

March 2001

Arizona State
University
College of Law
FORUM is
published for
alumni, students,
faculty and friends.

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Dean and
Professor of Law

Hannah Arterian
Associate Dean and
Professor of Law

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Attention Alumni:
The FORUM is
looking for news
about you! Please
submit items such
as births, marriages,
job moves, awards,
etc. to the editor at
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We want to include
your news in
upcoming issues.

English Scholar is Visiting Professor

One of the world's foremost experts on medieval history is spending the spring semester teaching law and other graduate students about the connections of English legal history to modern day law.

Dr. Paul A. Brand, a Senior Research Fellow of All Souls College in Oxford, England is the Merriam Visiting Professor of Law and the Arizona Center for Medieval and Renaissance Studies (ACMRS) Distinguished Visiting Professor. He is teaching two classes at the law school: The Family in Medieval England and English Legal History: 1150-1650. The classes are also cross-listed for students in the History and Family Studies departments.

Brand was supposed to teach here last year but was offered a job at Oxford so his trip to ASU was delayed. However, Brand is glad to be spending the winter in Arizona.

"The sun and the landscape are my two favorite things about Arizona," he said. "It is very different from England in the winter."

Instrumental in bringing Brand to ASU was Professor Jonathan Rose, who is also a scholar of medieval legal history.

"I first became aware of Paul through his scholarship and have known him for about five years," said Rose. "It is a great benefit to the faculty and students to have a leading expert in legal history here and it increases the school's visibility within the scholarly and professional community at the University and in the broader community both in and outside of Arizona."

Brand received his B.A. in Modern History with 2nd class Honours and his doctorate degree

in Philosophy from the University of Oxford. During his career, he has worked as an Assistant Keeper in the Public Record Office in London, working mainly in the Publications and Medieval Records Section, as a lecturer in law at University College in Dublin, Ireland and as a private scholar.

He is also a Fellow of the Royal Historical Society and a recipient of the Sutherland Prize of the American Society for Legal History. Brand has published four books and more than 40 articles, including *The Origins of the English Legal Profession*, "Family and Inheritance, Women and Children" in *An Illustrated History of Late Medieval*

England and many works on Irish legal traditions.

In America, Brand has been a visiting professor in the History Department at Emory University in Atlanta, and also taught a course in English Legal History at Columbia University Law School in New York.

While at ASU, Brand hopes to complete some writing in the area of mid-thirteenth century legislation, in addition to teaching his classes.

"I hope the students learn that English history is interesting and is connected to modern law," said Brand. "I want them to see the developments and changes through the years."

On March 1-2, other scholars in legal history honored Brand at the Merriam Conference on Current Issues in Legal History co-sponsored by the ASU College of Law and the ACMRS. Brand presented a paper on *Rhetoric and Reality: the Making and Enforcement of Thirteenth Century Legislation*.



Paul Brand

Brennan is New Associate Dean



Associate Dean for Academic Affairs and Research, Patrick M. Brennan:

“This is a fresh and new focus on teaching and research and seemed like a way for me to make a contribution. I will spend half my time doing research and half my time on administrative duties. Although I will have no teaching responsibilities, I may still do some teaching if my schedule allows.”

The New Year has brought a significant change to the administration of the law school. After a decade in the job, Hannah Arterian is stepping down as associate dean and will begin her much-awaited sabbatical July 1.

“Dean Arterian’s contributions to the law school have been enormous,” said Dean Patricia White. “The job of associate dean is often a thankless one and it takes a person with singular institutional dedication to do it well. Hannah has certainly earned her sabbatical!”

Stepping into the newly revised position of Associate Dean for Academic Affairs and Research will be Patrick M. Brennan, a member of the law faculty since 1996, who became a tenured professor last year. His appointment will be for two years.

Brennan, who is a visiting professor at Boston College Law School this semester, is looking forward to beginning his new role on July 1.

“This is a fresh and new focus on teaching and research and seemed like a way for me to make a contribution,” he said. “I will spend half my time doing research and half my time on administrative duties. Although I will have no teaching responsibilities, I may still do some teaching if my schedule allows.”

Brennan received his J.D. from the University of California at Berkeley, Boalt Hall in 1993 where he was Order of the Coif. He also holds an M.A. in Philosophy from the University of Toronto in Ontario, Canada and a

B.A. in Philosophy, *cum laude*, from Yale College. After graduation from law school, Brennan clerked for the Hon. John T. Noonan, Jr., U.S. Court of Appeals for the Ninth Circuit in San Francisco.

“I am very excited that Patrick Brennan has agreed to be associate dean,” said White. “He is enormously talented, energetic and just plain fun. Patrick will deal with matters affecting the faculty, faculty research, curriculum reform and external relations.”

Picking up more of the student related duties will be Leslie Mamaghani, assistant dean of student affairs.

“Leslie will be the assistant dean of students in an even more full sense than she has been,” said White. “She has excellent judgment and is a compassionate and very fair person. She will have increased authority and responsibility.”

According to Brennan, his primary responsibilities will be to work with the faculty on the law school’s curriculum, to systemati-

cally think through how legal education is delivered and how that ties to the professors’ commitment to scholarship. He will also work closely with the adjunct professors.

“I want to get the faculty to decide what the mission is of the law school in light of the changing tapestry of the practice of law,” said Brennan. “This includes a range of things and how they can be unified and I am looking forward to the challenge.”

Immigration Gift

As busy attorneys with a flourishing immigration law practice, Roxana Bacon and Diane Dear, of Bacon & Dear in Phoenix, have given generously of their time and talents to the community.

Although each serves as an adjunct professor at the law school, they wanted to do something more to help the school, the students and the field of immigration law. So they established the Bacon & Dear Immigration Law Fund to help four students each year for the next three years.

“We wanted to support the Florence Project and give the law school a new dimension to their externship program,” said Bacon. “We also wanted to give those with an interest in immigration law a chance to get proficient.”

The Florence Project is a nationally recognized program that aids immigrants held in detention. Attorneys and trained volunteers do client intake and interviewing and educate the detainees about their rights. Because of the sheer volume of cases, most of the immigrants appear *pro per* at the hearing phase since there are not enough lawyers.

For recent graduate Teresa Starrs de Nava, taking Bacon’s immigration law class led to her doing an externship last summer at the Florence Project. It was such a positive experience that she still goes back from time to time and helps with group presentations.

“I was already the representative to the Florence Project from the Chicano/Latino Law Student Association,” said Starrs de Nava. “I was chatting with Roxie and telling her I wished I could work there during the summer but I couldn’t afford to volunteer. That’s when she set up a scholarship for the summer.”

At the end of the summer, Starrs de Nava reported back to Bacon on her experiences. “Roxie was so excited about what I had to say that she decided to create more positions.”

The \$100,000 gift is significant to the law school for a number of reasons according to Thomas Stevick, Director of Development.

“First it will financially assist four students per year,” he said. “Secondly, it enhances the field of immigration law which is of great interest to many of our students. Finally, the gift exposes the students to the real world problems faced by low income clients.”

“There are lots of ways to learn to be a really good lawyer and one of them is to do something off the beaten path,” said Bacon. “This is not your traditional externship clerking for a law firm or a judge. But it does provide an opportunity to learn substantive law issues while doing something emotionally engaging.”

Bacon will get no argument from Starrs de Nava. “The most fulfilling aspect was working with the individuals and seeing their growth,” she said. “Seeing them walk out the door and go home with their wives and children was the best reward.”



Roxana Bacon



Diane Dear

Junior Law

For most guys, being able to play football at Notre Dame would be the highlight of any college career. But for 3L Scott Palumbo, being a punter for the Fighting Irish from 1994 to 1997 just wasn't enough. He wanted to do more, and he did.

One afternoon in 1995, Scott was hanging around the practice field at Notre Dame with his fellow players, when he hatched the idea to start a service program called KAD – Kickers Against Drugs.

"I realized being an athlete at Notre Dame granted me a lot of influence over kids, whether warranted or not," Palumbo said. "I wanted to turn it into a positive."

When Scott approached the school's football coordinator with the idea, the coordinator suggested the program include all Notre Dame student athletes, not just the kickers. So, Notre Dame Athletes Against Drugs was born. The program placed Notre Dame's student athletes in local schools, speaking to students about goal setting and the pitfalls of substance abuse.

"I was disappointed though, because it was just really getting big when I graduated," Palumbo said. "When I came here, I didn't want it to stop, so I approached the dean about my ideas."

Dean White put Scott in touch with Aaron Levi, program coordinator at ASU's Office of Youth Preparation and after a month of brainstorming, the Junior Law program was born. In the program, ASU law students visit local grade schools and present 7th and 8th graders with a fact pattern from a recent United States Supreme Court case. The class is then divided into groups where the students discuss the case. The students then serve as attorneys, arguing their case before the law students, who in turn serve as judges.

"We use the fact pattern as a way of hooking the students into a presentation that is aimed at showing them the value of making good short term decisions in order to reach long term goals," Palumbo said. "We want them to see how their everyday decisions can affect their ability to reach their goals."

The program got off the ground in the Spring of 2000. So far, Junior Law instructors have made about 50 presentations. It didn't

have a perfect start. "I did about the first 10 presentations by myself, and it was a little rough around the edges," Palumbo admits.

Since then, the program has become a well-tuned machine. "When we first started, we did a lot of advertising of the program to schools," Palumbo said. "Now, the demand for the program well exceeds the number we can do. It has really grown."

Scott says the rewards of the program are tremendous. "First, it is a wealth of public speaking experience," he said. "Second, seeing the smiles and interest on the kids faces makes it worthwhile."

Levi adds that there are extra benefits for law students involved in the program.

"The law students find it rewarding because it gives them a chance to actually teach what they have been learning about in law school," he said. "After going through classes for years, the students really enjoy getting out and sharing what they have learned."

Scott might be feeling a little sense of *deja vu* since he will be graduating in May, once again, just when a service program he helped develop is taking off, but he is confident it will continue. "I'm not nervous

that the program will not continue once I graduate," he said. "I see the enthusiasm in the faces of the 1L's and 2L's that are instructors and I feel confident the program will continue."

Even after Scott graduates and moves on to a position with Jennings, Strouss & Salmon, Junior Law will still provide him with a sense of pride. "I get a great sense of gratification knowing that others can experience the program and the enthusiasm I have for it."

For Scott, the development of the Junior Law program is the natural result of a way of life he has been taught. "I was always told that the most successful people leave behind more than they take," he said. "I try to abide by that."

Students interested in being Junior Law instructors can contact Scott Palumbo at the law school. The instructors are now training to do presentations in March and April.



2001 EVENTS

The law school has been hopping with events in 2001.

JANUARY – ALUM LUNCH

Justice Ruth McGregor, of the Arizona Supreme Court, was honored as this year's Outstanding Alumnus. McGregor, class of '74, received the award from her friend and colleague U.S. Supreme Court Justice Sandra Day O'Connor. Governor Jane Dee Hull introduced Justice O'Connor. The event was a sold-out success.

FEBRUARY – ELECTION LAW REFORM

An impressive group of scholars, community activists and politicians gathered at the College of Law to discuss campaign finance reform and federal election laws. Spearheading the conference were law professors Myles Lynk and James Weinstein. Speakers included: Alan Morrison, Director, Public Citizen Litigation Group; Eleanor Eisenberg, Executive Director, ACLU-Arizona; Darryl Wold, Federal Election

Commission; Craig Engle, General Counsel, Republican Senatorial Committee and Lawrence Noble, Executive Director, Center for Responsive Politics.

MARCH – MERRIAM CONFERENCE

Scholars from around the country in medieval English history gathered at the Merriam Conference on Current Issues in Legal History to honor Dr. Paul Brand from Oxford, England. The topics of discussion included medieval legal history and legislation.

Alumni Focus

Having a law degree is great, but it doesn't mean one has to practice law. For two graduates, the path to career fulfillment has led them in other directions.

Andrew F. Ortiz, 31, is a native Arizonan with three degrees from ASU, including a B.A. in Political Science (1992), a Masters in Public Administration and a J.D. in 1998.

Ortiz, whose goal is to be the first Hispanic elected to the U.S. Senate from Arizona, was political at the campus level during law school. He was the first law student ever elected student body president of ASU, the third largest university in the country. The National Association of Graduate and Professional Students selected him as one of the top 12 graduate student leaders in America during his tenure.

Ortiz currently serves as Executive Director of the Arizona Community Action Association, which promotes economic self-sufficiency for low-income people through collaborations with other community agencies. ACAA also develops partnerships with the public and private sectors and engages in research and education to find solutions to poverty.

"I always thought I'd end up in politics or community activism so I saw my legal education as a means to other things," said Ortiz. "But I use my legal knowledge every day because I work with legislation, statutes and review contracts with other agencies and foundations. Law school provided me with the opportunity and tools for my job and I made some lifelong friends."

At 36, Joe Rogers,

class of 1989, is one of the youngest Lieutenant Governors in America. In 1999, he was sworn in as Colorado's 41st Lieutenant Governor, making him the nation's first African American Lieutenant Governor.

After law school, Rogers did practice law for four years with the Colorado firm of Davis, Gramm & Stubbs. He then served as general counsel to former Colorado U.S. Senator Hank Brown. In 1996, Rogers ran unsuccessfully for the U.S. Congress against Pat Schroeder; however, his political career bounced back when he was elected Lieutenant Governor just two years later.

During law school, Rogers' talent for public speaking emerged loud and clear. He won the school's first national

championship by winning the American Bar Association's Negotiation Competition, in which more than 80 law schools participated. He is also remembered for his reenactment of Martin Luther King's "I Have a Dream" speech.

As for his law school training, Rogers thinks the education was invaluable, both in the legal world and in the political arena.

"I picked up key skills in law school," said Rogers. "Law school teaches you how to deal with people differently and how to get along with people who you do not like."

That ability should hold Rogers in good stead, especially since he calls his race for Lieutenant Governor one of the "hottest contests in Colorado history."



Andrew Ortiz



Joe Rogers

ASU professors were evident at the American Association of Law School's annual meeting in San Francisco. The theme was "Pursuing Equal Justice, Law Schools and the Provision of Legal Services." Participating faculty were:

Hannah Arterian
Charles Calleros
Joseph Feller
David Kaye
Gary Marchant
George Schatzki
Rebecca Tsosie
Victoria Trotta
Patricia White

BRIGHAM AND KATIE CLUFF

For many law students, going to school means moving away from home and spending a lot of time away from family. But, for 1L Katie Cluff, attending law school at ASU means spending even more time with her big brother, 3L Brigham Cluff.

Both Brigham, 27 and Katie, 25 graduated from Brigham Young University in 1998, with degrees in Philosophy and English respectively. After graduation, Katie lived in Boston for two years, working as a nanny, while Brigham headed straight to law school.

"I always kind of knew I would go to law school and go into law," Katie said. "I decided to come to ASU because I saw how much Brigham really loves it here and how highly he recommended it."

Brigham and Katie are the oldest and second oldest in a family of eight children, which ranges in age from 27 to six years old. Their father, David Cluff, founded the local law firm of Cluff & Associates, and watching their father's career was also a big influence on the siblings.

Katie admits that the first year in law school can be a little nerve wracking; however, having a big brother around can be helpful. "Finals were a little bit scary," said Katie. "Having Brigham here to ask questions and give advice made me a little less fearful."

Another added bonus for Katie is Brigham's experience with law school. "He gives good pointers and perspectives," Katie said. "He's also good at relating his experiences with professors and courses."

So, how has it been for Brigham? "Well, it has given me someone to carpool to school with," he jokes. "Seriously, it is fun to have Katie here. We have always been close growing up. It's fun. There is really nothing bad about it. I just hope I don't embarrass her."

Brigham and Katie might not be the last of the Cluff family in law school. Brigham and Katie's younger sister, Emily (who won a guest-hosting spot on the NBC show Live with Regis last fall) has a husband who is also planning on attending ASU's law school. "We want the Cluff reign to continue," Brigham jokes.

Brigham, along with his wife Camille and their two daughters, is looking forward to graduation and a position with the firm of Bennett Fairbourne, where he will be doing transactional work and real estate development.

For Katie, who is single, there are two more years in which to make a decision. "I really have no idea what kind of law I want to go into, but so far, contracts has been my favorite subject," she said.

FACULTY and STAFF NEWS

Bob Bartels co-authored (with Joseph Livermore and Anne Hameroff) *Arizona Practice: Law of Evidence* (4th Ed). In connection with the AACJ Justice Project, he assisted a prisoner with the preparation and filing of a pro per petition for post-conviction relief; and he worked with Professors Paul Bender and James Weinstein and law student volunteers Hugo Larios, Alicia Maher, and Tara Stromberg to prepare a petition for review by the Arizona Supreme Court in *McDonald v. Thomas* (a recent Arizona Court of Appeals decision). As a Special Assistant U.S. Attorney, he has continued to prepare for an upcoming trial in a federal public lands case.

Ben Barton's article "Why Do We Regulate Lawyers? An Economic Analysis of the Justifications for Entry and Conduct Regulations" will be published in an upcoming issue of the *Ariz. State Law Journal*.

Mike Berch spoke at a plenary session of the Humanist Society of Phoenix on the topic, "Legal Ethics and Professionalism." He also continues to teach the law school's version of the CLE Professionalism class required of all Arizona attorneys.

John Borrows published "Uncertain Citizens: Aboriginal Peoples and the Supreme Court of Canada" (2001) 80 *Canadian Bar Review* 1 and "Domesticating Doctrines: Aboriginal Peoples after the Royal Commission" (2001) 46 *McGill Law Journal* 207.

Patrick Brennan was one of 16 scholars appointed to the Pew Charitable Trust study. He will write a chapter for a book on Christian jurisprudence. He also gave a talk on "The Rule of Law of the Human Subject," at the Franciscan University of Steubenville, Ohio at the conference called "Christian Philosophy 2000: Christian Personalism." He will present "Arguing for Human Equality," at a meeting of the Law, Culture and the Humanities Working Group, at the University of Texas, Austin, in April and was a commentator at the ASU Merriam Conference.

Dena Davis, SmithKline Beecham Distinguished Research Fellow, published a book titled *Genetic Dilemmas* and two articles "Groups, Communities, and Contested Identities" in *Genetic Research*, 30 *HASTINGS CENTER REPORT* (Nov-Dec 2000) 38-45 and "Informed Consent for Stem Cell Research in the Public Sector," 55 *JAMWA* (Fall 2000) 270-274.

T. J. Davis, Professor of History and Adjunct Professor at the College of Law, has been elected a member of the American Antiquarian Society, an independent research library and learned society founded in 1812 in Worcester, Mass.

Betsy Grey spoke at a University of Arizona roundtable on "The Future of the Federal Courts." Commentators included Chief Justice William Rehnquist, Chief Judge Mary Schroeder, U.S. Court of Appeals Ninth Circuit and U.S. District Court Judges Stephen McNamee and Frank Zapata.

David Kaye testified before the National Commission on the Future of DNA Evidence on "The Retention and Subsequent Use of Suspect Elimination," and "Victim DNA Samples or Records." He also gave a paper on the ethical and legal principles for designing systems of DNA databases for use in law enforcement at a conference at Harvard University on the Future of DNA Evidence sponsored by the Kennedy School of Government and the National Institute of Justice. He presented a paper at the January 2001 meeting of the Law and Medicine Section of the Association of American Law Schools, on bioethical issues posed by convicted-offender DNA databases.

Gary Marchant's article "Genetic Susceptibility and Biomarkers in Toxic Injury Litigation" was recently listed on SSRN's Top Ten download list for the journal/topic "Health Law and Policy."

Jeffrie Murphy presented "Religious Advocacy and Political Liberalism," at the Rhoden Lecture at Oberlin College, presented a paper to the American Philosophical Association on "Jealousy, Shame, and the Rival," and wrote "Religious Conviction and Political Advocacy," for the next issue of *THE MODERN SCHOOLMAN*.

Jon Rose presented a paper on "The Ambidextrous Lawyer: Conflict of Interest and the Medieval Legal Profession" at the University of Minnesota and a paper called "Of Ambidexters and Daffidowndillies: Lawyer Defamation, Legal Ethics, and Profession Reputation" at the University of Chicago.

Michael Saks and, as co-authors, most of the students in his seminar on Erroneous Convictions have an article in press at the *New England Law Review*, titled "Toward a Model Act for the Prevention and Remedy of Erroneous Convictions." During the spring semester they are completing the drafting of the Model Act, which will be posted on a web site, and members of the legal profession and the public will be invited to comment on it either in writing or by testifying at "hearings" that will be held near the end of the semester at the College.

Fernando Tesón participated in the conference "After Kosovo: Humanitarian Intervention at a Crossroads," organized by the Minda de Gunzburg Center for European Studies, Harvard University, Cambridge, Massachusetts. This conference assembled the world's leading scholars on humanitarian intervention for a full discussion of the topic.

Rebecca Tsosie was named the Lincoln Professor of Native American Law and Ethics by the Joan and David Lincoln Center for Applied Ethics and the ASU College of Law.

Ann Woodley, Director of the Lodestar Mediation Clinic, spoke at a CLE program presented by the State Bar of Arizona Section on ADR. Her topic was "ADR for Advocates: Litigators and In-House Counsel."

ALSO IN THE NEWS

Charles Calleros coached students in a debate regarding causes of youth violence at the ASU César E. Chávez Leadership Institute at ASU; was a presenter at a teaching techniques workshop at a LEXIS-NEXIS conference on "Teaching Research for Law Librarians;" was a co-presenter on "Nuts and Bolts of Teaching Techniques," AALS Workshop for New Law Teachers; and presented information about judicial clerkships on the Judicial Clerkship Panel at Hispanic National Bar Association Conference.

Patricia White was named chair-elect of the AALS Section of Deans Executive Committee; gave a presentation on the marriage penalty at the ABA Tax Section's midyear meeting; and published "Brief Reflections on the Enterprise," 31 *Toledo L.Rev.* 773 (2000).

Calendar of Events

March 1-2, 2001

The Merriam Conference on
Current Issues in Legal History
For further information, call 480.727.7930

March 6, 2001

Symposium on “Cultural Sovereignty:
Native Rights in the 21st Century”
For further information, call Kate Rosier
at 480.965.6204

March 9, 2001

Prof. Steven Munzer, *UCLA School of Law*
Faculty seminar on “What are Male &
Female? Transsexualism & Sexual Identity”

March 19, 2001

Richard Lempert, Francis A. Allen,
*Collegiate Professor of Law and Professor
of Sociology at the University of Michigan*
“Myths and Reality of Affirmative Action: A
Law School’s Minority Graduates in Practice”
4:00pm, Room 119
March 20 Professor Lempert will present a fac-
ulty seminar on “Economics and Evidence Law”

March 22, 2001

Arizona Supreme Court Oral Arguments
9:30am, Great Hall
For further information, call 480.965.6405

March 23, 2001

U.S. Court of Appeals, Ninth Circuit
will hear two cases.
9:00am, Great Hall

April 5, 2001

Pedrick Lecture
Yale Kamisar, *Clarence Darrow
Distinguished University Professor,
University of Michigan Law School*
“Miranda 35 Years Later: A Dissent
from Justice Scalia’s Dissent in the
Dickerson case.”

April 6, 2001

Federalism Conference
Noon, Room 105
For further information, call 480.965.6405

April 10, 2001

Navajo Nation Supreme Court
Oral Arguments
9:00am, Great Hall
For further information, call 480.965.6204

April 18, 2001

SmithKline Beecham Conference on Genetics
For further information, call Andrew Askland
at 480.965.2465

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