the State of the First Amendment

address at the University of Kentucky School of Journalism and Media, Lexington, Kentucky. Her practice focus is First Amendment and media rights, and trademark and copyright matters.

2004



Stephen Nesbitt, partner in Ulmer & Berne, Cincinnati, was appointed to the board of

trustees of ProKids, a Cincinnati nonprofit that trains and supports volunteers who work on child abuse and neglect matters. His practice focus is corporate law and real estate.

2005



Timothy B. Spille, attorney with Reminger Co., Cincinnati, was named a *Columbus CEO Magazine* 2019

top lawyer in central Ohio for his appellate work. His focus is litigation, insurance coverage, construction and small business representation.

SHARE YOUR NEWS

Send news about your life or career for publication in CHASE to Judy Brun, law specialist, by email at brunj1@nku.edu or by mail at Chase College of Law, 521 Nunn Hall, 100 Nunn Dr., Highland Heights, KY 41099.

2005



Captain Sharif Abdrabbo, senior reserve officer at Legal Service Command for the United States Coast Guard, was named Coast Guard Reserve Judge Advocate of the Year for 2019 by the Judge Advocate Association. The association noted that his leadership fostered a culture of proficiency and professionalism. He had helped create the Coast Guard Reserve Judge Advocate General program and qualification standards for Reserve Judge Advocate General. As a Reserve Judge Advocate General, he was part of the Coast Guard response to an earthquake in Haiti in 2010, and was assistant legal officer to the Federal On-Scene Coordinator of the Deepwater Horizon oil spill in 2010.

2006



LaJuana S. Wilcher, partner in English, Lucas, Priest & Owsley, Bowling Green, Kentucky, is serving as chair of the Federal Agricultural Mortgage Corporation after receiving a presidential appointment in late 2019 to the board of the company that provides a secondary market for credit in agricultural and rural areas of the country. She owns and operates Scuffle Hill Farm in Alvaton, Kentucky,

where she raises Angus cattle, grows hay, alfalfa and fescue, and boards horses. Based on her experience from 1989 to 1993 as a United States Environmental Protection Agency senior regulatory official for water programs, she spoke this past year in Denver at "The Fork Not Taken: A Two Forks Retrospective," a program about the veto by the EPA director in 1990 of a proposed Two Forks Dam reservoir, near Denver.

2006



Brad Council, became a partner in Slovin & Associates, Cincinnati. His focus is commercial

litigation, creditor rights and landlord-tenant matters. He is Midwest region chair of the Commercial Law League of America, a member of the executive council of the Commercial Law League Young Members Section, and co-chair of the Ohio Legislative Committee for Receivables Management Association International.

2007



Jeffrey Pfirman became a partner in Graydon Head & Ritchey, Cincinnati. His

focus is creditor rights, bankruptcy and commercial litigation.

2008



Janaya Trotter Bratton was elected this past November as a judge of Hamilton County

(Cincinnati) Municipal Court.



JB Lind, partner in Vorys, Sater, Seymour and Pease, Cincinnati, is a 2020 Best Lawyers in

America in commercial litigation. His focus is commercial litigation and data breach/privacy litigation.

2009



Stephanie Tew Campbell

joined Embry Merritt Shaffar Womack, Lexington, Kentucky. Her

focus is family law, including divorce, paternity and domestic violence.

2014



Spencer Merk and **Eric Gile**

opened Merk & Gile, in Newport, Kentucky. The firm represents individuals in personal injury matters.

2015

R. Derek Vanover joined the legal department at CTI Clinical Trial and Consulting Services, Covington, Kentucky.

2016



Emily Hubbard

joined Lerner, Sampson & Rothfuss, Cincinnati. Her focus is creditor rights and

complex litigation.

2007



Faith Whittaker, partner in

Dinsmore & Shohl, Cincinnati, was appointed to a three-year term on the board of trustees of the Cincinnati Ballet. She took up ballet as a child and performed through college. She is a member of the board of trustees of the Cincinnati Bar Association and chair of the association's Labor and Employment Law Practice Group. In August, she administered a Chase professionalism oath to the incoming first-year class, in which students pledged to adhere to the Chase student honor code, and, as students and eventually lawyers, to be courteous and respectful and to provide leadership in a spirit of public service and a pursuit of justice.

2008



Travis Mayo was named deputy counsel in the Office of the Governor of Kentucky by newly elected Governor Andy Beshear. He had been an assistant attorney general, most recently in charge of the Office of Civil and Environmental Law, while Mr. Beshear was attorney general. In one of his first courtroom appearances on behalf of the new administration, he argued successfully against a motion challenging an executive order that reorganized the Kentucky Board of Education. Counsel in the Office of the Governor also provide legal advice and coordinate with general counsel in other offices of state government.



Cassandra Welch joined Stites & Harbison, in the Covington, Kentucky, office. Her focus is

construction law and related matters. She previously was a staff attorney for Judge Allison Jones of the Kentucky Court of Appeals for the Sixth District in Northern Kentucky and adjacent counties.

2017



Eric S. Beutel joined Ruberg Law, Crestview Hills, Kentucky, as of counsel. His focus is

estate planning, trusts, elder law and probate.

2018



Sami C. Oudeh joined Embry Merritt Shaffar Womack as an associate in the Lexington, Kentucky, office.

His focus is civil litigation and business transactions.

2019

Dalton Belcher is Covington, Kentucky, zoning administrator.



Tarah Remy joined Dinsmore & Shohl, Cincinnati, as an associate in the intellectual property

department.

Miranda E. Gregory joined Beth Silverman & Associates, Cincinnati, as an associate. Her focus is family law. She previously was a law clerk with the firm.

IN MEMORIAM

1954



Lambert L. Hehl Jr.
September 23, 2019

Judge Hehl held judicial, legislative and

administrative positions in Northern Kentucky during a period of thirty-eight years. He was a Campbell County District Court judge, a Campbell County Circuit Court judge, a Kentucky state senator, a Campbell County commissioner and a Campbell County judge executive. He began his career in public service first as a deputy tax commissioner and then as Crestview, Kentucky, city attorney. The Interstate-275 Combs-Hehl Bridge across the Ohio River, from Campbell County to Hamilton County, Ohio, is named for him and the late Kentucky Governor Bert Combs in recognition of his work to enhance the Northern Kentucky transportation infrastructure.

1955

Bert C. Imfeld
August 13, 2018

Mr. Imfeld practiced in Hamilton, Ohio, with his father and brother in Imfeld, Imfeld & Imfeld. He was a past president of the Butler County Bar Association, a Hamilton assistant law director for twelve years and an acting municipal court judge for eight years.

1957

Stanley M. Cecil
January 17, 2019

Mr. Cecil was a senior vice president of First National Bank of Cincinnati when he retired in 1978.

1962

G. Thomas Delahunty
April 9, 2019

Mr. Delahunty was a patent attorney and partner in the New York City firm of Brooks, Haidt, Haffner & Delahunty.

1973

Dennis K. McCarthy
March 20, 2019

Mr. McCarthy maintained a private practice and was a public defender in Hamilton County, Ohio.

1974



Clyde W. Middleton
July 12, 2019

As a Kentucky legislator, Senator Middleton was

instrumental in the early 1970s in adoption of legislation that allowed for the merger of Chase College of Law, then located in Cincinnati, with Northern Kentucky State College, which later became Northern Kentucky University. At the time, he was both a legislator and a Chase student. Beyond the merger itself, he secured the future of Chase through an amendment that prohibited the Kentucky Council on Higher Education from closing a law school in the future – without specifying Chase – that had been brought into its system through a merger. Senator Middleton served in the Kentucky State Senate from 1967 through 1986 and was Kenton County (Kentucky) judge executive from 1990 to 1998. Two of his four children are Chase alumni, David Middleton '84 and John Middleton '94.

1978

Henry Miller Bugay
January 18, 2019

Mr. Bugay practiced first in Owensboro, Kentucky, and later in Miami.

1980

Martin J. Cunningham III

February 25, 2019

Mr. Cunningham practiced with Bingham, Greenebaum, Doll of Lexington, Kentucky, and focused on environmental matters. He was a special assistant attorney general for environmental matters while employed by the Kentucky Natural Resources and Environmental Protection Cabinet from 1980 to 1987.

Kenneth W. Scott
October 16, 2018

Mr. Scott practiced law and owned Advertisers Engraving Company.

1983

Daniel L. Dickerson
August 17, 2019

Mr. Dickerson practiced in Florence, Kentucky.

1989

Howe Edward Baker
February 26, 2019

Mr. Baker practiced in Johnson County, Kentucky.

1994

Kenneth E. Rylee
July 13, 2019

2003

Laura L. Whitmer
April 28, 2019

Mrs. Whitmer was a patent attorney with Procter & Gamble in Cincinnati prior to her retirement.

How Alumni are Connecting with Chase Students



Four alumni, all officers of the Kentucky Justice Association, participated in a panel discussion the association and the Chase Office of Career Development sponsored in late September to introduce students to techniques for developing a trial practice and for conducting a jury trial. From left, they are Sarah Emery '11, attorney in Hendy Johnson Vaughn Emery, Fort Wright, Kentucky, and a Kentucky Justice Association district vice president; Penny Unkraut Hendy '90, attorney in Hendy Johnson Vaughn Emery and KJA president-elect; Andrew Grabhorn '14, attorney in the Grabhorn Law Office, Louisville, Kentucky, and a member of the KJA board of governors; and Jennifer Lawrence '96, partner in The Lawrence Firm, Covington, Kentucky, and a KJA district vice president.



Janaya Trotter Bratton '08 discussed bail reform, in a program sponsored by the American Constitution Society in mid-November, shortly after she was elected as a judge of Hamilton County (Ohio) Municipal Court.



Alex Schoultheis '12, manager of legal talent at Thompson Hine in Cincinnati, was at Chase early this fall semester to guide students in pursuing career opportunities following graduation. He explained how to handle interviews and traits he looks for in hiring.



Four alumni shared their client-development experiences with students in early November in the Marketing for Lawyers course taught by Adjunct Professor Helen Bukulmez '09, standing left. Seated, from left, they are Chrissy Dunn Dutton '05, of Buechner Haffer Meyers Koenig, Cincinnati; Justin Lawrence '05, managing partner Lawrence & Associates, Fort Mitchell, Kentucky; Ryan Turner '08, of Dallas & Turner, Florence, Kentucky, and Jamie Turner '08, of Turner Legal Services, Cincinnati. Standing are students, from left, Elisher Williams, James Green Jr., Katie Massey, Zach Bottom, Brandy Ray, Brad Baker, Tyler Votel and Joseph Mooser.



Spencer Merk '14, left, and Eric Gile '14 shared with students in mid-November their practice experiences. They were on a panel organized by Phi Alpha Delta. One experience: Starting their own firm in Newport, Kentucky.

Faculty Scholarship & Activities



John Bickers
Professor of Law

PRESENTATIONS

“Greenbacks, Consent, and Unwritten Amendments,” at Amending America’s Unwritten Constitution conference, Boston College, May 16.

Discussed security and privacy conflicts at a forum sponsored by the Chase student chapter of the Federalist Society, September 17.



Sharlene Boltz
Professor of Law

MEDIA

Discussed active shooter training on the WVXU program Cincinnati Edition, August 28.



Carol Bredemeyer
Professor of Law Library Services

PRESENTATION

“What Does a Twenty-First Century Collection Need?” at

Ohio Regional Association of Law Libraries annual meeting, October 24.

AWARD

Northern Kentucky University Faculty Senate Distinguished Service Award.



Anthony Chavez
Professor of Law

PRESENTATIONS

Presented on public policies to incentivize carbon capture and utilization at the International Conference on Carbon Dioxide Utilization, Aachen, Germany, June 25.

Presented on public policies to incentivize carbon capture and utilization at the Carbon Management Technology Conference, Houston, July 17.

“Lessons for CDR [Carbon Dioxide Removal] Development from Renewable Energy Diffusion,” Achieving Net Zero Conference, University of Oxford, United Kingdom, September 10.

Presented on climate change issues during a program of Northern Kentucky University Campus Sustainability Month, October 28.



Judith Daar
Dean, Professor of Law

PRESENTATIONS

“Assisted Reproductive Technologies and the Constitution,” American Bar Association Section on Family Law, Dominican Republic, May 2.

“Germline Gene Editing: Dilemmas in Informed Consent,” American Society of Law, Medicine & Ethics, Health Law Professors Conference, Loyola University–Chicago, June 7.

“Beyond Disclosure: The Psychological, Social, Legal and Genetic Implications of Intentional and Unintentional Donor Identity,” panel member, Annual Meeting of the American Society for Reproductive Medicine, October 15.

MEDIA

Discussed postmortem retrieval of gametes on the NPR station KPCC, Pasadena, California, program Air Talk with Larry Mantle, May 22.

Commentary, “Who’s Your Daddy: Ancestry Tracing Shatters Truths” (with Sigal Klipstein), *Los Angeles Daily Journal*, May 31.

Quoted, *Los Angeles Times*, “DNA-Testing Firms are Lobbying to Limit Your Right to Genetic Privacy,” July 2.

Discussed privacy regulation involving genetics on the NPR station KPCC, Pasadena, California, program Air Talk with Larry Mantle, July 3.

Commentary, “DNA Uncovers Mix-Up in Assisted Conception,” *The Cincinnati Enquirer*, August 21.

Quoted, *The New York Times*, “Their Mothers Chose Donor Sperm. The Doctors Used Their Own,” August 21.

Discussed genetic testing and fertility fraud on the WVXU program Cincinnati Edition, September 3.

Quoted, *Above the Law*, “73-Year-Old Sets Record For Oldest Woman To Give Birth ... So Far,” September 11.

Quoted, *The New York Times* online parenting newsletter on legal aspects of surrogate parenting, October 11.

Quoted, *Newsweek*, on fertility doctors who fraudulently replace donated sperm, November 5.

PROFESSIONAL

Liaison from American Society for Reproductive Medicine to the American College of Obstetrics & Gynecology Ethics Committee at its biannual meeting, Washington D.C., September.



Amy Halbrook
Associate Dean for Experiential Learning, Professor of Law

PRESENTATIONS

Visiting Faculty, American Bar Association Commission on Domestic and Sexual Violence West Coast Trial Skills Institute, Irvine, California, May.

Discussed collaboration between Chase and Children’s Law Center, American Bar Association and National Legal Aid & Defender Association Equal Justice Conference, Louisville, Kentucky, May.

Panelist, “Using Partnerships and Collaborations to Provide Access to Justice to Children and Youth,” Children’s Law Center, May.

“Ethical Considerations When Representing Clients in School Matters: Who is the Client?” at Access to Justice Foundation and Children’s Law Center, Lexington, Kentucky, July.

Presenter, Northern Kentucky University/Federal Mediation and Conciliation Services Mediation Training, November.

PROFESSIONAL

Amicus curiae brief, written with research assistance by Chase students, for National Association for Public Defense and the Association of Criminal Defense Lawyers, cited in oral argument before the Supreme Court of Kentucky in *Commonwealth v. Bredhold*, September 19.

UNIVERSITY

Designated a Northern Kentucky University Institute for Health Innovations Faculty Fellow to lead a student pro bono project to help children and parents in an immigration detention center understand legal rights and proceedings and for students to gain experience in matters involving social workers, medical professionals and interpreters.

Joined advisory committee, Scripps Howard Center for Community Engagement, Northern Kentucky University.

AWARD

Excellence in Teaching Award, Greater Cincinnati Collegiate Connection, October 14.



Jack Harrison
Professor of Law

PRESENTATION

Presented on ethical issues faced by government attorneys, Kentucky League of Cities annual conference, Covington, Kentucky, September 25.

MEDIA

“Oral Argument in Title VII LGBT Cases Offers Few Clues on How SCOTUS Might Rule,” *Workplace Prof Blog*, October 22.

PROFESSIONAL

Co-author, amicus curiae brief to Supreme Court of the United States in *R.G. & G.R. Harris Funeral Homes, Inc. v. EEOC and Aimee Stephens*, July 3.

Participated in drafting and editing amicus curiae briefs to Supreme Court of the United States in *Gerald Lynn Bostock v. Clayton County, Georgia* and in *Altitude Express, Inc. & Ray Maynard v. Melissa Zarda and William Moore, Jr.*, July 3.

Joined amicus curiae brief to Supreme Court of the United States in *Comcast Corp. v. National Association of African-American Owned Media, et al.*, September.

Recognized, *The Best Lawyers in America*, 2020 edition, in Mass Tort Litigation/Class Actions–Defendants and Product Liability Litigation–Defendants.



Jennifer Jolly-Ryan
Professor of Legal Writing

PUBLICATION

“Who’s on First? Pronoun Overuse and Misuse,” *Bench & Bar* magazine, Kentucky Bar Association, September.



Jennifer Kinsley

Associate Dean for Professional Development, Professor of Law

PRESENTATIONS

“Youth Tried as Adults: The Ohio Model,” University of Cincinnati College of Law Weaver Institute for Law and Psychiatry Symposium, May 3.

“Private Free Speech,” International Free Speech Forum, Pazmany Peter Catholic University, Budapest, Hungary, June 3.

“Digital Dangers: The Legal Implications of Cyberbullying and Sexting for Middle and High School Students,” Northern Kentucky University school counseling master’s degree class, October 29.

PROFESSIONAL

Argued to Ohio Parole Board for clemency for a woman serving a potential life sentence for murder, while a juvenile, involving a man who had subjected her to sex trafficking, September 19.

Member of legal team that obtained a preliminary injunction, based on First Amendment claims, in United States District Court for the Southern District of New York against enforcement of adult business zoning restrictions in New York City, October.

MEDIA

Discussed Cincinnati policy that eliminates monetary bail for individuals charged with nonviolent misdemeanors on the WVXU program Cincinnati Edition, May 16.



Jennifer Kreder

Professor of Law

PRESENTATIONS

“The Constitutionality of the HEAR Act: Empowering American Courts to Return Holocaust-Era Artwork and Honor History,” Intellectual Property Scholars Conference, DePaul University College of Law, August 8-9.

“Law of Art and War: Using the Law to Reclaim Plundered Art,” University of Cincinnati Osher Lifelong Learning Institute, October 2.

Presented on litigation to recover artwork stolen by Nazi Germany during World War II, Northern Kentucky University Honors College, October 12.

Faculty Scholarship & Activities



Sheldon Lyke

Assistant Professor of Law

PRESENTATIONS

“Who Killed Whittier Law School? The Socially Constructed Crisis in Legal Education,” Law and Society Association Conference, Washington, D.C. June 1.

“What is a National Park?” at Association of Law, Property and Society annual meeting, Syracuse University, May 17.

COMMUNITY

Keynote speaker, NAACP and Northern Kentucky Bar Foundation luncheon, Covington, Kentucky, Nov. 15.



Michael Mannheimer

Professor of Law

PUBLICATION

Decentralizing Fourth Amendment Search Doctrine, 107 KY. L.J. 169 (2019).

PRESENTATION

“Fraudulently Induced Confessions,” CrimFest! 2019, Brooklyn Law School, July 15.

MEDIA

Discussed forthcoming law review article, *Vagueness as Impossibility*, 98 TEX. L. REV. ___ (2020), Ipse Dixit podcast, June 14.



David Singleton

Professor of Law

MEDIA

Quoted, *USA TODAY*, “Pike County Sheriff Who Investigated in Rhoden Murders Indicted on 16 Charges,” June 28.

Quoted, *The Crime Report*, “Ohio Drive Begins to Release Violent Convicts Early,” July 19.

Quoted, *The New York Times*, “Would You Let the Man Who Killed Your Sister Out of Prison?” July 19.

Quoted, *The Cincinnati Enquirer*, “70 Cops With Spotty Records Work In And Around Cincinnati,” October 10.

AWARD

Men of Honor Award, one of five African American men in Cincinnati recognized for professional success, presented by Abercrombie Group, Greater Cincinnati Foundation, Fifth Third Bank, Interact for Health and UC Health, November 16.



Steve Stephens

Professor of Law

PRESENTATION

Presented on ensuring due process, Kentucky Association of Administrative Adjudicators, Frankfort, Kentucky, May 10.

PROFESSIONAL

Recognized, *The Best Lawyers in America*, 2020 edition, in Mediation and Arbitration.

APPRECIATION

Professor Emeritus Lowell Schechter, 1945-2019

Professor Emeritus Lowell Schechter taught by example that law involves more than statutes and precedents. It involves people.

Professor Schechter, who retired from Chase College of Law in 2011, died December 26. He was 74.

During the time Professor Schechter was on the faculty, as a professor and associate dean, he taught courses in family law, juvenile law, constitutional law, international law and conflict of laws, and helped to create both the Chase Public Interest Group, which assists students financially in unpaid public-interest internships, and the Children’s Law Center, a nonprofit law firm with which the Chase Children’s Law Center Clinic is associated. Chase recognized the importance of his public-interest work by awarding him the inaugural Chase Public Service Award for faculty members, in 2011.

“Like many others in the Chase community, I loved Lowell inordinately. He inspired me with his kindness and his service. My students, clients and I have been the beneficiaries of his generosity,” Professor Amy Halbrook, associate dean for experiential learning and director of the Children’s Law Center Clinic, said of Professor Schechter. “The Chase Children’s Law Center Clinic would literally not exist without Lowell. Helping children and families was a life-long commitment for him. He was helping me with a project to keep refugee families together even into December.”

Professor Schechter served on the board of the Children’s Law Center, based in Covington, Kentucky, and worked with the Northern Kentucky University Department of Social Work to create a program to help homeless children in Northern Kentucky. He began teaching at Chase in 1981, as a visiting professor, and so impressed students and faculty members that he was offered the tenure-track position he held until his retirement. He was also associate dean for student affairs from 1985 to 19992 and 1995 to 2001.

Along with his reputation as a professor and advocate for public-interest work, Professor Schechter was known for honor and integrity. “What I admired most in him was that not only was he so smart, but he valued kindness above all,” Professor Jennifer Kreder said. “He always sought to help others, selflessly. I will cherish our family board games days, dim sum breakfasts and holidays together.”

A memorial tribute for Professor Schechter was held January 11 at Chase.



Professor Lowell Schechter upon receiving the inaugural Chase Public Service Award for faculty members, at commencement in 2011.

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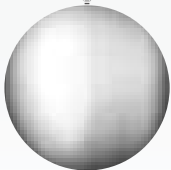
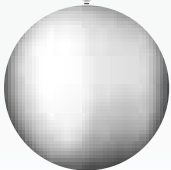
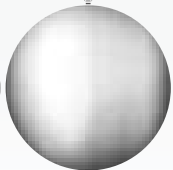
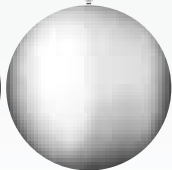
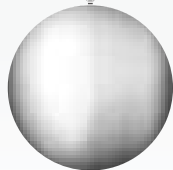
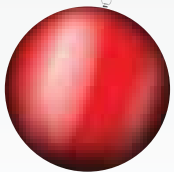
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