

The Advocate

CENTER FOR ADVOCACY & DISPUTE RESOLUTION

Coaches Cook, Sobieski: Practice makes perfect



Professor John Sobieski, 2014–2015 National Moot Court Team members John Baxter, Kaitlyn Holland, and Jarrod Casteel, and Professor Joe Cook

For more than four decades, Professor Joseph Cook has coached the College of Law's National Moot Court Team. He began at the request of Professor Forrest Lacy, a senior faculty member who, like Cook, inspired and intimidated first-year contract students with questions

about detrimental reliance and promissory estoppel.

"Back in those days, the faculty consisted of about twelve professors and everyone served," Cook says. He was likely recruited to coach the team because of his storied college debate career at the University of Alabama, where,

during his senior year, he was a member of the top-ranked debate team in the country.

When Cook began coaching the National Moot Court Team, he implemented a preparation strategy that is now common only among teams at UT. He implored other faculty members to "moot"

the team by serving as judges for the team's oral argument practice rounds. Jarrod Casteel, a 2014–2015 team member, attests to the "incredible level of intensity that comes with making your argument before a panel of College of Law faculty members." When Cook began using this practice

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method, it was revolutionary and quickly produced teams capable of competing at the highest levels of the competition.

In his fifteenth year as coach, Cook recruited Professor John Sobieski, who regularly mooted the team's oral arguments, to serve as the team's second coach. Just as Cook had revolutionized oral argument preparation, Sobieski dramatically altered the team's brief-writing preparation. In a workshop infamous among former members of the team, Sobieski forced team members to confront and face their writing shortcomings in front of other team members. As humbling and uncomfortable as the process is, it also produces results: During Sobieski's first year as coach, the team won the College of Law's second national championship.

What has led two remarkably distinguished professors with heavy teaching loads and demanding publication obligations to devote months each year to coaching UT Law's National Moot Court Team? Both professors have seen coaching the team as a way to interact with students outside the classroom, to challenge a small group of hand-picked students to press for excellence, and to come to know them on a personal level.

The relationships built between the coaches and the mooters extend well beyond the year or two that students are members of the team. As this year's team was put through the paces in oral argument practice, they found many of the practice-round judges were former mooters returning to hear the team at the coaches' request. Years after graduation, former team members demonstrate

this degree of loyalty because of the role the professors and the process played in helping them attain confidence and demand excellence of themselves.

Sometimes the relationship between former team members and the professors extends to families. A notable example is Susan Devitt, a member of the 1985 and 1986 teams. Susan lost her life tragically at an early age, and her family honors her memory each year by attending the college's Moot Court Banquet and honoring moot court excellence with an award bearing Devitt's name.

This year, the Moot Court Board gave the Forrest Lacey Award to Cook and Sobieski. The award, named for their coaching predecessor, is given to faculty who make outstanding contributions to moot court activities. Although both had won the award previously, this year's recognition is especially deserved. Under the tutelage of Cook and Sobieski, the 2014 National Moot Court Team—comprised of John Baxter, Jarrod Casteel, and Kaitlyn Holland—advanced to the finals in New York and won the award for best brief.

En route back to Knoxville after the competition, Cook, in his traditionally parsimonious manner, asked, "Well, was it worth it?" The team answered—as they feel certain every team for the last half-century has—with a resounding "absolutely!"

Casteel thought it fitting to ask the professors a version of the same question. After all the time and energy expended and all the effort given in nearly eighty-three combined years of national moot court coaching, was it worth it? Not surprisingly, they echoed the team: "Absolutely!"



Advocacy Center co-founder honored

Sid Gilreath ('62) has done a lot of outstanding things in his life. Forty years ago, he established a Knoxville law firm specializing in personal injury, product liability, and medical negligence. In the course of his practice, he acquired many multimillion-dollar verdicts for injured clients. To make visiting his clients who lived across the Southeast easier, he became a pilot. His expertise as a lawyer led his peers to elect him president of the Tennessee Association for Justice and the American Board of Trial Advocates and vice president of the American Association of Justice. Colleagues and clients recognized him as one of the best lawyers in Tennessee and America. In the late 1990s, Gilreath and a handful of lawyers created the Center for Advocacy and Dispute Resolution at the College of Law, placing UT at the forefront of experiential learning in legal education.

Now Gilreath has accomplished another milestone. For his lifetime of advocacy, he has been awarded the 2015 Tennessee Association for Justice Lifetime Achievement Award.

"Sid is a champion for justice. He has been active in the trial lawyer association for over fifty years and is still at the top of his game," said Suzanne Keith, executive director of the Tennessee Association for Justice, when presenting the award at the association's annual meeting in June. "We appreciate all his dedication in helping injured clients and in supporting our efforts to fight for civil justice."

When students in the center learned about Sid's award, they created a number of videos to congratulate him. Though spoken in different words, their sentiment was identical: Thank you, Sid Gilreath, for your support for the advocacy concentration. Without individuals like you, we would not have had the amazing opportunities that have been afforded to us at the College of Law.

FOCUS ON ADJUNCT FACULTY

Lehberger dedicated to helping domestic violence victims

Judge, professor, and attorney Jo Ann Lehberger has worked in family law for more than thirty years. When she joined UT Law's Clinical Programs as an adjunct faculty member supervising the Domestic Violence Clinic, she brought along decades of family law experience from both sides of the bench.

As a family court judge in Lexington, Kentucky, Lehberger presided over hundreds of cases involving all aspects of family law. Among all those cases, she felt like she made the greatest contribution in helping people whose cases were on the domestic violence docket.

"In domestic violence cases, I found most parties—plaintiffs and defendants alike—were unrepresented," Lehberger says. "The plaintiffs were often very frightened, not only by the court system, but also by the presence of the defendant. I tried to listen to them and put myself in their shoes. I felt as if I was a first responder to the recent happenings in their lives that brought them to court. I felt responsible to try to understand what was going on and, if the law and the proof warranted it, provide the legal relief they needed to protect themselves and resolve the conflict in their lives at that time."

It was that desire to help victims experience an accessible and compassionate court system that ultimately led Lehberger, after retiring as a judge, back to her hometown of Knoxville to a law firm specializing in family law and to serve as an adjunct professor at UT Law. Inspired by a passion to teach those who work in the court system about the dynamics and manifestations of domestic abuse, Lehberger has remained focused on her goal of improving the legal system for the benefit of victims of domestic violence.

Her passion for helping victims navigate a sometimes uncaring, biased system is apparent to her students. Rising 3L Hayley Scheer was a student in the Domestic Violence Clinic during her second year of law school. When Scheer was considering whether to participate in a clinic, she attended an informational meeting where she met Lehberger, whom Hayley found to have "an infectious conviction in her voice" and "true passion for her clients."

Student attorneys in the clinic work with clients to seek and enforce orders of protection. Scheer remembers she initially had a misconception that the types of cases that the clinic handled were very limited. Although the clinic only represents individuals in a specific type of family law matters, she quickly learned "numerous factors contribute to a client's need to secure protection from family violence."

"Domestic violence does not happen in a vacuum," Scheer says. "Most of our clients are not only dealing with legal issues surrounding domestic violence, but at the same time, they often face financial issues, relationship struggles, and other legal problems."

Lehberger echoes Hayley's insight about the importance of addressing all of a client's needs. "We encourage students to engage in holistic representation because domestic violence victims usually have multiple needs, many of which are non-legal," she says. The clinic utilizes a



student from the College of Social Work to help students address clients' non-legal needs. "This teaches the student lawyers to draw upon other resources to assist in meeting the client's various needs."

Although representing victims of domestic abuse is emotionally difficult, Scheer has found the greater difficulty to be witnessing the treatment that victims receive in the courts when cases are continued repeatedly, setting up what she refers to as a "perpetual timeline." Despite this difficulty, she believes the "payoff of hard work and dedication to your clients exceeds the challenges you face. Without a doubt, the most rewarding aspect is the feeling of knowing that you helped at such a critical time in their life."

For Lehberger, who has devoted her professional life to improving the system for victims of domestic violence, another reward is the renewed faith that each semester of directing the Domestic Violence Clinic brings.

"I have said it time and time again: Whatever UT Law is doing to select and train these students before they enter the clinic is amazing," she says. "They are so smart, enthusiastic, and dedicated. I know this profession I love will be in good hands with them."

Meet this year's Summers and Woolf Scholars

A great choice among many qualified applicants" is how Tennessee Supreme Court Justice Gary Wade described the selection of Heather Good as this year's Summers Trial Advocacy Scholar. Wade, the UT Law dean, and presidents of the Tennessee Association for Justice and the Tennessee Association of Criminal Defense Lawyers select the recipient each year. Funded by Jerry Summers and the Summers, Rufolo & Rodgers firm, the scholarship aids a student who has excelled in the advocacy concentration and whose career objectives include being a trial lawyer.

Describing herself as "nervous about public speaking," Good decided as she entered law school to participate in mock trial competitions to determine whether she could overcome—or at least channel—her fear in order to become a trial lawyer.



2015 Woolf Advocacy Scholar Meagan Davis and 2015 Summers Trial Advocacy Scholar Heather Good

Her plan worked. Although she still feels nervous at the beginning of a competition, she now knows with utmost certainty that she wants to be a trial lawyer.

"I watched my mother struggle to make ends meet my entire life at a job that she hated," Good says. "My worst fear would be reliving

that in my own life. I did not come from money, and money is not the end result that I seek as a lawyer. I want to wake up each day and know that I love what I am doing and that I am making a difference in someone's life."

Mock trial also played a formidable role in helping Meagan

Davis, the 2015 Woolf Advocacy Scholar, formulate her career plans. When a mock trial coach forced her to switch sides in a competition after she had prepared for weeks, Davis embraced the difficulty and found that the transition stretched her thinking and improved her performance.

"I love being my client's voice," Davis says. "Being forced to switch sides reinforced that each case is multifaceted and each client has a story that needs to be told."

When Davis had the opportunity to intern for a circuit court judge, she knew that her real passion was for civil trial work. Fascinated by medical malpractice and personal injury cases, she was a perfect choice for the scholarship created by those at Woolf McClane Bright Allen & Carpenter to honor the life work of Lou Woolf, a firm member who practiced law for more than fifty years.

Center grads receive challenge, encouragement

Graduates who completed their coursework in advocacy and dispute resolution received an unusual challenge from C. Clifford Shirley, United States Magistrate Judge for the Eastern District of Tennessee and the keynote speaker for the center's 2015 Collaboration, which celebrates the accomplishments of center graduates and adjunct faculty.

"I want you to be trial lawyers," Shirley said. "Trial lawyers today are being replaced by or morphed into litigators. As skills wane, fear waxes. The end game for litigators is mediation because, after all, it's pretty hard to

lose a mediation. Litigators' notion of winning has devolved into 'Did I get the most discovery?' or 'Did I outbill my opponent?' rather than 'Did I do well by my client?'

"The timing [to distinguish yourself as a trial lawyer] has never been better," Shirley added. "Here's the dirty rotten secret. If you want to be noticed, if you want to distinguish yourself and be respected very early on, just go and try cases. If you do that, you will quickly be known as a trial lawyer. You will be a unique product. The word will spread. All you need is your client's blessing and personal



Judge C. Clifford Shirley (right) congratulates Lee Nutini ('15) at the center's annual Collaboration.

want their day in court. Will you have the courage to do it?"

Shirley, who has taught Trial Practice to hundreds of students as an adjunct professor at UT Law, expressed confidence in the graduates' ability to meet his challenge. "I know you can do it. I've seen it. Be fearless. Fearlessness is the hallmark of a great trial lawyer. In trying cases, in taking on cases for unpopular clients, you will become a model of courage for your profession. My hope for you is that you will do so, and that in doing so you will protect and improve our profession and hand it off far better than when you received it."

From songwriting to the Supreme Court

The most outstanding single educational experience I had in law school."

That is Michael Davis's ('15) description of the year-long Appellate Litigation Clinic that he took during his third year at UT Law.

Davis followed a circuitous route to UT Law. After growing up on a dairy farm in Benton, Tennessee, he "dabbled in music, songwriting, and other creative areas." He then worked in the mental health and social work fields, where he witnessed the "way law and policy affect people's lives."

"I was surrounded by need," he says, which gave him "a desire to effect change." After a while, Davis realized the best way to effect lasting change was "to learn the law and put it to use."

Davis's prior work experience led him to pursue classes that would provide real-world legal experience and an ability to connect with and address clients' legal problems. Participating as a member of the Trademark Moot Court Team inspired an interest in appellate practice and led Davis to become a student in the Appellate Litigation Clinic, where he received guidance from experienced appellate attorneys and saw how cases shaped law. What he had not anticipated was that he would handle successfully not one but two appeals, one of which he argued as a 3L in the Tennessee Supreme Court.

Researching, writing, and practicing oral arguments almost every day, Davis found the help of UT Law faculty to be instrumental in his preparation for oral arguments in the Tennessee Supreme Court. The case Davis argued involved provisions in Tennessee's

constitution and statutes pertaining to a person's right to bail.

Although Davis's second appeal—a TennCare case referred to the clinic by the Tennessee Justice Center—received less attention, it arguably came closer to fulfilling his goals in coming to law school.

"Having interned [at the Tennessee Justice Center] after my 1L year, I knew they did great work on important health care issues," Davis says. "The issue raised was the denial of medical devices to an indigent TennCare enrollee. The case turned on the medical necessity of the devices, the procedure TennCare uses to establish medical necessity, and the federal laws requiring equal care to all enrollees in state programs."

After an initial win, the case was overturned on administrative review. The clinic's petition for judicial review ultimately led the state to provide the medical devices—change that positively impacted the client's life.

But why exactly does Davis describe his time with the clinic as his "most outstanding single educational experience" in law school? His answer is straightforward: Working with the other students and professors, his personal connections and growth, and the contributions of Professor Valorie Vojdik, adjunct professor Wade Davies, and his fellow students.

Vojdik created the Appellate Litigation Clinic to provide a clinical opportunity for students that focused intensely on legal analysis, research, and writing that would also help them learn how to persuade courts to change the law.

"Before joining the legal academy, I worked on many appeals in state and federal courts and



The similarities between songwriting and appellate brief writing are fairly obvious; you have something to say and you try to say it the best way you know how. Ideally, you really believe in what you are saying. Recording and production are also similar to appellate work in the way you pore over every detail. Perfection isn't really attainable, but you try to get as close as you can. And in performing, just like with oral argument, you get in front of your audience and you make your audience believe what you have to say. But if someone starts interrupting your song on stage, you can have them thrown out. When it happens in a courtroom, you smile and say, "Yes, your honor!" —MICHAEL DAVIS ('15)

served as lead counsel for Shannon Faulkner in litigation against the Citadel," Vojdik says. Drawing on those experiences, she wanted to help students develop skills in persuasion and legal rhetoric.

Professor Lucy Jewel, who will teach the Appellate Litigation Clinic during the 2015–2016 academic year, also stresses the role of rhetoric as a means of effecting social justice outcomes.

"I write about rhetoric and how persuasion works in the mind. Much of this knowledge applies

to effective appellate advocacy," Jewel says.

After more than a decade of teaching legal research and writing, Jewel felt like she had "lost the connection between legal practice and the real people impacted by it." She sees teaching the clinic as a way to reconnect with her values while providing a robust educational experience for students like Davis who want to hone their skills in complex problem-solving, argumentation, and oral presentation.

FOCUS ON FACULTY

Rivkin teaches students to learn by doing *and* watching



Anna Swift ('14), attorney Brenda McGee, and Professor Dean Rivkin listen to an argument in the Tennessee Court of Appeals.
(Photo courtesy Lincoln Memorial University)

The College of Law takes pride in the fact that students in externships, clinics, and practicums “learn by doing.” Undoubtedly, the learning experience is enriched further when they can also “learn by watching.”

For forty years, students in Professor Dean Rivkin’s clinics, practicums, and seminars have learned not only by doing, but also by watching their professor as he advocates on behalf of children, families, and environmental interests. During his tenure as a law professor, Rivkin has continued to serve as counsel in significant public interest litigation concerning such issues as prisoner rights, environmental protection, special education, and equal access to justice. In the classroom and the courtroom, Rivkin has inspired generations of law students to pursue careers in public interest law. Additionally, he has authored volumes of scholarship promoting public interest advocacy and grassroots involvement in reform on issues ranging from education to environmental protection law.

A keen example of Rivkin’s learn-by-doing, learn-by-watching approach is his Education Law Practicum, which he created to introduce students to public interest lawyering practice.

“At its inception in 2009, the practicum’s chief focus was to represent students in truancy prosecutions, a form of school exclusion and a gateway to the recognized ‘school-to-prison-pipeline,’” says Rivkin. “The practicum’s work combined individual case representation with broader law reform initiatives—issues that affected the practicum’s clients, as well as others who were court-involved or were at risk of court involvement. This focus has led to a holistic practice for clients and families, de-

signed to stabilize the student at school and the family at home.”

Under Rivkin’s guidance, practicum students represent youth in special education and school discipline cases; seek change in school policies affecting attendance, graduation, and school services; and pursue access to justice for youth in noncriminal status offense cases.

His approach clearly works. Not only do practicum students learn and do, they achieve remarkable results. This spring, Rivkin, community cooperating attorney Brenda McGee, and the Education Law Practicum were honored by the disABILITY Resource Center with the center’s Advocacy Award. Recognizing Rivkin and McGee as “tireless champions for children’s rights,” the award also recognized their work as mentors and their students’ accomplishments. “They have mentored rising lawyers through UT’s Education Law Practicum,” the award narrative states. “Their students have successfully advocated for far-reaching regulations compelling Tennessee school systems to screen students for providing accommodations before initiating truancy proceedings, represented clients in truancy proceedings, helped develop alternative educational programs for teens and adults with disabilities, helped simplify the process for applying to get a GED, were instrumental in shining a national spotlight on the flaws in truancy laws, [and] given presentations to educate the general public on race disparity and the harshness of punishment for truancy violations.”

Rivkin’s hands-on approach to teaching ensures his passion for social justice will be carried forward in the next generation of legal professionals.

PAD mock trial team welcomes 1L students

Traditionally, first-year law students are encouraged to focus all of their energy on their coursework. Getting your bearings in law school can be a challenge, especially for those who made it this far without much stress or studying. As a result, 1Ls are not encouraged to participate in some extracurricular activities, including the College of Law's vigorous moot court program.

Over the last several years, in order to bridge the gap, the Center for Advocacy and Dispute Resolution has sponsored an introductory mock trial competition, affectionately known as Advocacy Idol. Over the course of a few hours, first- and third-year law students partner for a quick introduction to opening statements. But for some first-year students, this brief opportunity to participate in a small segment of a mock trial is not sufficient. Fortunately for them, the Phi Alpha Delta (PAD) mock trial team welcomes hardworking and determined students, regardless of their year in law school.

The opportunity to join the PAD mock trial team came as a relief to Carter Pack in his first year. "I come from a small undergrad [college] that didn't even have a mock trial team," he says. "I always thought that I wanted to be a litigator, and this team proved to be a great opportunity to get my feet wet in advocacy and see if I really had what it takes to consider such a track."

With amusement, he reflects on how much it forced him to grow in his first year. "It's crazy to think that in November, I spent a weekend watching YouTube videos to



Phi Alpha Delta team members Kaya Porter, Carter Pack, Evan Williams, Spenser Powell, Marriah Paige, coach Kathryn Ellis, coach Casey Duhart, and Hoai Robinette (not pictured: Jill Irvin and Robert Weaver)

prepare an opening statement to try out," he says, "yet recently I was able to put one together in a matter of minutes for the Advocacy Idol competition."

The 2015 mock trial competition itself was no walk in the park.

"When our team found out we were ranked in the top two and would be competing for first place, we had just finished a round," says team member Marriah Paige. "We literally had fifteen minutes to prepare and present the opposite side of the case."

The UT team ultimately placed second overall. Team member Spenser Powell was surprised by the high caliber of the opposing teams. "Every student and team had, quite obviously, invested a great deal of time and thought in preparing their cases," he says. "The tournament provided an opportunity for both robust competition and friendly interaction with

fellow law students from around the country."

"I think the most unexpected thing at competition was the inconsistency among judges, even though I knew to expect that to an extent," says Pack. "One judge told me to use my stature (I'm a big guy) by imposing myself more on the jury, but the judge commenting after him told me not to do that because she wouldn't want me any closer or any more pressing."

Gaining mock trial experience while immersed in 1L coursework helped Powell find more value in his classes. "For example," he says, "one aspect of the problem involved a concert ticket with boilerplate language that implicated both contract and tort issues." The competition left him with a reinforced interest in pursuing a career in tort litigation.

Members of the team in their

second year of law school were pleasantly surprised by how much they learned through the experience, despite already having Evidence and Trial Practice classes under their belts.

"Mastering the art of raising timely objections and being able to effectively argue for or against a point on the spot is a constant learning curve," says Paige. "The only way to improve is to put those skills to use."

Most importantly, everyone had a great time. "Being able to help mentor younger law students do something I enjoy was a great experience," says team member Kaya Porter. "The eight of us formed a tight bond that will undoubtedly remain beyond this semester, and I look forward with anticipation to the great litigators my colleagues and friends will certainly become in the future."

—By Jessica Walker, rising 2L



COLLEGE OF LAW

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The center congratulates Doug Blaze for his service as dean of the College of Law from 2008 to 2015. Because of his leadership, we are a stronger law school, and because of his example, we are better lawyers. Thank you, Doug!

A handwritten signature in black ink that reads "Penny J. White".

Penny J. White
Director

UPCOMING EVENTS

AUGUST 24

“From a Juror’s Perspective”

Special presentation for Trial Practice students

SEPTEMBER 21

Advanced Cross-Examination

Special presentation for Trial Practice students

OCTOBER 9

Food and Agricultural

Law Symposium

Sponsored by the Center for Advocacy and Dispute Resolution and the Tennessee Journal of Law and Policy

NOVEMBER 2-5

Advocates’ Prize Competition