

Tennessee Law

University of Tennessee
College of Law

Fall 16



Animal Advocacy

Digging into the legal
rights of dogs and other
companion animals

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PHOTO BY PATRICK MURPHY-RACEY

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Molly, photographed in June
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From the Dean

I adore animals—I always have. I'm sure the same is true for many of you. That's why I'm proud to share with you this issue of *Tennessee Law*, which includes two features about animals, their needs, and how animals are construed by the law. In each of these features, you'll also read about UT's College of Veterinary Medicine (UTCVM), which I know from experience is home to an amazing animal hospital. Anzan, my blue Great Dane, suffered a rare, flesh-eating bacterium that threatened his life earlier this year, but following treatment at UTCVM, he has fully recovered. And I recently adopted Leaper, an English mastiff who I thought had a severe ear infection. A CT scan at UTCVM revealed he had been shot at some point in his past, and shrapnel is lodged in his ear and spine. Thanks to UTCVM, he is also recovering well and his prognosis is good.

The University of Tennessee is a first-rate institution, and my experience with the College of Veterinary Medicine is evidence of that excellence. We may not look beyond the scope of our halls often here in the College of Law, but we're all part of the Volunteer tradition, contributing important, influential work in our various fields.

In the College of Law, our students proudly bear the Volunteer spirit through their life-changing accomplishments—including federal appellate and clemency wins (see p. 20). And the college improves in key areas every day. Our Bettye

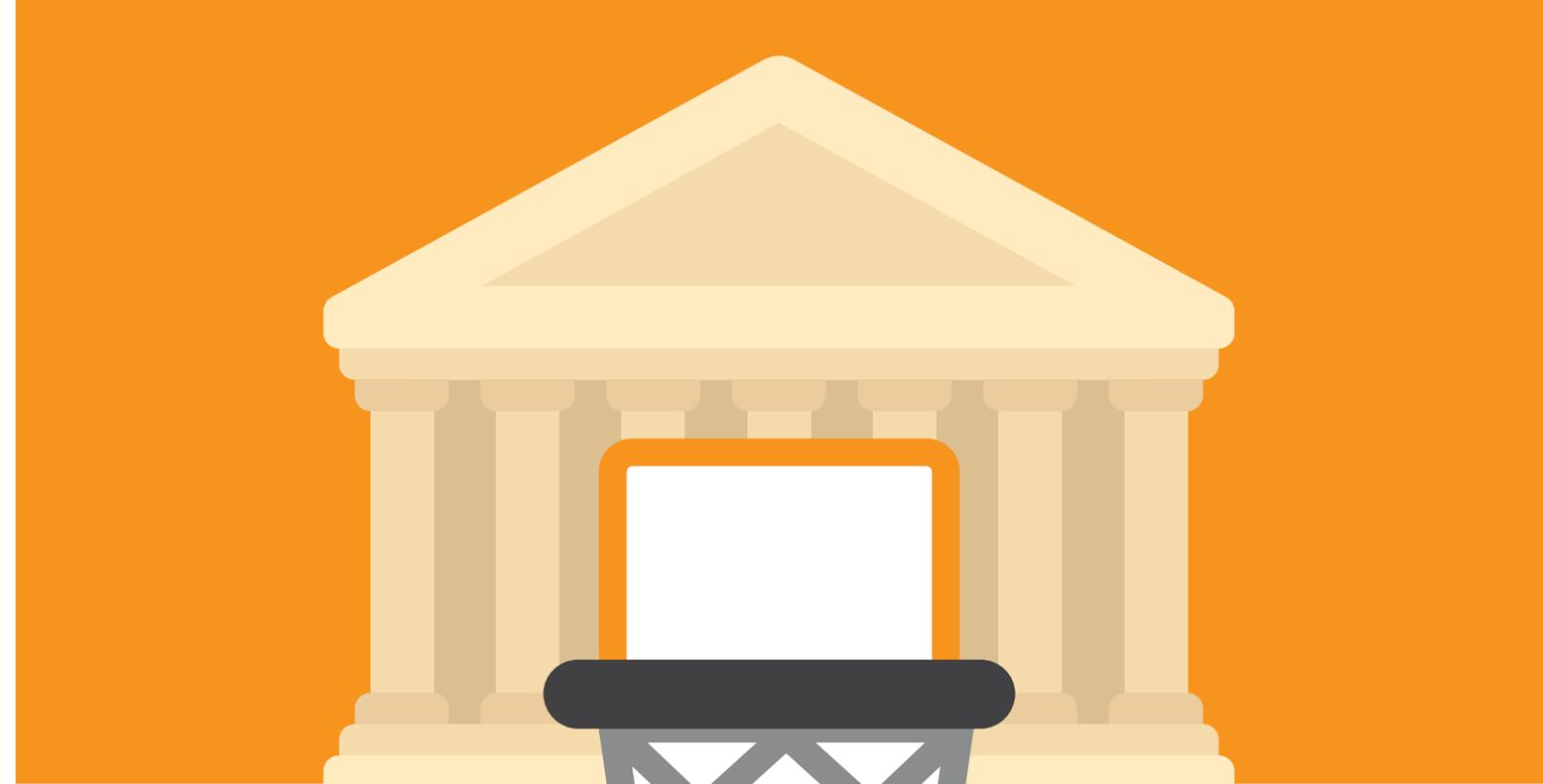


B. Lewis Career Center, now led by Interim Director Brad Morgan ('05), has seen staggering improvement in job placement compared to one year ago, with the support of faculty who are pitching in to help our graduating students find employment. On the other end of the pipeline, we continue to recruit talented and promising future lawyers, with median GPA and LSAT scores holding strong and steady for a second consecutive year. We also successfully launched our LLM program in US business law and welcomed that program's first students in August.

It's an exciting time to be a member of the UT Law family, and it's an exciting time to be a Volunteer. I can't wait to see how the College of Law—and all the other colleges at UT—continues to change the world in big, small, and Big Orange ways.

Go Vols!

MELANIE D. WILSON, DEAN



FULL COURT PRESS

In memory of Coach Pat Summitt (1952–2016)

BY WILLIAM HALTOM ('78)

She won more games than any coach

in the history of college basketball. She won eight national championships. She coached the US Women's Team to an Olympic gold medal and had a graduation rate of 100 percent: Every athlete who played for her for four years graduated.

But one of Pat Head Summitt's biggest victories came not on the basketball court but in a courtroom where she testified as an expert witness on behalf of a young non-shooting guard named Victoria Cape.

Victoria was a junior on the women's basketball team at Oak Ridge High School. She was a guard, but she had not scored a single point during her high school basketball career. She had not made a single offensive rebound or a single assist. She had never even dribbled a basketball past half-court. That was because it was 1976, and under the rules applicable to Tennessee girls' high school basketball at the time, a guard was not allowed to shoot the ball or even run past the half-court line during a game. She couldn't lead a fast break or a full-court press. She couldn't even run plays as a point guard.

The rules were promulgated by the Tennessee Secondary Schools Athletic Association (TSSAA) and dictated that high school girls could only play six-player (three forwards, and three guards) split-court basketball. A team's three forwards would stay on one side of the court and be allowed to pass, shoot, and rebound. The team's three guards, like Victoria, would stay on the other half of the court and play only defense. The basis for this rule was the belief that the sweet little girls playing basketball in Tennessee should not engage in vigorous physical activity such as running 84 feet down a basketball court. Such activity was actually considered "dangerous" at the time for young flowers of the South.

Young Victoria Cape was lucky to be playing high school basketball at all, much less playing confined to half the court. In Memphis, girls' high school basketball was actually prohibited, as some "physical education experts" argued that such "aggressive activity" by a young girl might even cause her uterus to fall out! I'm not making this up. This was actually a concern, even though during the entire history of girls' high school basketball in Tennessee no one had ever seen a uterus lying on a basketball court.

Victoria wanted to play a full game of basketball, not a half one. She also dreamed of playing college basketball as a point guard, but even in the early years of women's college basketball, no coach was going to recruit a point guard who had never been allowed to set up a play.

And so Victoria hired two fine lawyers from Oak Ridge: Ann Mostoller ('74) and Dorothy Stulberg ('74). These two female lawyers apparently had little or no concern for the prospect of falling uteri, and so they filed a lawsuit in the United States District Court for the Eastern District of Tennessee on behalf of Victoria against the TSSAA. They claimed that the TSSAA was violating the rights of Victoria to the equal protection of the laws as guaranteed by the 14th Amendment of the United States Constitution.

The case was assigned to Judge Robert Taylor. Prior to his legal career, Judge Taylor had been a pretty good athlete himself. He had played both basketball and baseball at Milligan College and was so good at baseball that during the summers of his undergraduate years, he played semi-pro. He never played baseball or basketball with women, but as the case turned out, he didn't seem to be too worried about the danger posed to females who participated in sports.

Victoria's lawsuit received substantial media coverage. Randy Moore, a sports columnist for the *Knoxville Journal*, wrote, "Tennessee's most important girls' basketball contest of the year won't be settled on a court, but in one." At the time, Tennessee was one of only five states that prohibited girls from playing full-court basketball like the boys.

The case went to trial on August 24, 1976, with both sides calling several witnesses. Gil Gideon, executive secretary of the TSSAA, testified that the "split-court" rules were necessary "to prevent girls from straining themselves" and "aided clumsy girls who can't play full court."

The defense also called James Smiddy, coach of the girls' basketball team at Bradley County High School, who expressed the expert opinion that the "split-court game is the prettiest thing about girls' basketball."

But Victoria's lawyers also called an expert witness, and she turned out to be the star witness of the trial. She was Pat Head, later to be more famously known as Pat Summitt, and when she testified, she had recently returned from the Olympic Games in Montreal where she had been captain of the US Women's Basketball Team that won the silver medal.

In her expert testimony, Coach Head not only rebutted the notion that neither she nor Victoria or other young women were capable of playing the full court game.

She also gave Judge Taylor and everyone in the courtroom a glimpse into the future. She testified that in the coming years there would be even more college scholarship opportunities for young women to play college basketball and participate in other intercollegiate sports. She warned that Victoria and other girls in Tennessee who were playing under the split-court rules had been saddled with both "a mental and physical handicap for them to overcome when changing to the full-court college game," and this handicap was going to severely restrict their opportunities to win college scholarships, especially when 45 other states allowed their female high school basketball players to play the full-court game.

After hearing the proof, Judge Taylor met with his young law clerk, Charles Huddleston ('76), a recent graduate of UT Law. Charles was not only a student of the law, he was a student of the game of basketball, and was from a family of coaches and athletes. His father was a college athlete and a high school women's basketball coach. His mother was a college athlete when her last name was "Majors" (she was the first cousin of the legendary Tennessee Vol Johnny Majors). Before deciding to attend law school, Charles had often dreamed of becoming a basketball coach himself, and as it turned out, he became a highly successful and influential one. After concluding his clerkship with Judge Taylor, he moved to Atlanta and started a fabulously successful legal career, and he also ultimately became director of the Georgia Metros, one of the nation's most successful AAU women's basketball programs. He coached Kelley Cain and Alicia Manning, who both became Lady Vols, and Maya Moore, who played in the North. During his dual career as both a lawyer and coach, he helped almost 400 young women go to college on basketball scholarships.

Judge Taylor asked his law clerk what he thought of the proof he had heard in the case. Charles indeed had his own opinion about the case, but he was smart enough to defer to his boss. "It's not important how I feel about the proof," Charles said. "Judge, tell me how you feel."

Without hesitation, Judge Taylor replied, "Well, I know one thing. The game the girls are being forced to play by the TSSAA is not basketball."

On November 24, 1976, Judge Taylor issued his opinion, finding that half-court or split-court rules of the TSSAA deprived Victoria Cape of "the greater health benefits enjoyed by male players under the full-court rules." Fully persuaded by the expert testimony of Coach Pat Head, Taylor also found that "the proof establishes that the plaintiff, due to the shooting prohibition applied to guards, has a lesser opportunity to gain a college scholarship than she would if she could play under the full-court rules. The court concludes that such injury is significant."

Judge Taylor ordered that the split-court, six-player restrictions imposed on girls' high school basketball by the TSSAA



Coach Pat Summitt calms her players during a 2007 game against North Carolina.

were unconstitutional and should be changed to allow female basketball players to play the full-court game. Judge Taylor did not issue an injunction forcing the TSSAA to comply because he said he was of the opinion that the TSSAA would act in accordance with his holding and there was no reason for an injunction.

Judge Taylor's faith in the TSSAA turned out to be misplaced. When Victoria and girls' basketball players across the state started the 1976–1977 season, the TSSAA ignored Judge Taylor's ruling.

On December 27, 1976, a clearly disappointed Judge Taylor issued the injunction against the TSSAA that he had thought would not be necessary.

Rather than complying, the TSSAA effectively sent the contest into overtime, appealing Judge Taylor's decision to the United States Court of Appeals for the Sixth Circuit. In October 1977, the Sixth Circuit reversed Judge Taylor, holding that the six-player, split-court rules did not constitute unlawful sex discrimination.

Victoria Cape finished her high school basketball career at Oak Ridge without ever crossing half court, and was never offered a scholarship to play college basketball.

Judge Taylor was frustrated by the Sixth Circuit's reversal and refused to give up the fight. In 1978, he gave the commencement speech at UT's spring graduation and decided to use the "Orange Bully Pulpit" to discuss the Cape case. He said his decision was correct and had been reversed by a "misguided appeals court."

A debate ensued across the Volunteer State, with young female high school basketball players and their parents arguing that the TSSAA should allow the female gender a full-court game. Their argument was no doubt helped by the fact that in 1978, Pat Head Summitt's Lady Volunteers became the number one-ranked women's college basketball team in America, after defeating three-time women's national champion Delta State.

Victoria had lost in the Sixth Circuit, but she won her case in the court of public opinion. In 1979, the TSSAA approved five-player, full-court play for women's high school basketball in Tennessee.

Coach Summitt went on to make sports history. When she passed away on June 28 after a long battle with Alzheimer's disease, she was remembered in the worldwide media as the greatest and most influential coach in the history of sports.

This year, as Tennessee high school girls' basketball players run down the court—all 84 feet of it, uteri intact—they will owe it to a full-court press. It was one that was executed to perfection 40 years ago by Coach Summitt, Victoria Cape, and two fine lawyers who found a sympathetic audience not only in Judge Taylor, but in the families of many young female basketball players across the state whose daughters were already dreaming of being Lady Vols. ♦

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Esther Roberts ('01) with her horse Kaliwohi at Starlight Farm Animal Sanctuary

A PLACE TO CALL HOME

BY LUIS RUUSKA PHOTOGRAPHY BY PATRICK MURPHY-RACEY

Although abused and neglected horses often see the worst parts of humanity, one alumna shows them the best. **Esther Roberts ('01)** is the founder and owner of Starlight Farm Animal Sanctuary and has been on a lifelong mission to rescue horses from dire situations and lead them to greener pastures.

HE just needs to know the camera flash isn't going to eat him." Kaliwohi (Cherokee for "perfect"), a three-year-old bay-and-white gelding and Esther Roberts's ('01) personal horse, nervously stamps the ground as a burst of light from the camera for today's photo shoot illuminates the dressage arena. Spending only a few minutes with Roberts is enough to reveal the extraordinary relationship she has with the horses that call Starlight Farm Animal Sanctuary home. Though they are initially nervous around strangers or objects (like cameras), she has a nearly magical ability to put them at ease with positive affirmation and a gentle hand.

Roberts has been able to cultivate such unbreakable bonds with Kaliwohi and the rest of her herd by living among them. The sanctuary, established by Roberts in 2003—two years after receiving her JD, the most recent of her five degrees—sits on six acres of land in Strawberry Plains. Her home, completed in 2008, is only a stone's throw away from the stable and paddock in this parcel of paradise where the still air is only occasionally punctuated by a bird's call or a horse's whinny. "I had the excavators cut the bank so the house and stable would be on the same elevation," Roberts says. "I wanted to be able to raise my head off the pillow each morning and see my kids."

Roberts rescued Kaliwohi at 18 months old from the Muskrat Basin Herd Management Area (HMA), overseen by the Bureau of Land Management (BLM) in Wyoming.

"He was captured by helicopter at eight weeks old and shattered the left side of his face. The BLM does no healing when they have these animals in HMAs, so after 16 months, when I adopted him and brought him here, the UT College of Veterinary Medicine did a six-hour standing surgery to rebuild his face," Roberts recalls. "He has no teeth on the upper left since they were all crushed, but he compensates really well and you can tell he hasn't missed a meal."

Suddenly, the photo shoot is interrupted by a call Roberts has been waiting for. A Mennonite farmer from Kentucky is calling about the status of his mare and her 12-week-old foal, which fractured its hip at three weeks old. The previous week Roberts picked up the pair and brought them to the UT College of Veterinary Medicine for treatment. She has to deliver the heartbreaking news that the foal was humanely euthanized as the fracture had begun to decay, which inevitably would have led to painful sepsis.

“This was one of the saddest situations, but this is part of what we do. The sanctuary’s mission is always critical care. Any time you have an upper-limb injury with a large animal it’s pretty much catastrophic. If we had gotten to him within a 12-hour window of the injury, there might have been a small chance,” Roberts explains after hanging up. “It took [the farmer] eight weeks until he found a sanctuary—us—that would take the pair. We had a 12-hour window and that was two months ago.”

Ever the optimist, Roberts sees hope from this harrowing incident. “For this Mennonite to reach out to a sanctuary was huge. There’s a cultural dictate regarding animal husbandry in that community that ‘if you don’t have a job, you can’t stay here,’ so they never retire a horse; as soon as it’s worn out, they send it to the kill pens,” she says. “He loves the mare, he raised her from a baby almost 20 years ago, and he asked us to take her when she was 25 or so, and he retires her. He’s cutting-edge for his belief system and maybe he’ll tell his friends and they’ll tell their friends, and all of a sudden that entire community will realize that maybe there’s an alternative to just shipping these animals to slaughter.”



Lady Grace at Starlight Farm

THE LAST LINE OF DEFENSE

Approximately 75 percent of the horses that come through Starlight’s gates are pulled directly from the slaughter pipeline. Some end up in the pipeline from farms or communities like those of the Amish, where their life is only as long as their usefulness. Many others come from the horseracing industry, where only a few can be champions and the other 90 to 95 percent are discarded. Still other horses come from BLM auctions, where if they are not adopted by their third auction, they are swooped up in truckloads by so-called “kill buyers,” who get them for as low as \$25 and sell them to foreign slaughterhouses at a markup.

While 2007 saw the closure of the last three slaughterhouses in the United States—all of which were foreign-owned—little has been done to stem the problem of slaughtering horses en masse. Instead, more than 150,000 horses annually are now shipped alive to Canada and Mexico to be slaughtered for human consumption in first-world countries like Japan, where horsemeat is considered a delicacy, or third-world countries like Kazakhstan.

“Unlike us, some rescues will say that once the horse is in the pipeline, we can’t take them out; we’re just going to try to get

them before they end up in the pipeline so that we don’t end up lining the kill buyers’ pockets. Because the logic is that if you pay to bail a horse from a kill buyer, they’re just going to turn around and buy more horses,” Roberts says. “So have you saved one and sentenced nine or ten more to die by trying to do the right thing? There’s a moral conundrum that I don’t know the answer to, but I do know that if more countries would outlaw the sale of the horsemeat, that would be a huge help.”

Consuming horsemeat has long been culturally taboo in the United States due to the pet status horses have acquired. Currently, there is legislation in Congress—the S.A.F.E. Act—that would ban the export of horses for slaughter due to concerns about the safety of the meat. “The problem is that most of these animals are given phenylbutazone [an NSAID no longer approved for human use in the United States due to adverse side effects] for pain and it doesn’t leave the tissue post-slaughter,” says Roberts. “American horsemeat is not safe for consumption. This issue of slaughter for consumption is more than a moral wrong; it’s a safety issue.”

Since starting the sanctuary, Roberts has saved and rehomed more than 60 horses—14 in the last year alone. She is also optimistic that consumers and corporations will begin doing their part to stem the slaughter of these animals. “American people are starting to realize that while the circus or the racetrack may offer some modest form of fun or entertainment value, we just don’t need this wholesale usage of animals for our own purposes without some idea of where they’re going to end up,” she says.

Roberts also says that larger rescue operations, such as New Vocations Racehorse

Adoption in Ohio, are working with racehorse owners and breeders to rehome horses that are not fast enough on the track to other equine disciplines like dressage, trail riding, or eventing, where horses need not be fast in order to be loved and live purposeful lives.

“There’s a new sense of responsibility taking hold in the racing industry that says we need to be more responsible because if we’re making billions of dollars off this gambling industry and we’re not going to fix or change or end that, let’s be socially responsible, both on the breeding end of the pipeline as well as the post-racing end of the pipeline.”

THE ROAD TO RECOVERY

Each horse’s journey at Starlight is different. In the stables, Roberts introduces Caleb, a four-year-old black and white speckled gelding and a Tennessee Walking Horse.

“When he came to us he was 18 months old and was the size of a six-month-old baby and had a bad shoulder injury,” Roberts says. “Unfortunately, true to Walking Horse-style, he was raised in a small, dark stall so that when he was taken out he was what they call ‘keen and in the bridle;’ living in darkness makes the horses overreactive to everything. He didn’t know what to do with light or shadows or even how to balance on uneven ground.”

Eventually, Caleb was nursed back to health, and although his growth is permanently stunted and can never hold a rider larger than a child, he has found his purpose as the ambassador of the sanctuary. “He’s a big clown and everybody loves him,” Roberts says with a laugh.

Unlike some of his fellow Tennessee Walking Horses, Caleb fortunately did not show signs of soring, a perennial problem among his breed that Roberts has been a staunch advocate against. She calls the practice “unconscionable.”

“The two-minute way to describe soring is this: Imagine you go to a pedicurist and they scour your feet and your calves until they’re almost bleeding. Then they strap on five-inch stilettos with crushed glass in the sole of the shoe. Then they rub your legs with abrasive chemicals like mustard oil or kerosene and Saran Wrap your leg so that the chemicals can’t evaporate and they literally cook into your skin tissue,” Roberts explains. “Then for 23 hours a day, they put you in a room the size of your body where you can’t sit down or take the shoes off. But for one hour a day, they take you out and put somebody on your back and tell you, ‘Go run a marathon.’”

The Tennessee Walking Horse’s trademark four-beat running walk is naturally aesthetically pleasing, but unethical owners sore their horses in order to produce the so-called “Big Lick” style, in which the horse throws its legs up higher than it naturally would in order to gain momentary pain relief. While the Horse

Protection Act of 1970 deemed soring “cruel and inhumane,” the problem has not been eliminated.

“The Tennessee Walking Horse is known as the most docile horse on the planet. They’re the Golden Retriever of horses,” Roberts says. “If you tried to sore a horse like an Arabian or a Thoroughbred, they wouldn’t tolerate it; their sense of self-preservation is too strong. But Tennessee Walking Horses will give until they collapse and still say, ‘I want to please you,’ so it’s heartbreaking when that’s taken advantage of.”

Although Tennessee Walking Horses like Caleb often endure soring in addition to poor living conditions, Roberts says they often “bounce back” sooner than horses rescued from the slaughter pipeline, who have often experienced even greater physical and emotional trauma. For all abused horses though, the road to recovery can be a long one.

“I spend a lot of time just sitting with the horses. I read aloud to them, I eat dinner with them, and I just spend time with them and let them come to me on their own. Because from their point of view, at first, it’s ‘every time a human comes to me it’s to cause me pain, or they make me scared,’” Roberts explains. “So I try to just let them know I’m here. I have no expectations. ‘Come when you’re ready.’ Invariably they do, and it’s always a teary moment when they finally say, ‘You’re different.’”

Although most horses can be rehabilitated, a minority are so mentally broken that humane euthanasia in a veterinary setting is the only option to end a horse’s suffering. But the vast majority that do make it often live fulfilling, purposeful lives as either permanent residents of the sanctuary or as adoptees.

“One of our best success stories is about an off-track Standardbred (OTSTB) named Powergaiterdotcom, whom we renamed Malachi. Mal, who is a huge horse, was just adopted to a place called Edelweiss Equine Assisted Therapy Center in Indiana, because they wanted a large horse to work with United States veterans,” says Roberts. “He had nine owners before he came to us and was just a money-maker to them. But now he has blossomed and the veterans are in love with him, and he’s learning to understand, ‘I’m not going anywhere else, these people really like me, and this is my home.’”

Standing in the paddock with Roberts, it’s clear that this is where her home and heart are. Though by day Roberts practices at her own firm, Global Intellectual Property Asset Management PLLC, at the end of the day it’s the horses that fuel her spirit.

“This is my passion. This is so easy. Like with any non-profit, the only hard parts are time, money, resources, and getting volunteer help. But there’s never a question of ‘can I do this?’ It’s all about how I can help the next one and the one after that,” Roberts says. “What I love about horses is that they are a mirror and an amplification for who you are as a person. If you’re kind, they’re going to be kinder. If you’re upset, they’re going to be more upset. They challenge you to always be your best self.” ♦

SANCTUARY FOR ALL

Tennessee’s diverse geography and habitable climate have allowed a number of other exotic and large-animal sanctuaries to provide a haven in the Volunteer State.

TIGER HAVEN (Kingston) is a rescue facility for big cats that have been abused, confiscated, or are in danger of euthanasia. The cats come from such backgrounds as circuses, zoos, and private collections.

THE ELEPHANT SANCTUARY (Hohenwald) is the nation’s largest natural-habitat refugee (2,700+ acres), with three natural habitats designed specifically for Asian and African elephants that have been retired from zoos and circuses.

ARK R.A.I.N. WILDLIFE SANCTUARY (Brownsville) is home to a variety of exotic and large animals, including monkeys, big cats, kangaroos, horses, small mammals, and birds.

SAFE HARBOR EQUINE AND LIVESTOCK SANCTUARY (Cottontown) and **HORSE HAVEN** (Knoxville) are other sanctuaries that provide retirement and care to horses in need.



Good Golly, Miss Mölly

Digging into the legal rights of dogs
and other companion animals

BY ROGER HAGY • PHOTOGRAPHY BY PATRICK MURPHY-RACEY

Her entire butt wiggles. She can't help it.

When she wags her tail, she can't help but wag her entire backside in feverish, uncontrollable excitement. And it's cute as a button.

The derriere in question belongs to Molly, a beautiful Staffordshire bull terrier with a shiny coat of black fur peppered with strands of white-gray. She's never met a stranger and immediately loves each person she meets, anxiously trying to lick their face and squirming with unmitigated joy.

And yet, it took months before Molly was adopted from Young Williams Animal Center in Knoxville, where she had been surrendered—at the age of two, with no medical issues—due to the health problems of her previous owner. In fact, so much time had passed that Young Williams began posting regularly on Facebook about Molly, sharing photos and videos, campaigning for someone to welcome her home. She even made an appearance on a local news broadcast.

Luckily in May, Knoxville citizen Richard Vogt came to Molly's rescue and adopted her. At her new home, she has a large backyard with plenty of shady trees for cooling off after bouts of intense play. She doesn't want for anything and is living a life of canine luxury.

Despite her happy, fun-loving demeanor, Molly and many dogs like her fill up animal shelters throughout the country due to their breed or appearance. Molly is a member of the group of so-called "bully" breeds that also includes pit bull terriers, boxers, Boston terriers, and bulldogs, among others. These breeds are often perceived to be violent, aggressive, and unsafe due to their unfortunate history as unwitting participants in dog fighting operations.

We put animals in categories, but relationships between humans and animals are not necessarily contained within those strict boundaries. Humans today interact with animals differently; there is much more of an emotional attachment and relationship.

JOAN HEMINWAY

The reality is that no dog breed can definitively be considered violent or aggressive in all cases. “It is important to evaluate and treat each dog, no matter its breed, as an individual,” states the American Society for the Prevention of Cruelty to Animals (ASPCA) on its website. “Behavior develops through a complex interaction between environment and genetics...Early positive experiences, most notably socialization, are considered key in preventing aggressive tendencies in dogs.”

However, despite research calling breed-specific regulation into question, laws exist throughout the country to outlaw dogs of specific breeds. “Laws that ban particular breeds of dogs... create the illusion, but not the reality, of enhanced public safety,” the ASPCA states. Singling out all dogs of a certain breed punishes the entire group, punishes responsible dog owners, and burdens local animal shelters.

Actual cases of dog attacks on humans cannot be ignored, however. Instead of enacting breed-specific dog control laws, some governments have passed breed-neutral dog control laws, such as leash laws and anti-chaining laws, that focus more on the responsibilities of a dog owner. In fact, more than a third of all states have passed statewide bans on breed-specific legislation.

“I analogize it to humans,” says Joan Heminway in discussing breed-specific legislation. Heminway, the Rick Rose Distinguished Professor at UT Law, advises the college’s chapter of the Student Animal Legal Defense Fund, UT Pro Bono Animal Law Project, and National Animal Law Competitions team. “If we were to look at different racial, ethnic, or gender populations and determine one of them is bound to be more violent because of something in the population’s background, are we just going to say we can’t keep those people in our community?”

The challenge to reversing the long-held bias against certain dog breeds, Heminway says, is that under law, nonhuman animals are almost universally treated as property. “As a society, we’re in a quandary because we’re not sure under what circumstances a dog or a cat or other companion animal is like a couch or a table someone owns and under what circumstances an animal is more like a person’s child,” she says. “The law doesn’t adequately deal with animals in these individual circumstances. Are they companions? Livestock? Wildlife?”

Such a conundrum is illustrated in the case of a domestic abuse victim who leaves an abusive home to seek shelter but cannot take her pet with her. In many cases, the pet already faces violence at the hands of the same abuser, and when its caretaker leaves, it is left unprotected and endangered in the abusive household. In fact, it is this problem that led Heminway and her former student, Patricia Graves Lenaghan (’10), to notice the gap between the societal view of animals and the legal view, and

they address it in their draft paper, “Safe Haven Conundrum: The Use of Special Bailments to Keep Pets out of Violent Households.” Lenaghan and Heminway examine the use and legal implications of animal safe haven programs, which take in a domestic abuse victim’s pet on a temporary basis while that victim seeks shelter in a facility that cannot accommodate the pet.

In some cases, however, an abuse victim can’t see leaving the home as a viable option. “Victims of domestic violence will often delay leaving their abusers to protect animals in the home,” says Elizabeth Strand, associate clinical professor and director of Veterinary Social Work at UT. Strand has researched the link between domestic violence and animal abuse and how animal abuse can be an indicator of hidden human abuse in the same household. “When animals are victims of violence, we know human beings are not in healthy environments either. Other research continues to support this, with the elderly, with children...Paying attention to animal abuse is paramount to keeping people safe, not to mention the animals.”

The problem of animal abuse has seen some improvements in recent years. Tennessee is the first state to have an animal abuse registry, similar to the sex offender registry. Also, the FBI includes animal abuse in its national crime reporting.

Despite these improvements—and despite the loving connection between some humans and animals—at the end of the day, the law often still sees animals as property and doesn’t take into account the variety of ways humans interact with animals, especially in the case of pets.

“We can agree that a lot of people own cats and dogs as companion animals,” Heminway says, “but there are also people who keep snakes, ferrets, and rabbits as pets. Imagine taking one of those in. That animal is not treated like a cat or dog under Tennessee law, and you don’t

have the same rights with that pet if you’re aggrieved. Similarly, horses are treated as livestock, not pets, even if that horse is your best friend. The law still categorizes animals based on what their deemed social and economic use once was. We put animals in categories, but relationships between humans and animals are not necessarily contained within those strict boundaries. Humans today interact with animals differently; there is much more of an emotional attachment and relationship.”

So it comes down to rights.

What rights does a “nonhuman” animal like Molly have under the law? Asking such a question is a growing issue in law and requires applying “personhood” to nonhuman animals, at least to some degree.

“There’s a spectrum of belief,” Heminway says, holding her hands apart to indicate range. “Animals have no rights,” she says, emphasizing with her left hand before switching to her right hand. “Or animals have the same rights as humans. In the middle is animal welfare. We don’t have to protect animals the same way we protect children or give them the right to testify in court. But if you harm an animal, that animal has the advantage of certain legal protections.”

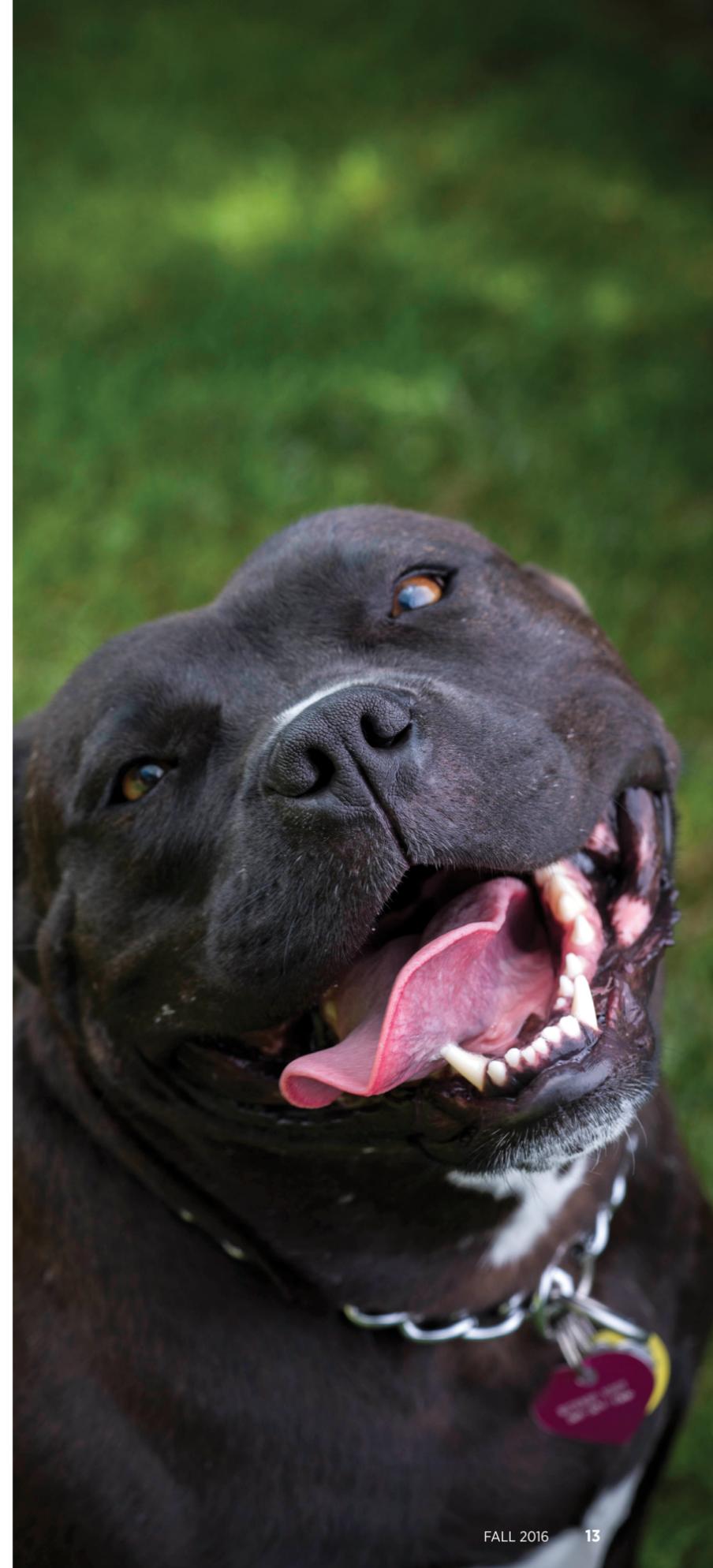
Heminway and Alicia Teubert (’10) propose using analogy in making laws to better reflect modern societal norms regarding animals in their forthcoming article, “A Nonhuman Animal More Like a Human Baby or a Gun? The Role of Analogy in Societal and Legal Conceptions of Nonhuman Animals in the United States.”

“On the one hand, humans, at a societal level, generally are speciesists: They see themselves as different from and superior to other animals. This means that humans may have a tendency to treat nonhuman animals as socially inferior,” Heminway and Teubert write. “On the other hand, humans and certain types of nonhuman animals often work together or bond with each other in routine social situations. As a result, humans may, for example, import or attribute human characteristics to nonhuman animals in their relationships.”

But who cares, right? Why should the legal status of animals matter at all?

“It’s uncomfortable, legally and socially. Why are we working on nonhuman animal rights instead of helping humans? For me, it’s part of a broader, more holistic vision of society, to make sure we all live together on this planet,” Heminway says. “Also, animals interact with us every day. We can’t ignore them, so we have to consider how we treat them. And animal law is connected to business law, estate law...it really does touch every area of law in some way.” She smiles. “Plus, people love ‘em.”

How could you not? Just look at Molly, happy to have a safe home and a family who adores her...wiggly butt and all. ♦



Joe Cook

51 years at UT Law

BY WHITNEY HEINS

As a boy growing up in Mississippi, Joe Cook often spent afternoons taking speech courses where he read and memorized poetry and performed plays. It was a way to pass the time, a way to do something fun. But it was also the beginning of something big. These courses sparked a passion for inquiry and performance, and he began honing his public speaking and debate skills—laying the groundwork for what would become a lifelong career in law.

Now, after 51 years of award-winning teaching and scholarship and the launch of a nationally recognized moot court program, the career of the longest-serving professor in UT Law history is coming to a close.

Well, sort of.

Committed to UT Law

Cook's elementary school extracurricular activities led him to the high school debate team where he realized he had a "facility for public speaking." Following high school, Cook sought to become involved in the top debate team in the country at the University of Alabama, home to two-time national champs and the nation's best coach.

The experience did not disappoint. The group was top-ranked during Cook's senior year, and upon graduating he was selected to be part of a two-person team to tour the British Isles and compete at universities like Oxford and Cambridge. Cook's debate participation abroad required a semester of law school, so while he was at it, he went on to earn a juris doctorate at Alabama and a master's degree in legal studies at Yale University.

It was expected he'd go practice law with his father in Mississippi, but Cook wanted to be a part of the academic community. In 1965, he accepted a teaching position at the University of Tennessee—beginning what, unbeknownst to him, would be the start of a lifelong commitment to UT Law.

Committed in the classroom

Teaching courses in areas like contract law and constitutional legal rights, Cook became known for challenging his students with tough questions to help them develop the encyclopedia of knowledge needed to be a good lawyer.

"Lawyers have to be nimble to get up to speed on the subject area of the problem they are dealing with," Cook says. "That sort of dimension of teaching means that one would be continually learning new areas, subjects, and problems."

This strategy has proven instrumental in the success of former student and moot court member Louann Smith's ('83) career as a transactional lawyer. In fact, she says she uses what she learned from Cook daily in her practice.

"His most effective teaching tool was to ask us one difficult question after another, to listen, and never to give us the answer," she says. "[He] taught me how to think about legal problems."

While Cook's teaching has constantly had to evolve with the law, the students he's taught over the years have continually changed, too.

During the first few years of his career, most of Cook's students were white males. Over time, more and more female students and students from different races, cultures, and backgrounds began entering his classroom. Cook says the changing face of the student body has positively impacted the learning experience. "It has allowed students to be cognizant of a wider range of perspectives and experiences. There's a greater sense of inclusiveness in the way questions are addressed and dealt with," he says.

Cook's commitment to teaching has earned him numerous awards, including the L.R. Hesler Award for Excellence in Teaching and Service, the Harold C. Warner Out-



Professor and National Moot Court coach Joe Cook (far right) stands with (from left) co-coach and professor John Sobieski and 2014–2015 National Moot Court Team members John Baxter ('16), Kaitlyn Holland ('16), and Jarrod Casteel ('16). Under Cook and Sobieski's guidance, the 2014–2015 team competed in the National Moot Court finals and won the award for best brief.

standing Teacher Award (twice), and the UT Alumni Outstanding Teacher Award. Cook was also the 2004–2005 UT Macebearer, the highest honor the university bestows upon a faculty member.

Cook's close friend and colleague, Professor Emeritus John Sobieski, who co-led the moot court team and also co-authored a biannually updated, multi-volume treatise with Cook, says these honors are most deserved.

"Teaching has been and always will be first and foremost for Joe," says Sobieski. "He stands as an example that one could be both an outstanding teacher and scholar."

Committed to the court

Cook has also twice earned the Forrest W. Lacey Award for his commitment to students beyond the classroom.

Soon after arriving at UT, Cook's storied reputation as a great debater likely prompted a senior faculty member to ask him to launch UT Law's National Moot Court team. It took several years to build the program, but through the hard work and diligence of Cook and the selected third-year law students, the team would become a victorious and prestigious one.

"Our rigorous preparation has been our secret to success," says Cook, who explains that the team's daily practices include oral arguments for the month leading up to the national competition, with different panels comprised of faculty members and practitioners.

"The theory was that we wanted them to get the toughest benches at home so nothing would surprise them in the compe-

tion," explains Cook. The theory has been validated with multiple successes, including two first-place finishes and one second-place finish.

"Joe was a remarkably patient coach and mentor," says Kate Stephenson ('88), whose team made it to the national quarterfinals. "He taught me the value of friendships forged in the intensity of moot court, the secrets of inexpensive travel in style, and the delight of his sophisticated, usually covert, sense of humor."

The real-life experience has driven dozens of former students like Stephenson to excellence through the development of skills highly valued by law firms, such as persuasive writing, research, and oral advocacy. The moot court has also built lifetime friendships.

"Students have said that despite the commitment being demanding and time-consuming, there is nothing more valuable. Even if they lose, it is worth it," says Cook. "And they have fun traveling and building a camaraderie through hard work."

Committed to the law

After almost half a century working with moot court students, Cook wrapped up his last coaching season earlier this year. But he wasn't sad or sentimental about it.

A clue why may lie in his office.

A peek into Cook's workspace reveals there is still work to be done. His desk and chairs are overflowing with unwrapped books full of cases ready to be analyzed and shared.

Indeed, he says he plans to continue to play some role in moot court this year. He also says he plans to continue his award-winning scholarship until his "publisher doesn't want him to anymore." Cook is the author or co-author of two multi-volume treatises: *Constitutional Rights of the Accused and Civil Rights Actions* and *Casebooks in Criminal Law and Criminal Procedure*.

But ask Cook whether or not he is really ready to retire, and that's not up for debate. "It's time," he says. "It's time." ♦



Volunteer

SPIRITS

BY LUIS RUUSKA • PHOTOGRAPHY BY PATRICK MURPHY-RACEY

“I remember when it was 30 states.”

Joe Baker ('01) pauses in thought for a moment. “I remember when it was 30 people.”

On a sunny June morning on the main drag in downtown Gatlinburg, Joe is talking about the rapid growth of Ole Smoky Moonshine, which he co-founded in 2010. It's obvious that even he can't believe the brand's success six years later. “We're selling moonshine now in 30 countries,” he says. “It's funny how it's taken off. We had a sales and marketing team in Australia this past week. I got an e-mail from France this morning.” He chuckles and shakes his head. “It's pretty cool.”

Moonshine began in the mountains of Appalachia as an illegal alcoholic beverage with a prominent role during Prohibition. Today, it's the newest trend in legal spirits, blossoming from a Southern mountain specialty into an international favorite. After Tennessee legalized moonshine in 2009, Ole Smoky was on the ground floor and became the first federally licensed distillery in East Tennessee.

Almost immediately, it was clear the distillery had struck an untapped vein. Within its first year of operation, insatiable demand required the acquisition of an entire warehouse for sourcing materials in response. Today, the company occupies more than 80,000 square feet of property in several locations, a far cry from its starting footprint of 2,500 square feet.

To the public, Ole Smoky's lightning fast growth looks more akin to a Silicon Valley startup than a distillery, but the growth hasn't come without challenges. “Everything that went into the licensing during the first year was a challenge because we were the first to open and operate

under the new laws. It was a challenge not only to navigate the rules and regulations, but to also be a part of that evolution,” Joe says. “It was really a learning process for us and the state.”

Within that first year, Ole Smoky Moonshine made its first million and finished 2011 with more than \$5 million in domestic sales. That kind of success doesn’t go unnoticed, and partnerships with Walmart, NASCAR, Harley-Davidson, and others have helped domestic sales of Ole Smoky’s moonshine grow to more than \$46 million in 2014.

“For anybody on the outside looking in, it looks easy. It’s easy to see this as just a wildly successful business that anybody can do, but I think the more realistic assessment would be: Damn, that’s hard,” says Joe. “We did it, but none of it has been easy. It seems like it was always a challenge. The only easy part has been that people like the product and buy it.”

People don’t just like the product—they love it. The self-guided tour of the distillery and samplings at “the Holler” are among Gatlinburg’s most popular attractions. Folks line up daily from all over the world to sample favorite flavors like apple pie, which goes down smooth as butter, or the more adventurous, unflavored ‘shines like the 128-proof “Blue Flame,” which leaves the tongue tingling.

However, it took Joe, his wife Jessi Edwards Baker (’03), and his co-founders—Tony Breeden (’02) and Cory Cottongim—“many late nights in kitchens” to perfect the million-dollar recipes that have catapulted Ole Smoky to international success.

Destined Distillers

“Each country seems to have its own version of moonshine, but I think the story and history of it in America,



Joe Baker (’01) at the Ole Smoky Moonshine Distillery in Gatlinburg

especially in Appalachia, is a story that resonates with folks,” Joe says. “If you go back far enough, everybody’s done a little drinking or making of it.”

In Joe’s family, which has lived in the mountains for more than 200 years, you only have to go back as far as his grandfather, who figured out he could make more money from a bushel of corn by turning it into whiskey instead of selling it by the ear. “Growing up, my dad exposed me to moonshine a little bit, and I did projects about it in school and even in college,” Joe recalls. “I think just being proud of my heritage and having family who participated in the rich history of what moonshine is to this area perpetuated my continued interest in it. So when people say, ‘Why moonshine?’, it’s because I was born here and moonshine is a part of my history; in many ways it’s in the blood.”

Jessi’s family has equally strong, if

slightly sweeter, ties to Gatlinburg. Her grandparents, who immediately recognized the potential of Gatlinburg as a growing motor tourist destination, founded the Ole Smoky Candy Kitchen in 1950. “During elementary school, I walked every day after school up to the Candy Kitchen to work for my grandmother packing taffy, running errands, and learning about the business,” says Jessi. “As the oldest child in my family, I always dreamed of running the business one day.”

Joe and Jessi met in high school and attended Georgetown University and UT Law together. Joe later opened his own legal practice, and Jessi worked as assistant district attorney in Sevierville. “Joe’s practice was successful, but also emotionally draining. I’ll never forget the morning in 2009 when he told me that he thought he would start a moonshine distillery,” Jessi recalls. “We had three young children and two mortgages and I was seriously worried he was trying to quit his day job. When he read me the new law, however, and I considered the possibilities with Gatlinburg tourism, I knew we would try it.”

After launching Ole Smoky in 2010, Jessi stepped further into the distilling industry through Gatlinburg Barrelhouse, which she founded with her brother, Chuck Edwards, and a friend, Cammy Cottongim, in 2011. The Bakers never predicted Ole Smoky’s success, but it couldn’t have worked out



Jessi Edwards Baker (’03) at Yee-Haw Brewing Company in Johnson City

better. Earlier this year, Ole Smoky acquired Gatlinburg Barrelhouse and its signature line of Davy Crockett’s Tennessee Whiskey, rebranding it as Ole Smoky Whiskey. “We believed it was a logical step to broaden the base of the Ole Smoky brand to include an aged and flavored whiskey component,” explains Jessi. “It’s important to always be evolving and developing new ideas to stay ahead of the curve.”

In recent years, the Bakers have recognized opportunity to expand beyond moonshine and whiskey. The Bakers’ most recent venture, Yee-Haw Brewing Company, opened its doors in 2015 and arose from their shared passion for beer. “I’ve been accused of being a serial entrepreneur, and we had always wanted to produce a beer,” says Joe. “Yee-Haw was born from us wanting to make a product we could be proud of, and so we’ve gotten deep into the beer works.”

After visiting Johnson City in 2011, the Bakers fell in love with the city and its historic East Tennessee and Western North Carolina train depot, also known as the Tweetsie Depot. The pair eventually renovated and restored the depot to its former glory and made it the Yee-Haw headquarters. And they brought something else to the area: community. “We fell in love with Johnson City and saw an opportunity to create a gathering spot for folks in the Tri-Cities,” Joe says. “The community has been revitalized. The folks of Johnson City and the local government have worked together to create a special downtown area in the past few years, and traffic has really picked up. It looks a lot different now than it did even three years ago.”

Despite being a relatively young brand, Yee-Haw has already garnered international acclaim, winning bronze at the 2016 World Beer Cup in the European-Style Dark/Muenchner Dunkel category. “It was unexpected,” Joe says. “I never thought I’d want to be third place in anything, but I was really proud that we won a bronze medal in a worldwide competition.”

A Family Business

Between the successes of Yee-Haw and Ole Smoky, it’s clear the Bakers’ serial entrepreneurialism has paid off in a

variety of ways.

“I think the greatest joy in what we do is the value and jobs we create for the community. This is very much a family-run enterprise, and a lot of families outside of our own have benefited,” says Joe. “Being close-knit in this industry—having family involved and really embracing that—has served us well.

And it looks like the Bakers’ son, Joseph, is ready to join the fold. Smiling proudly, Joe recalls, “One day he asked me if Yee-Haw was ever going to make an IPA, and I said, ‘No, everyone makes one of those.’ And he said, ‘Dad, you know why there’s so much IPA? Because people are buying it.’ So the next morning I called up Brandon Greenwood, our COO and brewmaster, and said, ‘It took my 10-year-old to convince me, but we need to make an IPA’...I think that just like anything else, whatever trade your parents are in, you start thinking about it. So he’s ready—he wants to be in the business.”

Though Joe and Jessi have mostly left their lawyering days behind, they agree that the education they both shared at UT Law has played a key role in their success. “Law school taught me how to prepare, how to think critically, and how to be gritty in the face of adversity. It also helped me develop a confidence that has been extremely important in my career,” says Jessi. “Most importantly, my legal education taught me to recognize opportunity.”

“For me,” Joe says, “the best thing I learned in law school was how to think like a lawyer. I learned to explore issues, confront challenges, and solve problems in the business, whether they were regulatory or just regular issues...There’s a lot of good accomplished in our profession. I’d be awfully proud for my kids to get that same type of education.” ♦

Omnibus

Students victorious in Court of Appeals cases

The United States Court of Appeals for the Sixth Circuit has issued decisions in the cases of two clients represented by student attorneys in the college's Appellate Litigation Clinic.

The first case, argued by William "Trey" Neal ('16), explored whether the client's post-conviction motion was properly filed to toll the statute of limitations under the Anti-Terrorism and Effective Death Penalty Act. The court ruled in their favor, reversing and remanding the lower court decision.

In the second case, Alexandra Wolff ('16) argued an immigration appeal for a man seeking asylum from deadly gang violence. Although the Sixth Circuit denied parts of the appeal, the court granted the petition to remand the case to the Board of Immigration Appeals to consider new evidence relating to the client's persecution by gang members.



Representing UT Law at the Sixth Circuit Court of Appeals in March are Sara Ohlman ('16), Alexandra Wolff ('16), adjunct professor Wade Davies ('93), professor Lucy Jewel, Cameron Kapperman ('16), Patrick Morrison ('16), and Trey Neal ('16).

Federal Clemency Clinic sees wins in 3 cases

Students of UT's Federal Clemency Clinic have secured their first victories.

The clinic's first victory came in early June when client Emlera Quince received a commuted sentence under a federal clemency initiative that seeks to reduce the long sentences previously required by mandatory federal drug sentencing laws. Quince was released in October. During his 19 years of incarceration, he completed more than 150 classes and worked in a factory position for 10 years, serving most recently as head office clerk.

"It's the best news I've gotten," Quince said upon learning of his commutation, one of 348 made by President Barack Obama since 2014.

A second client, Deborah Blue, found out her 19-year sentence was commuted to time served in early August and will be officially released in December. In 2006 when Blue was sentenced, federal judges did not have discretion over sentencing and could not reduce extremely long mandatory sentences. However, today judges do have discretion, but recent sentencing changes did not impact the extremely long sentences of thousands of people like Blue. To correct this sentencing disparity, President Obama created a special clemency process for inmates—many facing life in prison—who would have received lower sentences under the new laws.

Like Quince, Blue has made positive

personal changes while in prison. She earned her GED, completed more than 1,000 hours of educational courses, and developed expertise in maintenance work, which she plans to use to secure employment after her release. She is also eager to reconnect with her children and grandchildren.

Most recently, Quincy Alan Goins, who had received a life sentence for a drug charge at the age of 22, was awarded clemency. Goins has maintained a perfect behavior record for 16 years while completing many educational programs.

UT Law's Federal Clemency Clinic was launched by professors Joy Radice and Wendy Bach.



FLYING HIGH DOWN UNDER Hannah Kay Hunt ('16) and Chelsea Harrison ('16) enjoy a helicopter ride over the Great Barrier Reef. They and other UT Law students traveled to Australia last winter for a leadership course offered by the University of Queensland TC Beirne School of Law and UT Law's Institute for Professional Leadership.

Professor's works published by Oxford, Yale, Harvard universities

Oxford University Press has published a new book by Maurice Stucke, a UT Law professor and a former trial attorney with the Department of Justice Antitrust Division. The book, *Big Data and Competition Policy*, is co-authored by Allen P. Grunes, an antitrust lawyer who co-founded the Konkurrenz Group with Stucke. In addition, Stucke's article "When Competition Fails to Optimize Quality: A Look at Search Engines," co-authored with Oxford's Ariel Ezrachi, was published in the *Yale Journal of Law & Technology*. Stucke and Ezrachi's book, *Online Trade, Algorithms and Artificial Intelligence: The End of Competition as We Know It*, will be published soon by Harvard University Press.

UT Law ranked among top 20 Best Value law schools

UT Law is one of the 20 Best Value law schools in the nation, according to *The National Jurist* magazine. The magazine looks at a number of academic and financial variables, including tuition, student debt, bar passage rate, cost of living, and employment. UT's jump to the top 20 is due in large part to the college's increased employment rate, which accounts for 35 percent of each school's Best Value ranking.

UT LAW'S 2017 U.S. NEWS RANKINGS



OVERALL

36TH

Public law schools

65TH

All law schools



LEGAL CLINICAL PROGRAMS

9TH

Public law schools

19TH

All law schools



LEGAL WRITING PROGRAMS

10TH

Public law schools

23RD

All law schools

COLLEAGUE

Recruiting for the family

BY LUIS RUUSKA



Sarah Busse

Sarah Busse's introduction to higher education was a family affair.

"My mother has been the main pre-law advisor at Cornell for years," says Busse, the college's new director of admissions and financial aid. "I worked in the undergrad career center my senior year and loved helping students, but I thought, 'I don't want to follow what she's doing; I need to find my own path'—even though I secretly loved [working with students] and knew it was for me."

Busse was the director of admissions programs and recruitment at Cornell Law School in New York for 12 years before coming to UT. She doesn't expect her philosophy toward the work to change in her new position. "I want to treat everyone with honesty and respect and bring in the best class each year," she says. "I want to go on the road and hear what advisors and students think about

UT Law and work to generate the best first impressions."

It was a good first impression that drew Busse to UT Law during her interviews. She says the college's "warm and friendly" atmosphere was what ultimately won her over. "When I first Skyped with the search committee, I felt it. Then when I came here to interview, I felt it even more. People use first names here and know the families of professors and staff. At Cornell we just didn't know each other like people do here," Busse says. "It's going to be great to go out and tell people about our accessible professors and nice people."

Beyond work, Busse and her husband, Tony, are self-described foodies and are exploring Knoxville's best offerings. "My passion is baking, but it's more fun to have someone else prepare the meal for you," she says with a laugh. The couple has three children and are eager to explore all that East Tennessee has to offer, especially Dollywood. "When my sister and I were kids and found out that Dollywood had an amusement park, we just couldn't get over it. We said, 'That's where we're going to go. Now we can!'"

Although Knoxville is a world away from New York, Busse says she already feels at home: "I'm so excited about becoming part of this family, this Vol Nation."



Teri Baxter

Baxter named associate dean for faculty development

The College of Law recently named Teri Dobbins Baxter its new associate dean for faculty development.

Baxter, who joined the faculty in 2013, is responsible for promoting and fostering excellence and productivity in faculty scholarship and innovative, effective teaching. Baxter also assists the dean in raising the college's national reputation for academic excellence. She succeeds distinguished professor Greg Stein in the role.

Health law expert Zack Buck joins faculty

Zack Buck joined the faculty this fall as assistant professor. His scholarship examines the legitimacy of the governmental enforcement of laws and rules affecting health and health care.



Zack Buck

Allen named first academic success director



Renee Allen

UT Law named Renee Allen the first director of its Academic Success Program, which helps students excel in law school, build confidence and knowledge, and prepare for the bar exam.

Students provide record 10,000+ hours of pro bono service

Students in the college's UT Pro Bono program demonstrated true Volunteer spirit during the 2015-2016 academic year, performing 10,057 hours of pro bono service for charitable and non-profit organizations. This marks a new record for the organization, surpassing last year's 8,764 hours.

Nearly half of the student body participates in UT Pro Bono, with 43 percent consistently serving during the past two years.

FACULTY NOTES

UT Law faculty are great teachers and active scholars. Here, we present selected faculty publications, scholarly presentations, and other updates since our last issue. For more faculty updates like these, visit law.utk.edu/now.

PUBLICATIONS

DOUG BLAZE & BRAD MORGAN, "Toward More Equal Access to Justice: The Tennessee Experience," *Tennessee Journal of Law and Policy*

JUDY CORNETT, "Harper Lee's First Novel: *Go Set a Watchman*," *Tennessee Law Review*

JOAN HEMINWAY Chapter, "Interme-

diating Crowdfunding: A Foundational Assessment," in *Strategic Approaches to Successful Crowdfunding*

"Small Business Finance: Is the Crowd the Answer?," *Wealth Counsel Quarterly*

MICHAEL HIGDON, "Beyond the Metatheoretical: Implicit Bias in Law Review Article Selection,"

Wake Forest Law Review

GEORGE KUNEY, regular column, co-author, "Dealing with Distress for Fun & Profit," *Commercial Bankruptcy Litigation*

MICHELLE KWON, "The Criminality of Tax Planning," *Florida Tax Review*

BOB LLOYD, co-author, "Recovery of Damages for Lost

Profits: The Historical Development," *University of Pennsylvania Journal of Business Law*

JOY RADICE, co-editor and chapter author, *Beyond Elite Law: Access to Civil Justice in America*, Cambridge University Press

GLENN REYNOLDS, "Abortion, Amendment 1, and the Future of Procreational Rights under the Tennessee Constitution," *Tennessee Law Review*

"On Balance: Leading by Leaving,"

Tennessee Law Review

MAURICE STUCKE, co-author, "When Competition Fails to Optimize Quality: A Look at Search Engines," *Yale Journal of Law and Technology*

DOMESTIC SCHOLARLY PRESENTATIONS

BRAD AREHEART, "Doing Justice Without Doing Harm," Nootbaar Conference, Pepperdine Law School

WENDY BACH, "Evaluating

New Forms of Experiential Education: Which Opportunities for Students to Work in the Community Should We Adopt?," Association of American Law Schools (AALS) Clinical Conference, Baltimore

"Poor Support/Rich Support: (Re)viewing the American Social Welfare State," Poverty Law Conference, Seattle University

BEN BARTON, "New Models for Cost Effective Legal Service Delivery to

Enhance Access to Justice," NYU School of Law

ROB BLITT & VAL VOJDIK, "Bringing Access to Justice to the Classroom through the A2J Author Course Project," Conference for Law School Computing, Georgia State University College of Law

CAROL COLLINS & CATHY COCHRAN, "The Verdict Is In: The Case for a Discovery Trial," Electronic Resources and Libraries Conference, Austin, Texas

JUDY CORNETT, "Legal Ethics: From the Trenches to the Ivory Tower," Seminar on Professional Responsibility and Ethics for Government Attorneys

IRIS GOODWIN, Law and Politics Seminar, Columbia University

AMY MORRIS HESS, "Nationwide Marriage Equality (Almost) One Year

after *Obergefell*," ABA Real Property, Trust & Estate Spring Symposia, Boston

LUCY JEWEL, "Improving and Protecting LRW Status on Law School Faculties," Legal Writing Institute Conference, Portland

BRIAN KRUMM, "Transactional Clinic Impact on the Community Ecosystem," AALS Clinical Conference, Baltimore

"Using the Other 'Case Method' for Teaching

Transactional Skills," Conference on Transactional Law and Skills, Emory Law School

DON LEATHERMAN, "Tax Strategies for Corporate Acquisitions, Dispositions, Spin-Offs, Joint Ventures, Reorganizations and Restructurings," Practising Law Institute, Los Angeles

ALEX LONG & PAULA SCHAEFFER, "Integrating (and Assessing) Lawyering Skills in the 1L Curriculum," Institute for Law

School Teaching and Learning Conference on Real World Learning, Washburn University School of Law

SIBYL MARSHALL, "Find it Free and Fast on the Net: Strategies for Legal Research on the Web," National Business Institute, Knoxville

BRAD MORGAN & KRIS TOBIN, "Combining Legal Research Pedagogy, Pro Bono and Experiential Learning in the First Year Curriculum at the University of Ten-

nessee," Conference for Law School Computing, Georgia State University College of Law

TOM PLANK, "Contracts as Property and the Relationship between Contract and Property," Southern Illinois University School of Law

JOY RADICE, "Problematizing Expungement," AALS Clinical Conference, Baltimore

DEAN RIVKIN, "The Rigorous Representation of Juvenile Status Offenders," Tennessee Bar

Association Juvenile Law Section, Nashville

BRIANA ROSENBAUM, "Civil RICO: The Latest Weapon in Class Action Warfare," Grey Fellows Forum, Stanford Law School, and Civil Procedure Workshop, Seattle University School of Law

VAL VOJDIK, "Sexual Violence Against Men and Boys in War: Using Masculinities Theory to Enrich Feminist Theories of Gender Violence During War," George

Mason University
DEAN MELANIE WILSON, "Promoting Diversity in Law School Leadership," University of Washington School of Law

INTERNATIONAL SCHOLARLY PRESENTATIONS

BECKY JACOBS, "Citizen Participation and Collaboration in Promoting Open Government," IMODEV International Symposium, Paris

SYLLABUS

New first-year curriculum

The first-year (1L) students who arrived at UT Law in August found a unique new approach to their 1L studies that focuses on practical training, legal writing, and career planning. The college's new 1L curriculum is a significant revision of the college's more traditional, theory-focused approach to 1L education. Read more at law.utk.edu/first-year-curriculum.



*Students enroll in an experiential section of either Civil Procedure I or Torts I. The experiential section includes three graded, simulation-based assignments.

**Lawyering & Professionalism is offered through the Institute for Professional Leadership and offers resources for early career planning.

***Involving property and contracts law, Transactional Lawyering Lab puts students in the role of a lawyer negotiating a commercial transaction for a client.

GREG STEIN, "The Expiration of Chinese Land Use Rights," Association for Law, Property and Society Annual Meeting, Belfast, Northern Ireland

COMMUNITY ENGAGEMENT

LAW & SOCIETY ASSOCIATION ANNUAL MEETING, New Orleans. Presenters included Joan Heminway, Lucy Jewel, Karla McKanders, and Val Vojdik.

LEADING THE FUTURE: SYMPOSIUM

ON PROFESSIONAL LEADERSHIP EDUCATION, UT Law. Presenters and organizers included Doug Blaze, Brad Morgan, Paula Schaefer, and Dean Melanie Wilson.

AALS ANNUAL MEETING, New York. Presenters and holders of leadership positions included Brad Areheart, Wendy Bach, Ben Barton, Iris Goodwin, Joan Heminway, Becky Jacobs, Joy Radice, Greg Stein, Maurice Stucke, and Val Vojdik.

AWARDS AND APPOINTMENTS

DOUG BLAZE, Harold Love Outstanding Community Involvement Award, Tennessee Higher Education Commission

AMY MORRIS HESS, fellow, American Bar Foundation

KARLA MCKANDERS, member, Fulbright Specialists Roster

GLENN REYNOLDS, "Second Amendment Limitations" listed on Social Science Research

Network's (SSRN) Top Ten download list among all SSRN articles

MAURICE STUCKE, "Artificial Intelligence & Collusion: When Computers Inhibit Competition" (co-authored), Antitrust Writing Award, ABA Antitrust Section

QUOTATIONS AND CITATIONS

DWIGHT AARONS, "Local Committee to Investigate Hundreds of Homicide Cases with Unanalyzed Evidence,"

Chattanooga Times-Free Press

BEN BARTON, "How to Bring the Supreme Court Back Down to Earth," *The New York Times Magazine*

JOAN HEMINWAY, "The Missing Piece That Could Hold Back Equity Crowdfunding," *The Wall Street Journal*

LUCY JEWEL, "Through a Glass Darkly: Using Brain Science and Visual Rhetoric to Gain a Professional Perspective on Visual

Advocacy," cited by the Supreme Courts of Missouri, Nevada, and Washington

GEORGE KUNEY & MAURICE STUCKE, "Finding the Genuine Article when Federal Courts Clash," *The Deal*

ALEX LONG, "How Does It Feel, Chief Justice Roberts, to Hone a Dylan Quote?," *The New York Times*

GREG STEIN, "Why Ticket Scalpers Are Here to Stay," MarketWatch

MAURICE STUCKE, "Justice Department Sues to Block Tribune Purchase of OC Register, Press-Enterprise," Bloomberg

PENNY WHITE, "We Desperately Need More Women Judges, So Why Aren't We Getting Them?," *The Washington Post*

"Changing Attitudes about the Death Penalty," *Dialogue*, WUOT



Picture-perfect city

The City of Knoxville turned 225 years old on October 3. Learn more about the anniversary of UT Law's hometown at 225.visitknoxville.com.

PHOTO BY PATRICK MORRISON ('16)



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