THE BEAST WITHIN

Subconscious bias and the battle for justice
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AN ESSENTIAL COMPONENT of training exceptional lawyers is cultivating professional development, especially with client interaction. In addition to teaching how to communicate effectively and other skills, our professors also devote time to the issue of implicit bias and how it can impact the law, legal system and our students’ ability to develop effective client relationships.

Professor Andi Curcio, a leading scholar in this area, has found that a “bias blind spot” exists among many law students and lawyers. Students, she says, assume that their legal training means they can put aside existing biases.

But, that isn't the case, Curcio says, especially when it comes to subconscious biases of which the student may not even be aware. Stereotyping starts from a young age, and legal analytical training is unlikely to trump a lifetime of subconscious cognitive processes, she says.

In their Cultural Awareness class, Kendall Kerew, director of the Externship Program, and Kinda Abdus-Saboor, lecturer, challenge students to confront implicit biases through exercises while educating them on how those biases may shape their world views and thus affect client interactions and influence decisions.

Tiffany Williams Roberts (J.D. ’08) also addresses subconscious bias in the Fundamentals of Law class she co-teaches with Professor Clark Cunningham. The attorney-client relationship is the foundational element of a successful partnership, Roberts says, warning that bias can break the relationship if it is not identified and managed: “If we don’t trust a client, we won’t be able to optimize our representation.”

Professor Tanya Washington reinforces this theme in all of her classes. Although it’s a tough and sometimes uncomfortable conversation to have, facilitating these open discussions is important, she says, because everyone has biases. If we are willing to examine them, we can make sure our biases aren’t impairing our effectiveness as lawyers and counselors.

And that is the larger lesson. Bias exists. We have work to do when it comes to hiring and promotion practices of minorities and women, and prejudice still plays out in the courtroom and in legislation. Professors Wendy Hensel and Jonathan Todres share examples of how in this issue.

Ensuring our future lawyers, judges, advocates and legislators are aware of the biased lens through which we all see the world is a necessary step for improving our justice system. Attorneys will be better advocates for their clients. Judges, legislators and others in the legal field who influence and apply the law will also be fairer when making decisions or writing legislation.

Discussing these issues and showing students how to critically reflect on them are essential to developing lawyers who are going to fight for equal justice for everyone.

Steven J. Kaminshine
Dean and Professor of Law
Kaminshine stepping down as dean this summer

Steven J. Kaminshine will step down as dean of Georgia State University College of Law this summer and return to the faculty.

Colleagues quickly praised the breadth and depth of his leadership, reflected by the college's rise in the national rankings from 97th in 2007 to 57th, as well as the college's consistent top 10 ranking among best value schools by National Jurist.

"For the past 12 years, Steve Kaminshine has served with great distinction and helped position the college nationally as an up-and-coming regional school," said Risa Palm, Georgia State's provost and senior vice president for academic affairs.

In making the announcement, Kaminshine said it is "time for this great college to grow with the benefit of a new set of eyes and fresh ideas — building on what we have accomplished. I am not retiring but simply stepping down to rededicate myself to teaching and writing."

As dean, Kaminshine has led the college's efforts to redesign its curriculum in response to changes in the legal profession, incorporating more experiential education classes and opportunities and more integrated skills and doctrinal courses.

"The 'practice-ready' theme has been a keynote for him, and the number of practical skills courses and clinics that have come on board during his tenure is a testament to that," said Charity Scott, Catherine C. Henson Professor of Law and founding director of the Center for Law, Health & Society.

Under Kaminshine's leadership, the college has added five clinics, the HeLP Legal Services Clinic, the Investor Advocacy Clinic, the Olmstead Disability Rights Clinic with Atlanta Legal Aid Society, the Landlord-Tenant Mediation Clinic and a volunteer clinic for veterans.

In addition, the college now boasts 22 experiential courses, said Lisa Radtke Bliss, associate dean for experiential learning and clinical professor of law. She credits Kaminshine's use of summer teaching innovation grants to rework existing courses, such as the first-year legal writing program, or to develop classes that integrate legal skills with doctrinal work.

"Steve knows that to best serve our students and to help them be the best possible lawyers, students need to have a wealth of opportunities to integrate doctrine with other lawyering skills," said Andrea Curcio, professor of law. "He helped make those opportunities possible."

The college's curriculum efforts were recognized by U.S. News & World Report's No. 30 ranking for clinical education, and the college's alumni have had consistently high bar passage rates for the last 10 years.

The college also has added four research centers, the nationally ranked Center for Heath, Law & Society; the Center for the Comparative Study of Metropolitan Growth; the Center for Access to Justice; and the Center for Intellectual Property. In 2015–16, the college opened the Atlanta Center for International Arbitration and Mediation to handle international commercial dispute mediations, the first center of its kind affiliated with a major university.

"He took the college where we needed to go in terms of faculty excellence, physical facilities and centers and clinics," said Eric Segall, Kathy and Lawrence Ashe Professor of Law. "His professionalism, high ethical standards and zeal for excellence made us all a better faculty."

Developing and hiring new faculty members to replace retiring founding professors is a hallmark of Kaminshine's tenure as dean, said Wendy F. Hensel, associate dean for research and faculty development and professor of law.

"I would point to the world-class faculty that he hired and nurtured during his tenure as perhaps his most impactful act," Hensel said. "His dedication to others’ success goes well beyond the ordinary and will have a long-term impact on so many of us individually and the law school in general going forward."

During Kaminshine's tenure, the College of Law has raised almost $30 million, including $12 million for 85 Park Place, which opened in 2015.

"Steve increased the quality and productivity of the faculty and the product we offer to students at the same time to such a dramatic degree that the university had to build this building, to make the facility match the institution Steve built," said Roy M. Sobelson, professor of law and former associate dean for academic affairs.

Kaminshine is among the College of Law's longest serving faculty members, having joined the college in 1985. He is the fifth and longest-tenured dean of the college. He was associate dean for academic affairs from 1996 to 2004.
PUBLIC SERVICE AWARD
The Atlanta Bar Association honored State Court conflict defender Elaine T. McGruder (J.D. ’90) with the 2016 Public Service Award for her significant contributions in advancing the fair administration of justice in the community.

McGruder, director of the Fulton County Public Defender/State and Magistrate Courts, has been instrumental in the accountability courts, said Judge Susan Edlein of the State Court of Fulton County.

“Ms. McGruder helped to start the DUI Court and the Treatment Diversion Court, designed for criminal defendants suffering from mental illness. Her involvement in these courts goes well above and beyond her regular ‘day job’ as a criminal defense lawyer. She exemplifies the unsung heroes who work every day to ensure that our constitutional rights are protected,” Edlein said.

McGruder is also known for her dedication in supporting interns and less experienced attorneys. It’s important to ensure that future lawyers are well trained and have insight into public interest law, whether or not that’s what they choose to practice, said McGruder, who also advises and judges high school mock trial teams.

“She is a walking legend in Fulton, and for all the best reasons,” said Josh Schiffer (J.D. ’02), an attorney at ChancoSchiffer. “I have dozens of anecdotes regarding good deeds she has done, from being the last hope of the homeless, mentally ill and socially fragile through standing up for indigent defense lawyers at committees whose members barely think we even know how to practice. Without her, I would never be where I am today.”

Legal training offered to support social justice movements

In August 2016, Georgia State Law students and alumni joined forces with 23 local organizations and several law firms to create a legal training session to support today’s social justice movements at the college.

“We organized this training because young people in Atlanta have taken to the streets to demand change through protest and civil disobedience. It is their bold and courageous organizing efforts that required socially conscious members of the legal community to organize as well,” said Mawuli Davis (J.D. ’02), co-founder of the Davis Bozeman Law Firm, where he leads the criminal defense and trial sections.

The legal training session focused on pro bono representation, legal observer training and jail support. Davis explained the highlighted areas were chosen based on years of experience working with activists engaged in civil disobedience and nonviolent protests.

The Gate City Bar Association, DeKalb Lawyers Association, NAACP, American Civil Liberties Union (ACLU), National Lawyers Guild and the Southern Center for Human Rights participated in the training.

“It is our hope that everyone saw themselves as having a role in this movement for social change. The more participants involved in supporting and learning from our young people, the stronger we are as a community,” Davis said.

Alumni handle largest bond issuance in the state

Two former Georgia State Law classmates, Andrew Egan (J.D. ’05, M.A. ’06) of Kutak Rock and Jon Pannell (J.D. ’05) of Gray Pannell & Woodward LLP, recently assisted with the largest bond offering ever undertaken by the State of Georgia. Egan served as disclosure counsel and Pannell as bond counsel for the over $1.37 billion issuance.

Money generated from the sale of the bonds will be used for state capital projects that include facility management and rejuvenation, infrastructure maintenance and development and the rebuilding and remodeling of state and local education buildings. “It’s a fun practice, and I get to see the tangible results of my work,” Pannell said.

Additionally, Pannell and Egan worked on another state bond issuance of just under $900 million. “I enjoy the challenges and complexities involved with public finance. My time at the College of Law, in particular the tax classes I took, have served me well in this practice area,” Egan said.

Before law school, Egan and Pannell met at the University of Georgia. Following undergraduate work, Pannell worked for Trammell Crow Co. as a leasing agent in Atlanta. Egan also received a master’s degree in political science from Georgia State University.

“It is pretty unique that Andrew and I knew each other in undergrad and law school, went our separate ways, and then ended up working together in this highly specialized area of the law on these billion-dollar issues for the State of Georgia,” Pannell said.

Read more >> law.gsu.edu/Egan-Pannell
Investor Advocacy Clinic partners with Secretary of State office

The College of Law’s Investor Advocacy Clinic has partnered with Georgia Secretary of State Brian Kemp’s office to enhance investor education in Georgia.

“Our partnership is driven by the need for improved and more highly visible investor education,” stated Secretary Kemp. “We want to provide Georgians with dynamic resources that will better enable them to manage their savings investments and avoid being victimized by scams.”

Under the direction of Nicole G. Iannarone, assistant clinical professor and clinic director, students are working with the Securities Division by developing informational resources for investors to make informed investment decisions and avoid investor fraud. “Our goal is to meet investors where they are with information that is interesting, easy to understand and meaningful,” Iannarone said.

Charles (J.D. ‘18) leads national mindfulness society’s student division

Austin Charles (J.D. ‘18), with the help of Charity Scott, Catherine C. Henson Professor of Law, has taken the lead for developing mindfulness resources and networking among law students who desire to establish mindfulness programs at their schools.

Charles is the chair of the student division of the Mindfulness in Law Society (MILS), a national organization that aims to improve the mental well-being of legal professionals through mindfulness practices.

“Austin has established both an online database of mindfulness resources and personal connections with law students across the country,” Scott said. “He’s being looked to by law schools across the country to help with setting up these programs.”

Charles has traveled to other schools and presented at national conferences, including teaching a mindfulness workshop for students at Columbia Law last fall.

“The network of law schools we are creating is a tremendous resource for law students who are interested in creating mindfulness programs,” Charles said. “We all benefit from the experiences of each other.”

Professors present on police body cameras, bench warrants and electronic information

Professors Clark Cunningham, Caren Morrison and Nirej Sekhon presented works-in-progress at the ABA Criminal Justice Section’s Fall Institute in Washington, D.C.

Cunningham discussed the Apple/FBI standoff in the wake of the San Bernardino tragedy and the Microsoft v. Department of Justice case, which concerns various law enforcement agencies getting warrants for electronic information that allow them to search a person’s entire email history without that person knowing. His article proposes requirements for the handling of such electronic information.

Morrison argued that videos from police body cameras, when presented as evidence, tend to support the police’s narrative while videos taken by eyewitnesses show a more abusive state. Both of these sources carry with them a “cultural currency,” reflecting back the fact-finders’ feelings on violence, race and other influences. Her article proposes a more nuanced approach in using these videos as evidence.

Sekhon presented on bench warrants and how their use carries constitutional concerns of subverting the Fourth Amendment. Overuse of bench warrants, especially with minority groups, incentivizes police to conduct unquestionably unconstitutional actions while policing, and issuance of them should be more stringently regulated, he said.
“I wanted to make a positive difference in my community and in the lives of others.”

Judge Belinda E. Edwards (J.D. ’90)

Why did you pursue a career in law?
As a child of the civil rights movement, raised in the segregated South, I experienced firsthand discrimination and the adverse effects of unequal justice. I realized early that it was the law that gave rights and took them away, established what you could or couldn’t do, and that even if the law was not discriminatory, the people applying it often are.

As a teenager, I was part of a group of black students that integrated Southwest High. The policy of Atlanta Public Schools at that time was that you could attend any school in the district. However, my initial request for Southwest was rejected, and I was assigned to Harper High, a black school. But Harper was on double session, and I wanted to go to school all day, not half a day. Thus, my mother went to the Board of Education to challenge the assignment as a violation of the policy. I and others were then reassigned to Southwest.

My parents valued education because they recognized it was the key to opportunity, better paying jobs and careers that were unavailable to them.

Because of the example they set, it was ingrained in me that you speak out when you witness injustice regardless of the personal cost, that you stand up for others and treat everyone fairly even if they do not treat you that way. What better way to ensure equal and fair treatment for all than to be a lawyer and fight for the rights of others, and ultimately a judge, the decision-maker?

You have said that your grandmother was also an inspiration.
As a child I attended more voter registration drives and NAACP meetings with my grandmother, Mrs. Ruby L. Edwards, than I can recall. She wanted me to learn firsthand the oppression black people faced and what hard work and commitment it took to change the status quo. She said voting was necessary to bring about the change needed to improve the lives of disenfranchised people — it wasn’t going to happen just because we wanted it to. Someone had to do the hard work and heavy lifting, and that someone was us. On occasion, my grandmother had to leave town for her safety because of her activism, but she never stopped, no matter the personal cost. Some people take the right to vote for granted, but that right was won through the beatings and deaths of others, so I always vote.

My grandmother understood that without the opportunity to obtain an education, black people were destined to remain second-class citizens. She also emphasized that once you obtained an education, you had an obligation to try to make a difference in your community, because people died and fought for you to have that opportunity.

I know of no better way to honor my grandmother’s legacy than to become a lawyer and judge. I am a superior court judge because I obtained an education, I came back to my community and tried to make a difference through my work in public service, and people voted for me. All the things my grandmother worked and sacrificed for have benefited me and will benefit others. Voting, education and community service are the keys to making a great people and a great community.

What advice would you give students?
Work hard so that you learn the law and how to apply it, but also understand that character matters and your reputation precedes you and follows you. You should strive to be a person of integrity with high ethical standards. Give your best effort on any assignment you undertake, and be considerate of others.

Judge Belinda E. Edwards (J.D. ’90) was sworn in as Fulton County superior court judge in December. She was with the firm of Hollowell Foster & Herring, focusing on mediation. Previously, Edwards has been chief judge of the Fulton County Juvenile Court, general counsel for Morris Brown College, senior attorney for Atlanta Public Schools and assistant city attorney and senior financial analyst for the city of Atlanta.
“I have a passion for helping people improve their quality of life.”

Trey Kelley (J.D. ’14)

Why did you decide to pursue a career in politics?
My parents, both public school teachers, instilled in me the value of community service. When my wife, Amy, and I moved back to my hometown of Cedartown, Georgia, we quickly became involved in our community. We recognized a need for stronger, more effective leadership from our state representative. While I was in my first year at Georgia State Law — a stressful one, at that — we felt God was calling us to become more engaged in the community. Ultimately, a run for state representative was the right place to make a difference. We made our announcement the Saturday before I started the second semester of my first year.

How did Georgia State Law help prepare you for your career?
One thing I loved about Georgia State Law was the diversity of our student body, not just demographically, but philosophically as well. I remember fondly many intense but respectful conversations surrounding current events and public policy taking place in between classes. I feel our country could benefit from more conversations such as those that took place while we were putting off case briefs in the lobby of the law school.

To survive in law school, students should learn both to think on their feet — as I had to when Professor Neil Kinkopf called on me to explain Pennoyer v. Neff in our first Civil Procedure class — and to read critically (a skill I wish I had developed better before he called on me). Both quick thinking and critical reading are skills essential to serving in the Georgia House.

Why do you enjoy your work?
I have a passion for helping people improve their quality of life. Whether

I’m fighting for my constituents at the state Capitol or in the courtroom, I try to keep a perspective on the effects my actions have or could have on their lives. A speaker in my Health Law Policy class once said being a lawyer offers you the opportunity to solve one person’s problem, while being active in politics offers you the opportunity to solve the problems of hundreds, thousands or even millions of individuals. I feel blessed to have the opportunity to do both.

What advice do you have for students who want a political career?
One, make sure you are engaged for the right reason; two, have a cause you’re passionate about; three, be confident in yourself and your talents; and four, don’t go into it alone. The support of your family can’t be overstated.

If you are engaged in a practice, have a plan in place to take care of your clients while you are serving your community and our state during the legislative session. I’m blessed to have some great lawyers mentoring me during my young career.

Rep. Trey Kelley (J.D. ’14) was elected to the Georgia House of Representatives in 2012. He practices law with Parker & Lundy in Cedartown.

Read more about Trey Kelly and Belinda Edwards at law.gsu.edu.
THE BEAST WITHIN

Subconscious bias and the battle for justice by Charles McNair
THE SECOND-YEAR LAW SCHOOL students watched in amazement.

A woman gave testimony in a domestic violence hearing in Cobb County Superior Court. Instead of the subdued, tearful, intimidated stereotype of a domestic abuse victim, the woman seethed with fury, crying out.

She blew student preconceptions apart like a bomb.

After the hearing, Tiffany Roberts (J.D. ’08), adjunct professor and deputy director of the National Institute for Teaching Ethics and Professionalism (NIFTEP), debriefed the Fundamentals of Law class, which she co-teaches with Clark D. Cunningham, W. Lee Burge Chair in Law and Ethics and director of NIFTEP.

Roberts asked a pointed question to the students, who had been watching the court proceedings as part of the class.

“Her defiance and anger make you think — even for an instant — that she may have caused, or even deserved, her domestic abuse?”

Roberts then asked an even tougher question.

“Could there possibly be internal bias at work in your judgment about her?”

In that moment, Roberts forced her class to stare into a deep, truthful mirror and confront an important and too often unexamined issue of the legal system: subconscious bias.

Professor Andrea Curcio, Roberts’ colleague, makes the sensitive subject of personal bias a focus of her academic work.

“Understanding subconscious biases, their pervasiveness and their impact on perceptions, interactions and analyses, helps prepare lawyers to represent people from cultural and racial backgrounds different from their own and to address both individual and institutional injustice,” Curcio said.

**The bias blind spot**

On close examination, a widespread and fundamental assumption of American life — that our justice system is truly just — threatens to fall apart. Bias runs like a jagged scar through the legal decision-making of the United States, from the nation’s beginnings to present day.

For census-taking purposes, authors of the foundational document of our legal system, the U.S. Constitution, deemed slaves to be merely three-fifths of a human being. And 228 years later, in August 2016, a Department of Justice investigation in the aftermath of the Freddie Gray police shooting in Baltimore revealed official policies allowing unconstitutional stops, searches, arrests and other activity by that city’s police department.

These examples of overt bias, institutionalized and unjust, are conspicuous — and notorious. Roberts and Curcio, however, choose to work at a personal level to raise awareness of how subconscious bias can affect client relationships, influence courtroom decisions and shape laws.

Why does it matter? By logic, when the legal system can address bias at its base, at the personal level, justice will more often prevail. Lawyers will become better advocates for their clients. Judges will uniquely consider each and every courtroom decision on its own merit. Prejudicial laws will appear less often on the books.

An utterly honest examination of personal bias or prejudice like the one Roberts’ students conducted after their Cobb County court observation is key. But self-awareness means facing the truthful mirror, and what it reveals can be painful.

“The predominant discourse in law school and among lawyers is that lawyers are the ultimate rational thinkers. We train law students to ‘think like lawyers,’” Curcio said. “Students often assume that thinking rationally, logically and analytically means they are able to set aside their existing biases.”

Unfortunately, this faith in the supremacy of rational thinking can result in what researchers call a “bias blind spot,” in which individuals see biases in others but believe that they are bias free.

Curcio and fellow researchers have conducted two surveys to examine subconscious bias among law students. One canvassed 125 incoming law students and 13 upper-level clinic students. A second was administered to 591 incoming and upper-level students at two separate schools. Curcio’s paper discussing the

“The survey results suggest many students believe lawyers are less susceptible than clients to having, or acting upon, stereotypes or biases,” Curcio said.

Curcio’s work powerfully suggests that some law students do not understand the pervasiveness of bias, in themselves or in other well-meaning people.

“The relationship of counsel to client is the foundational element of a successful legal relationship. Bias can break down the relationship if we can’t identify and manage it.” —Tiffany Roberts

“Some students don’t recognize that legal analytical training is unlikely to trump a lifetime of subconscious cognitive processes,” Curcio said.

“And because they believe that they already understand and can recognize their biases, students may resist education aimed at helping them recognize how personal biases affect their interactions with clients and the legal system.”

**Stereotypes start early**

Stereotypes form in the human consciousness at a very young age. Infants and toddlers begin to categorize people based on easily observable characteristics like skin color, gender, age, etc. Racial stereotypes can be embedded before children enter kindergarten. The social experiences that create those stereotypes “influence how people perceive and assess facts, attitudes, legal problems and legal processes,” Curcio said.

Both Roberts and Curcio contend that no one — lawyer, tinker, tailor, spy, whoever — breezes through the world free of personal bias. Even well-meaning people can be shockingly biased in the ways subconscious prejudices color their perceptions and decisions.

Curcio’s Nevada Law Journal paper gives a telling example.

It cites an experiment in which five partners from different law firms deliberately inserted grammatical, factual and analytical errors into a legal research memo about trade secrets in Internet start-ups. Then, 53 different law firm partners were asked to participate in a study on writing competencies of young attorneys and asked to edit the memo for errors and rate its overall quality. The partners received exactly the same memo. A cover page instructed that the memo was drafted by a male third-year associate who graduated from New York University School of Law. Half the partners editing the memo were told the associate was Caucasian; the other half were told the associate was African-American.

The identical memo averaged statistically significant lower overall ratings for the fictional African-American associate than the Caucasian. Partners found more errors and made more negative qualitative comments in the purportedly African-American memo — for exactly the same work.

**Social cognition theory to the rescue?**

“I think everyone has biases,” said Roberts, “but I don’t think one’s biases must translate into being oppressive or racist. If we are willing to examine our behavior, we can make sure our biases aren’t causing harm to other people’s lives.”

Harm can show up with little fanfare. When a lawmaker allows bias to shape opinions, lasting injustice can appear in the legal code. When a judge sees an endless stream of faces from the same socio-economic background crowding a courtroom, it becomes easy to assume the next person on the docket is just like all the others. When a public defender stressed by caseloads impatiently waits a half hour for a late client, it might be easy to assume the client simply doesn’t care. (But, Roberts pointed out, what if scraping together enough money for bus fare caused the delay?)

“The relationship of counsel to client is the foundational element of a successful legal relationship,” Roberts said. “Bias can break down the relationship if we can’t identify and manage it. If we don’t trust a client, we won’t be able to optimize our representation.”

Subconscious bias sometimes doesn’t even involve people.

Student Greg Mullin (J.D. ’17) sees examples of what he calls “confirmation bias” in his studies of technology law.

“Many people have formed beliefs that data is private, devices are secure and technology is trustworthy,” Mullin said. “Those beliefs may or may not be true.”

He describes what happens when a user receives an anonymous email request to click a link and change a password.

“Confirmation bias means there is a risk you will immediately click the link because you interpret that email, which could be a ‘ phishing’ scam, as conforming to your belief that emails are trustworthy,” Mullin says. “In situations like this, confirmation bias can cause people to act outside of their best interests.”

Mullin said the discussions about bias in Roberts’ and several other of his classes will help him be more self-aware as a lawyer.

“I learned about types of biases and how unconscious bias can produce unwanted results within the legal system,” he said. “That knowledge helped me to more easily identify and overcome biases and gave me another tool to use when advocating for a client.”

That’s progress. But Curcio thinks that law school training in rational thinking may provide students a false sense of competency when it comes to working in
the real world.
“‘To focus on rational thinking as if there’s an objective reality,’” she said, “‘does not serve us or our clients well.’”

Curcio favors teaching students the psychology and science that underlie biases in the hope that this will make students “more receptive to learning about, and confronting, their own stereotypes and biases.”

When bias becomes personal
Roberts, a black woman, knows firsthand what happens when subconscious bias, or worse, enters the legal system.

Roberts’ background commands respect. She has been teaching Fundamentals of Law, which integrates a clinical component letting students represent victims of domestic violence in protective order proceedings, at Georgia State since fall 2011. She started her professional career as a public defender in the Atlanta Judicial Circuit.

As a private attorney, Roberts handles tough felony and civil rights cases.
Atlanta Mayor Kasim Reed appointed her to represent a community organization on a panel that screened applicants for the 23rd chief of police for the city. She does community organizing on policing issues, and she represents many clients from poor neighborhoods and bad situations.

So what sometimes happens when this accomplished attorney shows up to represent a client?
“I’ve been to courtrooms in jurisdictions just outside of Atlanta where it’s not assumed that I’m an attorney,” Roberts said. “They assume I’m the defendant’s girlfriend, and I’m told to ‘go sit over there.’
“I’ve never seen that happen to a white person with a briefcase. It takes a different level of patience to deal with that on a consistent basis.”

Roberts and Curcio share an understanding that so long as humans are imperfect, the legal system will be imperfect too.

But they also strongly believe that the one acceptable bias in law should be a bias toward better justice.

ABA prohibits bias in law practice
by Nicole Iannarone

The legal profession has long had the ability to remove from its ranks lawyers whose conduct shows they lack ethical character sufficient to practice law. In August, the American Bar Association (ABA) further expanded the class of activities that can put a lawyer’s bar license at risk by amending ABA Model Rule 8.4, Misconduct, to prohibit discrimination in the practice of law.

Professional misconduct now includes “conduct that the lawyer knows or reasonably should know is harassment or discrimination on the basis of race, sex, religion, national origin, ethnicity, disability, age, sexual orientation, gender identity, marital status or socioeconomic status in conduct related to the practice of law.” ABA Model Rule 8.4(g).

Prohibiting discrimination is not a new concept in legal ethics. Prior to the amendment, Model Rule 8.4’s comments recognized that discriminatory acts could be professional misconduct. Comment 3 explained that if a lawyer engaged in bias while representing a client, the lawyer could be disciplined if the conduct was “prejudicial to the administration of justice.”

Despite the inclusion of antidiscrimination principles in the prior rule, the ABA’s August amendment is a notable substantive change for two main reasons. First, discriminatory conduct had never been a violation on its own. The substantive violation in Rule 8.4(d) was conduct “prejudicial to the administration of justice.” Explaining that violation within a comment did not make bias or prejudice actionable because comments are not ethical obligations. They are only provided to help guide lawyers in interpreting the rule.

Second, the scope of the new anti-bias provision is broader. The new rule purposefully includes an expansive restriction applying to all aspects of law practice. It is not limited, as the prior comment was, to actions that arise in the course of representing clients. Thus, while the prior comment explained how bias could be conduct prejudicial to the administration of justice, it required that the action take place while the lawyer was representing the client. The new prohibition applies to all aspects of a lawyer’s practice. For example, a lawyer may violate the rule by engaging in discriminatory hiring practices.

While some may be surprised that lawyers’ conduct outside client representation is regulated, the new Rule 8.4(g) is simply an expansion of bedrock principles of the legal profession. Because of our special role and function within the justice system, lawyers’ ethical responsibilities extend beyond our obligations to clients and our work in representing clients. The privileges of practicing law and self-regulation include responsibilities to the justice system and respect for the rule of law. Moreover, among the ABA’s four goals is a goal to eliminate bias in all aspects of the legal system.

Though the ABA’s rule change is an important step, it is still up to each jurisdiction to decide whether it will adopt a similar rule prohibiting lawyers from engaging in discriminatory conduct. The ABA’s Model Rules are exactly that—models.
While the ABA Model Rules are not actionable, the ABA’s strong reputation as a thought leader in legal ethics often shapes the mandatory rules imposed by those who do regulate lawyers. In future years, we can expect to see jurisdictions evaluate the new ABA Model Rule 8.4(g) and consider adding it to the ethical responsibilities of lawyers.

Nicole G. Iannarone is an assistant clinical professor and director of the Investor Advocacy Clinic. She teaches Professional Responsibility, Business Arbitration Practicum and Complex Litigation. Iannarone is a frequent speaker on issues of legal ethics and professional responsibility. She serves as the chair of the Atlanta Bar Association’s Reputation and Public Trust Committee and as vice-chair of the State Bar of Georgia’s Professionalism Committee and is a member of the State Bar of Georgia’s Formal Advisory Opinion Board.
It’s everywhere, and it’s not going away

by Jennifer Bryon Owen
SHE TELLS HER STUDENTS THEY’RE BIASED. They can’t help it. And that’s okay.

She also tells students if they want to be good lawyers, they have to be intentional about how they deal with those biases. Then, Tanya Washington, professor of law, gives students opportunities to become aware of, own and explore their biases. She teaches Civil Procedure, Family Law, Education Law and Race and the Law, and she says bias operates in each.

“I don’t try to get them to get rid of their biases,” Washington said. “That’s futile.”

Helping students confront their biases, she believes, is an important aspect of preparing them to be lawyers.

“I’m training my students to be power brokers in a number of contexts,” Washington said. “I want them to be aware of where and how their biases inform their judgment and decisions, which can affect others in real ways.”

Her challenge is that students often don’t want to admit to being biased.

“It’s harder to be aware of our biases when talking to friends and family who share the same biases,” Washington said. “But it sounds differently in a classroom with a diverse group of people with different biases, and you voice a bias that characterizes someone in that group negatively.”

Students have said things that infuriated their classmates, made them cry, made some leave the room.

Washington uses these moments to make offended students aware that many out there share those biases they find so insulting, and she challenges students to learn to deal with them.

“What professors can do that a textbook cannot is create a space that facilitates learning, gives students permission to try to express their ideas and, even in correcting them, encourage their intellectual creativity.”

The only conduct code she imposes is that students respect each other, which is what she expects them to do as lawyers.

“You don’t have to agree with everyone, but you do have to respect that they have a right to express themselves and to believe what they believe.”

Key to understanding their biases in her Race and Law class is the journals she requires students to write. Because she is the only person who sees the entries, students reveal a lot.

“I think I am able to help students transform their thinking,” Washington said. “I don’t take credit for that. What I take credit for is creating the space that facilitates the transformation.”

Students have told Washington her class was valuable because of what they learned about themselves.

“The impact on Cate Powell (J.D.’15) was “huge.”

“It was a powerful class,” she said. “It was the first opportunity for the most honest conversation we had as students.”

She confirmed the tension in the class. “It was tension in the best way because we experienced the conflict and then walked through it,” said Powell, a civil litigator with Hinton & Powell.

“To respect each person and their beliefs is really powerful. And we were talking about the cases as much as personal experiences. The class was giving us information on multiple levels.”

It ignited Powell’s passion for community engagement, and she meets with former classmates to discuss how they as attorneys can be active in their communities.

For Tawanna Morgan (J.D. ’08), the transparency and authenticity of a law professor who was a real person, a black female and a single parent “rockin’ a fro” were inspiring.

“Washington instantly became a role model,” she said. A criminal defense and personal injury attorney with MAAT LAW Practice of Tawanna Morgan LLC, Morgan recalls learning how the connotation of terminology creates barriers to acknowledging and understanding bias.

“It’s in the back of my mind that I and everyone else filter everything through our own biases,” Morgan said.

She handles bias against her criminal defense clients by humanizing them.

“To dispel certain assumptions, I want the prosecutor, judge or jury to look at this person as something other than the crime they are charged with and to question why they’re making a certain decision about this person.”

Such personifies Washington’s vision.
Cultural awareness class creates questions, provides answers

by Therra C. Gwyn
Bias is a hot-button word in today's cultural climate. Few other words will grab as much attention or spark such a physical, emotional or legal reaction.

In a cultural awareness class, Kendall Kerew, assistant clinical professor, and Kinda Abdus-Saboor, lecturer, examine implicit biases by prompting students to evaluate the lens through which they see the world. That lens, Kerew explained, will determine how students approach their clients, colleagues and the courtroom.

As cross-cultural interactions are inevitable in the practice of law, students should be prepared to navigate those interactions successfully, Kerew said.

The class is part of a required seminar for second- and third-year students participating in externships. Kerew, director of the Externship Program, developed the seminar to focus on professional identity formation.

"The goal is to shift focus from law student to lawyer," she said. "We want students to focus on the way they want to conduct themselves as professionals. That requires self-awareness and self-reflection."

"Culture is so much more than just race. Your cultural identity is multifaceted."

— Kendall Kerew

The cultural awareness class is the sixth of seven classes. "The idea is to get students to think deeply about the role of cultural awareness and what they need to do to become more culturally aware," Abdus-Saboor said. Through assignments and exercises, students first think about their own cultural identity and then explore how it impacts their cultural lens.

Before the semester starts, students are required to take the Implicit Association Test, which was formed from a Harvard research study. The online assessment has a menu of tests to choose from, with options such as age, race, disability, gender-career, weight, skin tone and so on.

"The test measures your reaction time to different images and words," explained Abdus-Saboor. "It gives you an analysis of your level of implicit bias and perceptions."

The test is not about determining if you are racist or prejudiced, Kerew explained. "It's about determining if you have an implicit bias of any kind — and everyone does."

Kerew and Abdus-Saboor noticed when they gave students a choice to take any three of the tests, most avoided the one on race. Now they require students take the race and age tests, and the third is their choice.

And students are seeing the value in the results. "I've always put a premium on neutrality," said Max Perwich (J.D. '17). "The test was very informative. It gave me a good perspective on what neutrality really means."

After taking the tests, students must write about whether the results aligned with what they expected and identify their strengths and weaknesses in dealing with cultural differences.

In class, Kerew and Abdus-Saboor discuss how implicit bias happens and how it can be based on a number of things, like geography or personal identity.

"Culture is so much more than just race," Kerew said. "Your cultural identity is multifaceted."

In a class exercise, students write three cultural attributes with which they strongly identify that are then read aloud by Kerew and Abdus-Saboor. Through attempting to dissect their own cultural identities, students recognize the complicated intersection of culture and identity.

Students often note that they never really thought about themselves as the individual character traits, Kerew said, which leads to a conversation about why we view others so narrowly, when we consider ourselves to be such complex cultural beings.

Kerew had some initial concerns about the class. "I was worried about pushback because it would raise questions that were uncomfortable," she said. Additionally, she explained that millennial students tend to have a "colorblind" perspective, believing that they do not and should not see color. Such a perspective could make it difficult to have meaningful discourse on the topic of cultural awareness.

But, instead of limiting dialogue, that "colorblind perspective" becomes a springboard to generate discussion. Abdus-Saboor and Kerew encourage students to discuss the danger in ignoring cultural differences and suggest ways to approach them.

Specifically, students read and unpack The Five Habits of Cross-Cultural Lawyering by Sue Bryant and Jean Koh Peters. The book directs lawyers (and law students) to identify the similarities and differences between themselves and their client, opposing counsel and the decision-maker, and to develop a legal strategy that takes those differences into consideration. It also encourages lawyers to think about potential cultural barriers and to prepare for them.

"We end the class by giving the students sort of a toolbox," Abdus-Saboor said. "We did not want to present the challenge of cross-cultural lawyering without providing concrete ways to tackle it," she said.

Professors Abdus-Saboor and Kerew say this class is just a start in preparing students for cross-cultural lawyering and are happy with the dialogue it has created thus far.
How bias can weaken legislation

by Charles McNair

WHEN IT COMES TO LAW, IGNORANCE ISN’T BLISS.

It’s bias.

Prejudicial policy continues to find its way into law despite the noble goals of the judicial system and the efforts of well-meaning lawmakers.

Two Georgia State Law professors have done important work in understanding how and why this happens. Their works illustrate, in one case, how bias can bleed through popular culture onto books of law and, in another, how biased preconceptions can hollow out the insides of well-intentioned laws.

“In effect, legal bias about what disability looks like resulted in many not receiving the civil rights protections they needed.”

—Wendy Hensel
Seeing, in both bodies of work, examples of how bias slips through the security systems of justice can sensitize those in the legal profession to its possibility ... and support prevention.

Professor Jonathan Todres’ ongoing work examines how culturally shaped bias has led to faulty law and policy responses to human trafficking.

“When we have a popular understanding of any issue, and it doesn’t reflect reality, or only a portion of reality, we’re going to advocate for policy and new law based on that misunderstanding,” Todres said. “We have an obligation to go beyond popular portrayals and use evidence-based research to develop our laws.”

Todres explored in a 2015 paper for Cornell Law Review Online (“Human Trafficking and Film: How Popular Portrayals Influence Law and Public Perception”) how popular cultural vehicles reproduce biased understandings. Movies such as Taken and The Whistleblower can create powerful but erroneous notions and emotions that shape opinion and get incorporated into law.

“We have an obligation to go beyond popular portrayals and use evidence-based research to develop our laws.”

—Jonathan Todres

Misconceptions about trafficking have led to a broadside of legal measures that often miss the target. “In the historical development of international legal measures to combat human trafficking, two key concepts emerge,” Todres said.

“First, from the outset, in the early 1900s, the aim was not to guard against the trafficking of all persons, but only white women and girls. While that has long since been remedied formally in international law on human trafficking, its legacy has not.

“Second, the historical development of the law evolved in ways that fundamentally linked trafficking with prostitution. Though numerous individuals are trafficked for prostitution, this linkage led lawmakers to overlook the extent to which persons are trafficked for other forms of exploitation.”

We find forced human labor in factories, fishing fleets, military service, domestic work and many other services. The popular conception of trafficking — women in forced sexual situations — is sensational and galvanizing, but criminals make billions of dollars annually on other forms of exploitation largely out of public view. So far, because of the prevalence of the sex-industry stereotype, lawmakers haven’t focused as aggressively on those other forms of trafficking.

Trafficking can be abetted by social views of “otherness,” as Todres terms it — the idea that marginalized populations are devalued and, in many cases, considered less than human.

“Overcoming discrimination and otherness is a difficult, long-term project. That is all the more reason to start immediately. Traffickers have huge incentives — it is a multi-billion-dollar enterprise. It won’t go away unless we take on the long-term challenges while we continue to work on short-term goals too,” he said.

How bias disabled the ADA

A second glaring example of the ways bias can subvert the best intentions of lawmakers has been explored by Wendy Hensel, associate dean for research and faculty development and professor of law. She has written extensively about how the Americans with Disabilities Act (ADA) lost effectiveness after its passage in 1990 due to “extensive judicial resistance to the legislation.”

Lawmakers considered the ADA radical legislation at the time, though disability advocates hailed it as a substantial step towards ending discrimination against millions of Americans who experience physical or mental impairments.

The law was one thing. Its application, another.

Judges, using an exacting definition of disability, severely limited the law’s protection against discrimination. Only individuals with nearly incapacitating impairments were found to have a disability. People who commonly are understood to have disabilities — those with mental retardation, diabetes, epilepsy, missing limbs and cancer — were often denied the law’s protection because judges did not find them to be sufficiently impaired. Many lawyers stopped taking disability cases because they were so hard to win.

“In effect, legal bias about what disability looks like resulted in many not receiving the civil rights protections they needed,” Hensel said. Fortunately, better law moved in. In 2008, President George W. Bush signed the Americans with Disabilities Act Amendments Act (ADAAA) into law, “reinstating a broad scope of protection,” Hensel said, to millions of people.

“The ADAAA rejected the narrow approach of the courts to eligibility and restored Congress’ original intent to provide broad legal protection from disability discrimination in society,” she said.

“Since the act was modified in 2009, more people have been able to establish a disability in court and be protected by law. But the ADAs history serves as a good example of how bias can erode the effectiveness of a beneficial law.”

Hensel points to the often “significant stigma against mental illness” that remains in the law and in our culture.

“Unfortunately,” she says, “laws are not effective if society doesn’t change too.”
Alumni profile | Jury consultant de La Rue (J.D. ’95)

FIGHTING FOR ‘FAIR AND IMPARTIAL’

by Ray Glier
The reconnaissance that goes into picking a jury is a combination of art and science, and it takes time. It is studying demographics, but it is also studying body language and nonverbal hints from a prospective juror.

It is turning over a rock to see what is on the other side. It is not as if a prospective juror is hiding something, but you are asking them questions they probably have never asked themselves in the mirror.

When trial attorneys are too wrapped up in motions and depositions and witness interviews, they hire Denise de La Rue (B.S. '87, J.D. '95) as a jury consultant to turn over those rocks you want to hear. "Those are the people you want to send home."

The strategy is trying to figure out who these people are and what they bring with them to the table," de La Rue said. "It is getting the folks to talk and not just give the answers they should give, or what you want to hear."

She will advise lawyers, strongly, not to lead jurors where the lawyer wants them to go.

"A lot of lawyers, in an antiquated way, try to indoctrinate jurors. They will ask questions seeking agreement, getting their theory out there," she said. "Those don't get you anywhere. They just conducted a pep rally and did not accomplish anything."

De La Rue is adamant that she is a consultant and is not going to demand that attorneys dismiss this juror or that one.

"My job is to find out 'Who are you looking at?' You try to find out about their values. What is it about their worldview and that's where the bias lies. That's what we need to get to that is going to give you evidence on how they make decisions."

De La Rue worked on the case of Ted Kaczynski, the Unabomber who was convicted in 1998 for killing three people and sentenced to four life sentences—he pled guilty after the jury was chosen. Jury prospects were asked if they had seen movies about the death penalty. The movie Dead Man Walking was mentioned. Susan Sarandon played the part of Sister Helen Prejean, who was working to spare the life of a convict.

"That nun was a real creep," a prospective juror told de La Rue. "A social worker said that," de La Rue said. "You don't expect that from a social worker."

Bias is not a four-letter word to de La Rue. It is the essence of her job.

"The key words are 'entitled to fair and impartial jury,' and we try to weed out some of the 'partial' and try to get folks to assess themselves," she said. "It doesn't mean you are not a fair person; you just bring some things to the table that mean you are not the most unbiased in this particular case. We're all biased. We would be robots if we weren't biased."

Bias does not go sit on the sidelines on its own. De La Rue has to put it there.

"Judges will say, 'Can you put that aside?' and I wonder, 'Heck where does it go? Put it aside where?' Let that person go to a different case where that bias won't come into play."

Rule 1: Listen.

"There are three rules in real estate — location, location, location — and there are three rules in jury selection — listen, listen, listen," de La Rue said. "Attorneys have to ask questions to see who is not going to see the world their way and then use their strikes to get rid of those people whose biases are going to work against them.

"Jury selection can be uncomfortable because you are asking people to tell you that they are not going to agree with you. They don't like your client, they don't like your case, and that's what you want to hear. Those are the people you want to send home."

Rule 2: Be curious.

"If a juror makes a statement that causes you to wonder what they mean, or what's behind it, ask them, and it will lead to gold. If you want to know what jurors really think and feel, just ask them," de La Rue said.

Skin-deep examination can mislead.

"We are not our demographic. We are much more than that, and that's where the bias lies. That's what we need to get to that is going to give you evidence on how they make decisions."

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The role of a lifetime

De La Rue was an actress 25 years ago when she went to the National Criminal Defense College at Mercer University in Macon to help young lawyers learn how to cross-examine witnesses. She did so well with that role that she was called back to the college to help with seminars.

Soon, she was volunteering for public defenders to help prepare cases. Before she knew it, de La Rue was in law school.

She has since consulted on trials throughout the United States, including high-profile cases such as State of South Carolina v. Susan Smith, State of Georgia v. Ray Lewis, U.S. v. Eric Rudolph, U.S. v. Richard Scrushy, and U.S. v. Dzhokhar Tzarnaev in addition to U.S. v. Theodore Kaczynski.
Alex Hegner (B.S. ’16, J.D. ’18) and Monique Mead (J.D. ’18) do not have to invent resolve or tenacity within themselves to help them meet the challenge of pursuing a law degree at Georgia State.

There is something about pitching in the eighth inning of a one-run baseball game, or having a 50-mile per hour “hit” coming at your face in an NCAA volleyball match that has already given them a layer of tenacity and fearlessness.

Hegner was a right-handed pitcher with the Georgia State Panthers in 2015 and 2016, a late-inning relief specialist who would come in to the so-called “dirty” inning. There could be runners on first and second, one out, two outs, or ... no outs. It was his job to get out of the jam and preserve the lead.

Mead was an undersized hitter on the right side for Georgia Institute of Technology’s volleyball team. She is just five-foot-nine inches, but she would jump and fly above the net in an attempt to kill the ball for points against taller players. Mead was named All-Atlantic Conference all four years at Georgia Tech and was named All-American because she could also defend against hits coming back at her.

“Volleyball prepared me in a sense that I am no stranger to long days,” Mead said. “There is a difference between physical and mental exhaustion, and I had both going through a place like Georgia Tech. It is very challenging academically, and then playing volleyball three or four hours a day took something out of you. The experience of athletics and academics gives you this mindset that you have to finish. You’ve got to complete all your work, and you’ve got to work hard.”

Mead graduated from Georgia Tech in 2012 with a degree in business/marketing. She played professional volleyball in Puerto Rico and then in Azerbaijan for nine months, stretching from 2013 to 2014. She learned some Russian and Azerbaijani, enough to communicate on the court, call a cab or make her way through daily life.

Mead was going to play volleyball again in Puerto Rico when she ruptured her Achilles tendon and retired from the sport. Then, she decided to pursue a law degree.

“I wasn't that person who just grew up knowing what I wanted to do,” Mead said. She laughed and thought about the movie *Legally Blonde*. “My friends would call me ‘Elle Wood’ because it seemed like I just woke up one morning and said, ‘Hey, I think I’ll go to law school.’”

Mead, who wants to specialize in intellectual property and entertainment law, has worked at Georgia-Pacific and has a summer associate position at Alston & Bird.

Volleyball has given her some steel, but so has her high-achieving family. Al Mead, her father, set the world record in the long jump in the 1988 Paralympics. Her sister, Ashley Jackson, also played volleyball at Middle Tennessee State University and is completing her residency to be a doctor. Her brother-in-law, Kyle Jackson (J.D. ’15), played football at Georgia Tech.

“There are no excuses for me not to achieve,” Mead said, “not in my family.”

Hegner graduated from Pope High School in Marietta and survived the competitive grind of junior college baseball to get to Division I at Georgia State. He spent a year at Northwest Florida Junior College, then Wallace State Junior College.
one holds your hand as a pitcher in ultra-competitive JUCO baseball. They don’t count pitches so that you don’t hurt your arm. You go pitch and get batters out, or you don’t, and someone else takes your role.

According to the NCAA, just 2.1 percent of high school baseball players ever get Division I baseball scholarship money.

Hegner survived college baseball without a consistent 90 miles per hour fastball, which is the benchmark for college pitchers these days. He could hit 90 on occasion, but he was more consistently around 87 to 88 mph. Hegner relied more on cunning—sending a sinkerball or cut fastball—and it was difficult for hitters to get the barrel of the bat squarely on the ball.

When you do not overpower hitters, you master another skill in baseball, which can translate to law school and a courtroom. That skill is referred to as “mound presence,” the art of staying in the moment, pitch-by-pitch, and not getting distracted.

Hegner said Georgia State Law offers a program on “mindfulness,” which relates to being on the pitching mound surrounded by pressure.

“The program teaches you mindfulness, meditation and controlled breathing to calm your nerves, which is what they teach pitchers,” Hegner said.

“Being called on in class in front of peers is stressful, so to have that presence of mind and be able to relax in pressure situations when everyone’s eyes are on you is something I have learned being an athlete.”

Hegner, who has a degree in political science, has worked in the state Capitol as a legislative aide for Rep. Pam Dickerson (D-Conyers). He tutors Georgia State athletes in American government, philosophy, history and some English, so he knows how to work with a full plate.

“The adversity you get as an athlete, it gives you confidence in yourself,” Hegner said. “You get into law school, and it can tear you down and make you lose faith. Then you think, ‘I have faced tough times before. I’ve been here before.’ You don’t lose all faith, because you’ve been there. Baseball has helped me, in that regard.”
Make sure you have the proper business structure. There are many different options available to business owners when deciding how to structure a business. Law firms are no different. Each business structure has different levels of liability, reporting requirements and tax implications. The most common types of business structures are the sole proprietorship, partnership, limited liability company and corporation. Keep in mind that your needs can change over the years, so just because one business structure has served your needs in the past does not mean it is still the best option for you. Consult a business attorney in your state for specialized advice.

Keep accurate records on travel, meals and entertainment. Don’t limit your business deductions to rent, office supplies and salaries paid to your staff. Expenses for travel, meals and entertainment can also be written off if they are incurred while pursuing a clear business purpose. In addition to airfare and hotel costs for traveling to conferences and meetings out of town, mileage can be a big expense for lawyers. Make sure you keep track of mileage traveled from your office to client meetings and temporary work locations. Commuting expenses from home to work, however, are not included. Travel logs can be helpful here. Your log should include the starting point and destination, business purpose for the trip and the total number of miles. For meals and entertainment, you should keep notes on who attended the meal or outing, the business purpose and what was discussed.

Prepare as you go. The best practice is to keep all receipts, tally expenses and review financial records on a regular basis (at least monthly). Some smaller practices can keep this information organized in a series of Excel spreadsheets; however, it is most helpful to use an accounting software and/or accountants to track expenses, accounts and payroll. The more organized you keep your financial records, the easier it will be to prepare for the filing season or address any concerns the IRS may raise in an audit or examination.

Hire an experienced tax preparer. Many business owners have a tendency to want to cut corners here, but you should resist the urge. An experienced tax preparer can ensure your return is prepared accurately, give you the appropriate advice on how to make adequate tax payments to the IRS throughout the year and save you the headache of paying more money in the long run in the form of penalties and interest. Additionally, the actual amount you spend on tax preparation services is deductible on your return the following year.

Be aware of the tax consequences of your client’s transactions. In many cases, you may be negotiating settlements and other transactions on your client’s behalf. Recognize you are not a tax professional. There is a right way and a wrong way to structure many transactions from a tax perspective. You should be aware of those circumstances that involve tax implications and consult a tax attorney to ensure you are getting the best outcome for your client and not committing malpractice.

Tameka E. Lester is an assistant clinical professor and serves as associate director for the Philip C. Cook Low-Income Taxpayer Clinic. In addition to the clinical course, Lester teaches Basic Federal Taxation. Her areas of expertise are clinical teaching and taxation for individuals and small businesses.
Bliss teaches in India

Lisa Radtke Bliss, clinical professor, associate dean of experiential education and co-director of the Health Law Partnership (HeLP) Legal Services Clinic, traveled to India in November to teach a course at National Law University, Delhi (NLU).

“It taught NLU students about access to justice issues and clinical education methods, and they taught me about their legal education and justice system,” Bliss said. “We worked together to understand where we had things in common and how different ideas about clinical education can be applied to specific issues that are being faced by populations in India who are most in need of help.”

Students participated in activities to learn how law clinics can be responsive to the justice needs in their communities and designed different models of community education and service clinics to help address those needs.

The course was funded by India’s government and organized through the Ministry of Human Resource Development and Global Initiative for Academic Networks (GIAN) in Higher Education. “It is through these opportunities that we develop our global knowledge,” Bliss said. “For law professors, it is particularly important, because not only are we focusing on research, we are also increasing the exchange of knowledge about law, legal systems and justice.”

Read more >> law.gsu.edu/Bliss-India

PRESENTATIONS

Kinda Abdus-Saboor, lecturer in the Externship Program, presented “Through the Eyes of Others Revisited: Teaching Cultural Awareness and Challenging Colorblindness in the Externship Classroom” with Kendall Kerew, assistant clinical professor and director of the Externship Program, at the Southern Clinical Conference at the Charlotte School of Law.


Clark D. Cunningham, W. Lee Burge Chair in Law & Ethics, was the opening speaker for the 17th Annual Georgia Symposium on Professionalism and Ethics, held at Mercer University, on the topic “Educational Interventions to Cultivate Professional Identity in Law Students.”

Andrea Curcio, professor of law, presented her forthcoming article, “Institutional Failure, Campus Sexual Assault and Danger in the Dorms: Regulatory Limits and the Promise of Tort Law,” at a symposium hosted by the University of Montana Law School. She spoke to Emory University School of Law faculty about best practices in assessing law students and also presented her research on law school pedagogy and helped lead a faculty workshop at Fordham University School of Law.

Erin C. Fuse Brown, assistant professor of law, discussed notable health law cases from the 2015–16 Supreme Court term for the Health Law Section of the Georgia Bar. She presented “A federal fix for state APCDs post-Gobeille v. Liberty Mutual” at the National Academy for State Health Policy’s conference, and she spoke on the future of the Affordable Care Act to the Health Care Symposium of the Society of American Business Editors & Writers as well as to the 12th Annual Meeting of the American College of Business Court Judges.

Wendy Hensel, associate dean for research and faculty development and professor of law, presented on “People with Autism Spectrum Disorder in the Workplace: An Expanding Legal Frontier” to the U.S. Department of Agriculture’s National Statistics Service offices as part of its Disability Awareness Month series.

Nicole G. Iannarone, assistant clinical professor and director of the Investor Advocacy Clinic, presented “Ethics Countdown: A Top Ten List” at the PIABA Securities Law Institute; “Social Media, Professionalism, and Ethics” for the Towers to the Trenches series; and “Innovating Tradition: Injecting Flipped Curriculum and Metacognition into the Clinical Seminar” with Tameka Lester, assistant clinical professor and associate director of the Philip C. Cook Low-Income Taxpayer Clinic, at the Southern Clinical Conference. She also was part of the panel “Investment Fraud and What to Do If You Are a Victim” at the National Investor Town Hall sponsored by the Alliance for Investor Education.

Julian Juergensmeyer, Ben F. Johnson Chair in Law and director of the Center for the Comparative Study of Metropolitan Growth, spoke at the joint meeting of the Georgia Planning Association and the South Carolina Planning Association on “Recent Books and Law Review Articles Discussing Land Use Policies” and at the 81st annual meeting of the International Municipal Lawyers Association on “Regional Land Use Planning: An American/Canadian Perspective.” He presented on two panels at the Annual Conference of the Growth and Infrastructure Consortium: “Get Ahead of the Robotic Vehicle Curve or Get Run Over,” with John Travis Marshall, assistant professor of law, and “Infrastructure Literature and Case Law Update.” He was also the keynote speaker and a panelist at the Utah League of Cities and Towns’ 2016 Land Use Institute.

Kendall Kerew presented “Formation of Professional Identity in Experiential Courses” with Timothy Floyd at the 17th Annual Georgia Symposium on Professionalism and Ethics at Mercer Law School. Kerew was a participant in the National Institute of Teaching Ethics and Professionalism Workshop entitled “Educational Interventions to Cultivate Professional Identity in Law Students.” In addition, she presented “The Law School Experience and Strategies for Success” at the Georgia Latino Law Students Law Day.

Timothy Kuhnner, associate professor of law, presented “From the Open Marketplace to Oligarchy: The Corruption of the First Amendment” at the American Political Science Association’s Annual Meeting and participated as a featured speaker at the National Citizen Leadership Conference organized by American Promise.

Paul A. Lombardo, Regents’ Professor and Bobby Lee Cook
Professor of Law, presented “From Psycograph to fMRI” at the University of Michigan; “Eugenics at the Movies: Abortion and Birth Control in Where Are My Children? (1916)” and “Legal Update” at the American Society of Bioethics and Humanities; and “Ethics of Genetic Medicine” at Haverford College.

Lauren Sudeall Lucas, assistant professor of law, spoke about the new Center for Access to Justice at the Georgia Chief Justice’s Commission on Professionalism’s annual Convocation on Professionalism; presented at the CLE “Eliminating Barriers to Justice III: Language Access, the Americans with Disabilities Act and Georgia’s Criminal and Civil Justice Systems”; and spoke to the Judicial Council of Georgia’s Access, Fairness, and Public Trust and Confidence Committee. Lucas presented “The Free Exercise of Religious Identity” at Temple University Beasley School of Law’s Faculty Colloquium.

Timothy D. Lytton, Distinguished University Professor and professor of law, presented a lecture, “The Turbulent History of Kosher Certification in America: From Price Fixing, Consumer Fraud, and Drive-by Shootings to a Model of Private Regulation” at the College of Jewish Studies in Binghamton, New York.

John Travis Marshall led a panel on cities’ responses to the challenge of climate change, “Legal & Extra-Legal Tools for Cities to Combat Climate Change, Economic Inequalities and Vulnerabilities,” at the World Bank’s Law, Justice and Development Week conference. He also moderated “Cities’ Successes and Failures at Preventing Youth from Being Radicalized,” which was a conversation with Farah Pandith, former Secretary of State Hillary Clinton’s special representative to Muslim communities.

Paul Milich, professor of law and director of Lawyering Advocacy, presented continuing legal education programs for Georgia Superior Court judges, state court judges, magistrate judges and judicial law clerks.

Mary Radford, professor of law, presented “Ethical Challenges in Representing Clients with Diminishing Capacity” at the ACTEC Elder Law Seminar and New York State Bar Association; and “Recent Developments in Georgia Fiduciary Law” at the Georgia Planned Giving Council, Cobb County Guardianship Law Seminar, ICLE Recent Developments Seminar and North Georgia Estate Planning Council. She was also a panelist on “Ethical Issues in Elder Law” at the Heckerling Estate Planning Institute.

Charity Scott, Catherine C. Henson Professor of Law, gave the kick-off presentation on “Mind Full or Mindful: Bringing Mindfulness to Lawyers (And to Anyone Else Who Wants Less Stress and More Happiness in Their Lives)” for Georgia State University’s 2016-17 Women Inspire Speaker Series. She also presented on “Conflict Engagement Skills for Ethics Committees” to the Ethics Committee of Children’s Healthcare of Atlanta.

Eric Segall, Kathy and Lawrence Ashe Professor of Law, gave a talk on freedom of religion at Hebrew Union College as well as talks at the Indiana University School of Law and Savannah Law School on the benefits of an evenly-divided Supreme Court.

Shana Tabak, visiting assistant professor of law and global studies, presented at the University of Georgia conference “Humanity’s Common Heritage: The 2016 International Committee of the Red Cross, Commentary on the First Geneva Convention”; at the Fifth Annual Conference of the Atlanta International Arbitration Society on “The backlash against TPP, TTIP and other manifestations of a flat world: Implications for international arbitration”; at the January AALS Immigration Section panel on “Asylum from Persecution by Non-State Actors: Upholding and Updating Refugee Protection”; and at Emory University School of Law’s workshop on Legal Migrations, Vulnerability, and Resilience.

Jonathan Todres, professor of law, presented on human rights in children’s literature at the University of Connecticut and on bullying for a National Academies of Sciences, Engineering, and Medicine webinar.

Anne Tucker, associate professor of law, participated in an Investment Institute Roundtable at Boston College and presented on social impact investment at the University of Pennsylvania School of Law in conjunction with her continued work with the Wharton Social Impact Investment Initiative.

Tanya Washington, professor of law, presented “Children Under the Marital Rainbow: Post-Obergefell Issues in Visitation, Custody and Adoption” at the ICLE Adoption Law and Practice Seminar and gave the keynote address at the Planned Parenthood Southeast Advocates Annual Kitchen Cabinet. She moderated a University Spotlight panel with Donna Brazil and Margaret Hoover and conducted a diversity and inclusion workshop for the faculty of the College of Education & Human Development. With her Education Law class, Washington organized a panel discussion on Amendment 1, Gov. Nathan Deal’s proposed plan to address failing schools in Georgia.

Leslie E. Wolf and Paul A. Lombardo coordinated with the Georgia State University Law Review in planning the symposium “Quinlan at 40: Exploring the Right to Die in the United States” and facilitated several panels. Wolf also presented on current issues in end-of-life decision-making in the 2016 Legislative Branch CLE program at the Georgia State Capitol and was a panelist for “Certificates of Confidentiality (CoCs): When, Why and So What?” at the Public Responsibility in Medicine & Research Advancing Ethical Research conference.

Patricia J. Zettler, associate professor of law, presented her work on the relationship between FDA and state regulation of pharmaceuticals at the Southeastern Association of Law Schools’ Annual Conference and Harvard Law School, and she presented her work on FDA regulation of drug and tobacco advertising at Ohio State University and Stanford Law School, among others.

PUBLICATIONS

Mark Budnitz, professor of law emeritus, published an article on mobile payments in the Social Science Research Network and an article on mobile payments in the CLS Blue Sky Blog, a publication of Columbia University School of Law.


Wolf appointed to committee

Leslie E. Wolf, professor of law and director of the Center for Law, Health & Society, was appointed to the Secretary’s Advisory Committee on Human Research Protections (SACHRP) in December.

The committee provides expert advice and recommendations to the secretary of the U.S. Department of Health and Human Services on issues pertaining to the protection of human subjects in research.

“Having spent almost two decades working to protect human subjects while facilitating vital research, I am honored to serve as a SACHRP member and to have the opportunity to inform federal policy on human subjects protections,” Wolf said.

Wolf was also recently appointed as an education liaison for the Georgia State Human Research Protections Program.

Jessica Gabel Cino, associate dean for academic affairs and associate professor of law, collaborated with the Department of Defense Forensic Science Center to write an article, “How Jurors Interpret Forensic Identification Testimony.”


Charity Scott was a contributing commentator for Medical Ethics Advisor on “Ethical Approaches to Disclose Errors Made by Other Clinicians.”

Eric Segall published “Originalism as Faith” in the Cornell Law Review Online while his essays on the four-to-four Court were published in the New York Times, the Daily Beast and The Conversation, among others.


Anne Tucker released an updated version of her Business Organizations electronic casebook available with ChartACourse.com.


LECTURES ABROAD

Lisa Radtke Bliss, clinical professor of law, associate dean of experiential education and co-director of HeLP Legal Services Clinic, was an international trainer for the 2016 Asia Regional Clinical Legal Education Summer School, sponsored by Bridges Across Borders Southeast Asia Clinical Legal Education Initiative.

Timothy Kuhner taught Torts at the University of Warsaw, GSU’s partner institution. He also spoke on the recent election at the University of Warsaw, the law firm K&L Gates and the Organization for Security and Cooperation in Europe’s Office for Democratic Institutions and Human Rights.

AWARDS AND ACCOLADES

Lauren Sudeall Lucas was awarded (as principal investigator, working with co-investigators from the Sociology and Criminal Justice & Criminology departments) a $79,000 grant from the Charles Koch Foundation to study the civil legal needs of indigent criminal defendants.

SERVICE TO THE PROFESSION

Mark Budnitz is a member of the American Law Institute’s Consultative Group for the Restatement of the Law of Consumer Contracts. He was actively involved in comments to the Reporters’ Restatement drafts. He serves on the Advisory Committee of the Atlanta Legal Aid Society and is a member of the board of directors of the National Consumer Law Center, where he serves on its finance and audit committee.

Clark D. Cunningham served on the international advisory group for the South African Law Deans’ Association Task Team on Legal Ethics, which developed a model legal ethics curriculum for South Africa. He also was a manuscript reviewer for Legal Ethics. He served on a committee that advised the American Bar Association Standing Committee on Professionalism on proposing
an amendment to law school accreditation standards to include the formation of professional identity as a required learning outcome.

Andrea Curcio is continuing her work with the Society of American Law Teachers, working to draft comments in response to proposed changes to the accreditation bar passage standards and working on other issues in legal education. She also is working with Decatur High School students in the school’s College Advocate Program, helping prepare underserved students for the ACT.

Erin C. Fuse Brown consulted with the National Academy for State Health Policy to draft comments to the Department of Labor regarding a federal fix for state all-payer claims databases, preempted by ERISA in Gobeille v. Liberty Mutual.

Jessica Gabel Cino serves as the vice chair on the national Standards Board for DNA evidence for the American Academy of Forensic Science. She also serves on the Standards Board for fingerprint evidence.

Nicole G. Iannarone was appointed vice president of the State Bar of Georgia’s Professionalism Committee and co-chair of the PIABA Securities Law Institute Planning Committee.

Tamika Lester was selected to serve on the inaugural VITA Advisory Board for the United Way of Greater Atlanta and has served as its tax law expert/trainer by providing several seminars.

Lauren Sudeall Lucas participated in a working group that successfully secured a Justice for All planning grant for the State of Georgia from the National Center for State Courts and the Public Welfare Foundation as part of an initiative to provide all people with access to effective assistance for their essential civil legal needs.

Timothy D. Lytton joined the Academy of Food Law & Policy as a founding member. He also was admitted to the Georgia State Bar.

Mary Radford is a committee member for revision of the National Academy of Elder Law (NAELA) Aspirational Standards.

Charity Scott completed her term as president of the board for the American Society of Law, Medicine & Ethics and a year-long program for “Mindfulness in Law Teacher Training.”

Shana Tabak was appointed chair of the Georgia Immigration Working Group, which was awarded the Corporate Volunteer Council of Atlanta’s Business-to-Business Partnership Award.

Tanya Washington taught in the Justice Benham Law Camp, a pipeline program for high school students of color interested in careers in law. She continues to serve as the faculty advisor for the Black Law Students Association and the Family Law Society. She is the faculty liaison for the Weltner Inn of Court, and she sits on the National Advisory Board for the National Black Law Students Association.

Patricia Zettler is serving as a consultant to the National Academies of Sciences Committee on Pain Management and Regulatory Strategies to Address Prescription Opioid Abuse. She also continues to serve on the editorial advisory board for the Food and Drug Law Journal.

Paul A. Lombardo was a featured commentator on an Australian Broadcasting Company series “The Hidden History of Eugenics: Fitter Families and the Feebleminded” and in the podcasts Ethically Sound, from the Presidential Commission for the Study of Bioethical Issues, and This Week in Health Law. He was quoted in “Donald Trump’s ‘Extreme Vetting’ Plan for Immigration Has a Long History in the U.S.” from VICE News; Daniel Bergner’s Sing for Your Life: A Story of Race, Music, and Family, and New York Times bestseller Truevine, by Beth Macy.

Timothy D. Lytton was quoted in the New York Times, Forbes, Bloomberg News, United Press International, the Connecticut Law Tribune and Estado (Brazil) about gun control, litigation and violence. He was featured in a New York Times video on gun litigation, was a guest on the John Gambling Show and was interviewed on Radio Sputnik (Moscow).

Eric Segall continues to appear as the Supreme Court commentator for Stand Up with Pete Dominick, Steele and Ungar, and Just Jenny on SiriusXM Radio.


Tanya Washington was interviewed by CBS, WABE and WSB-TV on discrimination in Airbnb rentals, the 20th year anniversary of Justice Clarence Thomas’ confirmation hearings and the U.S. Supreme Court’s recent affirmative action decision.

Patricia Zettler was quoted on various FDA and regulatory issues in the New York Times, the Washington Post, Politico, WebMD, Bloomberg BNA and STAT News.

Yarn receives state award

Douglas Hurt Yarn, professor of law and executive director of the Consortium on Negotiation and Conflict Resolution, was awarded the 2016 Chief Justice Harold C. Clarke Award by the Georgia Supreme Court Commission on Dispute Resolution and the Dispute Resolution Section of the State Bar of Georgia.

Bonnie Powell (J.D.’99) and Shinji Morokuma (J.D.’98) presented the award to Yarn at the State Bar of Georgia.

“Doug Yarn is one of the ‘founding parents’ of dispute resolution in Georgia,” Morokuma said. “His impact on the growth of the field inside and outside the legal community is impossible to measure.”

MEDIA COMMENTARY

Clark D. Cunningham was interviewed on WSB-TV, Atlanta’s ABC affiliate, about the FBI’s actions leading to issuance of a search warrant for emails belonging to Hillary Clinton aide Huma Abedin. He wrote three related articles for The Conversation, “Feds: We can read all your email, and you’ll never know”; “In getting ‘new’ Clinton emails, did the FBI violate the Constitution?”, and “Restoring transparency and fairness to the FBI investigation of Clinton emails.”

Eric C. Fuse Brown was quoted in the San Antonio Express News about EpiPen’s price increases and about consolidation among physician practices in the Orlando Sentinel.

Tameka Lester wrote “Do you owe the IRS money? Here’s what to do” for The Conversation.
It is no secret that the legal industry is resistant to change, especially when it comes to technology. However, the positive impact of technology is quickly forcing change. Document management systems, case management software, automated client intake systems and electronic signature solutions are all becoming essential to the legal practice. by Yuri Eliezer (J.D. ’12)

Why should law firms make these technologies a priority?

**Client expectations.** Technology is an essential part of daily life. Your clients are accustomed to using it, they recognize the convenience it affords them and they are expecting this ease and convenience everywhere. Law is a client-oriented field where client expectations dictate the success or failure of law firms. It is necessary to conform to the client preference for technology, or you will run the risk of them taking their business elsewhere.

**Saving time.** Technology survives the test of time because it maximizes efficiency, and legal technology is no different. By choosing the right technology, your firm minimizes the time spent on administrative tasks, thus providing you with more time to allocate to improving the client experience and expanding business.

**Maximizing profit.** Profit goes hand in hand with saving time; after all, time is money. In an industry built on the billable hour, technology’s reduction of administrative billing often raises concerns. However, law firm revenue is sustained by providing the best client experience. The smart use of technology increases clients’ perceptions that their attorneys are working in the most time-conscious and cost-effective manner. Clients are then happier, which translates to repeat business. It is this repeat business, rather than minor gains in billing for administrative tasks, that enables law firms to grow and thrive.

**Error reduction.** We are all susceptible to error, but using technology dramatically decreases the likelihood of making mistakes. By simplifying the way business is conducted, you can see a reduction in error on both the firm end and the client end. This, then, is potentially a two-fold error reduction, which translates to a significant decrease in non-billable time.

What factors should be considered when choosing solutions?

**Ease of use.** The technology has to be easy to integrate into the preexisting workflow. Law firms often do not have an abundance of spare time to spend on learning new technology. By using tailored solutions that successfully pinpoint law firms’ pain points without requiring fundamental changes to the workflow, firms are able to integrate the solutions faster and more easily.

**Tangible security.** Security is a central value to the practice of law. Thus, it is important to choose a solution that emphasizes security. By having multiple modes of authentication and an audit trail that displays the access data of your document, you are equipped with tools to verify your signers. Furthermore, by selecting a provider that houses your data in a secure location and encrypts your connection, you can be sure that both your firm’s data and your clients’ data are protected.

**Training and support.** In the legal industry there is no baseline of technology knowledge — some attorneys are more tech savvy than others. Consequently, it is important to select a provider that will allocate resources to train those who are less tech-fluent. Too many tech providers subscribe to the “do it yourself” philosophy, but that does not work in a space where the users do not have endless free time.

Yuri Eliezer (J.D. ’12) is the founder of ClientSide Technologies (goclientside.com), a company that evolved from the technology he developed for his firm, Founders Legal. Eliezer utilizes his firsthand understanding of the legal industry in developing tailored technology that helps firms enhance legal integrity, maximize efficiency and exceed client expectations. Firms across the nation use his technology to modernize and automate the client administration process.
Dawn R. Smith has been granted fellowship in the American Academy of Matrimonial Lawyers and was named the Atlanta Legal Aid Volunteer of the Year.

Carol Michel, a partner at Weinberg Wheeler Hudgins Gunn & Dial, was recognized for medical malpractice law in The Best Lawyers in America.

Jeffrey R. Kuester was recognized in the 2016 Super Lawyers Business Edition.

Scott C. Crowley was named general counsel of Columbus Regional Health.

Kent Davis was promoted to city manager for the city of Anniston, Alabama. He also retired from the U.S. Navy Reserve at the rank of rear admiral after more than 30 years of military service.

Bonnie Powell was elected chair of the State Bar of Georgia Dispute Resolution Section.

Nancee Tomlinson published the book Caregiver’s Compass: Navigating Foster Care, a court guide for foster parents.

Rebecca Adams was appointed as an administrative law judge for the Social Security Office of Disability Adjudication and Review in Fayetteville, North Carolina.

Jerri Nims Rooker was promoted to chief operations officer (COO) of international nonprofit Teach Every Nation.

Elizabeth “Betsy” Bulat Turner was promoted to partner at Martenson, Hasbrouck & Simon.

Adam J. Knight joined Burr & Forman as an associate in the Financial Services Litigation practice.

Kimberly Hermann has been named general counsel of Southeastern Legal Foundation.

Jason E. “Jake” Reeves has become a partner with Hamilton, Westby, Antonowich & Anderson.

Maria Batres has been elected to serve as the president of the Georgia Hispanic Bar Association for the 2016–17 membership year.

Kristin Aquino-Pham was featured as an “Atlanta Power Mom” on redtri.com.

Steven A. Wright was elected chair of the End User Advisory Group (EUAG) of the Open Platform for Network Function Virtualization (OPNFV) open-source community.

Jarter Gao was hired as an associate attorney at Morris Legal and Tax. He will be working in the Tax and Estate and Probate area.

Amy Park was hired as an associate at Weinberg Wheeler Hudgins Gunn & Dial in the Atlanta office, focusing on civil litigation with an emphasis on medical malpractice, products liability and catastrophic injury.
Two sides | Two professors on the Supreme Court

Eric J. Segall

CONSTITUTIONAL SCHOLARS, SUPREME COURT COMMENTATORS and judges and lawyers have long debated whether the Supreme Court is more of a political or legal institution. Given that the justices normally resolve cases implicating unclear constitutional text, contested history and fuzzy precedents, it is not surprising that they have significant discretion to decide cases consistent with their personal values and partisan leanings. How much is law and how much is politics in Court decisions is a question that will never go away, but one thing is certain: the decision by Senate Majority Leader Mitch McConnell to deny President Obama the opportunity to replace Justice Scalia will increase the political and partisan nature of our highest Court and the process used to make appointments to that institution.

Historically, when the presidency was held by one political party and a majority of the Senate was held by the other party, there have been rough confirmation hearings but eventually presidents have been allowed to make the selections. Not so in 2016 when the Senate refused for almost a year to even hold hearings on President Obama’s nominee, Merrick Garland. Although such stonewalling did not violate the Constitution in light of the Senatorial prerogative to give “advice and consent” on all nominations, it did transgress long-held customs and norms.

The next time the Democrats are the majority party in the Senate and a Republican is in the White House, you can bet that the Senate will not go along with any nominee to the Court. McConnell’s gambit, though successful for his party in the short run, will in the long run make the Court more political and more partisan and that, sadly, is not in the interests of the Court, the Congress, either political party or the country.

Patrick Wiseman

WHEN JUSTICE SCALIA DIED last February, it became President Obama’s constitutional duty to nominate a successor. He did so, nominating Merrick Garland, an eminently qualified jurist whom even Republican Orrin Hatch had deemed an acceptable nominee, to the Court. Recalcitrant Senate Republicans refused even to consider the nomination, thus breaching their constitutional duty to advise in good faith.

While Senate Republican leader Mitch McConnell’s recalcitrance may look inspired now, the Republican candidate having won the election, such bad faith behavior has consequences. Among its consequences should be a refusal of Senate Democrats to vote to confirm any judicial nominee who shares the Trumpian-Republican vision of a Constitution which, among other things, would deny a woman the right to control her own body, would give corporations more power to control democratic debate than people, would deny workers the right to organize and would emasculate federal environmental and other controls in favor of state “experimentation.”

Over the next four years, whenever a judicial confirmation is under consideration, especially to the U.S. Supreme Court, Senate Democrats should articulate clearly their alternative constitutional vision and not appear to endorse, by voting to confirm, anyone who opposes it, however “qualified” that nominee seems to be. Qualification for the Court is about more than having the appropriate legal or judicial experience. It is about having a constitutional vision vetted through the judicial confirmation process.

Democrats are likely to lose the battle over Scalia’s successor. They may even lose another couple of battles over the next few years. But they should take the opportunity to articulate a clear alternative constitutional vision, so as to give voters, in 2018 and 2020 and beyond, a clear choice.

Eric J. Segall, Kathy and Lawrence Ashe Professor of Law, teaches Federal Courts and Constitutional Law I and II. He is the author of the book Supreme Myths: Why the Supreme Court is not a Court and its Justices are not Judges.

Patrick Wiseman, professor of law, teaches Constitutional Law and related courses, all of which are about the U.S. Supreme Court.
WINNERS
The STLA team of Lacey Wheeler (J.D. ’17) and Ryan Brown (J.D. ’17), pictured left, along with Robert Noens (J.D. ’18) and Hunter Rodgers (J.D. ’18) won the 2016 William Daniel Mock Trial Competition. Alison Burleson (J.D. ’00) and Alex Galvan (J.D. ’14) coached the group.

Yasmin Assar (J.D. ’18) won Best Overall Oralist at the National Health Law Moot Court Competition. The team, which also included Nathan Chong (J.D. ’18) and Matt Sessions (J.D. ’17) advanced to the octofinal round.

The Intellectual Property Moot Court team of Steven Williams (J.D. ’17), Seth Meyerson (J.D. ’17) and Mitchell Foley (J.D. ’17) earned best draft in the Intellectual Property LawMeet National Rounds. Before advancing to the national competition, the team won best draft and best team at the Eastern Regional IP LawMeet competition.

The STLA team of Sean Robinson (J.D. ’18), Cameron Mobley (J.D. ’18), Andrew Navratil (J.D. ’18) and Annie Yasin (J.D. ’18) advanced to the octofinal round in the Buffalo Niagara Mock Trial Competition.

RANKINGS
No. 4

$10,000
Robert Noens (J.D. ’18) was awarded The Buttonwood Foundation’s J. Marshall & Jane H. Booker Graduate Scholarship Award.

$79,000
Grant awarded to the Center for Access to Justice by the Charles Koch Foundation to study the civil legal needs of indigent criminal defendants.

200+
Books collected at the College of Law and donated to the Fugees Family, a Clarkston-based nonprofit organization that works with refugee children.

OUTSTANDING STUDENT
Samantha Jose (J.D. ’17) was awarded the Clinical Legal Education Association (CLEA) Outstanding Student Award for excellence in a clinical course.
More than 50 students, faculty, staff and alumni prepared and distributed 100 meals and packages including socks, hats, gloves and scarves to homeless people near 85 Park Place in October as part of the Ronald J. Freeman Chapter of the Black Law Students Association’s annual Feed the Hungry Event.