

## MEMORANDUM

**TO:** Dean Daan Braveman

**FROM:** Professor Christian C. Day, Director, The Center for Law and Business Enterprise

**RE:** The Center for Law and Business Enterprise Activities, 2001—2002

**DATE:** June 28, 2002

The Center has had a busy and productive year in both the Law & Market Economy Program (under the direction of Professor Robin Paul Malloy) and in the corporate law area (under my auspices). During the fall semester while the Director was on leave, Professor Malloy ably managed the Center. Information on the Center is presented in the Introduction, Student Programs, Faculty Achievements, Future Projects, Center Support and Budget, and Recommendations to Promote Excellence sections.

**I. INTRODUCTION:** The Center, founded in 1994, has matured and developed. Much of this progress is attributed to the extraordinary faculty who have joined the Center: Adjunct Professor M. Jack Rudnick (Vice President and General Counsel, Welch Allyn, Inc.), Advisor to the Corporate Counsel Program; Professor Robin Paul Malloy, Professor of Law and Economics; Professor Hilary K. Josephs, our expert on Chinese Law, labor law, international law and foreign investment; Professor Thomas J. Maroney, former United States Attorney for the Northern District of New York and our expert on federal law (including, white collar crime, antitrust, etc.) and ADR.

Our primary emphasis, given our resources, has been to develop academic programs and bring to campus interesting speakers that enhance the student experience and scholarly activities at the College of Law. The growth of the Certificate and Fellow programs has been remarkable. They support student interest in business and economics, produce competent professionals, and build bridges to other academic units and the community-at-large. This year the Center awarded certificates to twenty-four students.<sup>1</sup> Indeed the demand is so great for the Corporate Counsel Certificate and for local consulting similar to the Airport Case Study Initiative Fellows that it cannot be met by

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<sup>1</sup> The 24 Center certificate candidates and fellows are noted in Exhibit 1.

current faculty staffing.<sup>2</sup> Faculty and curriculum shortcomings must be met and overcome if the Center is to meet the expectations of our students, their ultimate clients, and the community it serves. These concerns shall be dealt with below in Recommendations to Promote Excellence, Section VI.

## II. STUDENT PROGRAMS

The Center's primary focus is on student learning and preparation for practice, with faculty research and development and community service strong secondary foci.

### *Courses Taught:*

Law and Market Economy Class, 30 students  
Law, Economics & the State, 5 students  
General Counsel Applied Learning Course, 18 students  
Business, Finance & Economics, 51 students  
Independent Studies (Fellows) 5 students (2—4 credits earned)

*Certificate Programs:* The *Law & Market Economy Program* granted 3 certificates this spring. Professor Malloy continues to educate many students at the College of Law and Maxwell who are interested in the law and market economies.

Sixteen *Corporate Counsel* certificates were earned in this certificate program's fourth year of operation. We have offered seven General Counsel classes to date. The first two had enrollments of 13 each. Student demand for the Corporate Counsel Certificate is now great. In 2000, over 40 students indicated they wanted the Certificate. In 2000-2001, Professors Day and Rudnick offered two three-hour sections of General Counsel to accommodate student demand for the General Counsel Applied Learning Course and the Corporate Counsel Certificate (Twenty-nine enrolled and 25 students earned Certificates.) This year one section was offered with 18 students enrolled and 16 students earning Certificates.<sup>3</sup>

There is a huge, unmet demand for business courses.<sup>4</sup> The two-section approach (2000—2001) was an experiment to meet student demand. Both Professors Day and Rudnick believe that the yearlong, four-credit course is preferable to the one semester,

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<sup>2</sup> The Director has had conversations with both Catholic Charities and United Way of Central New York concerning offering our students consulting opportunities similar to the airport project. Both agencies were interested but no College of Law faculty showed an interest in doing the kind of consulting supervision that Professor Malloy and the Director do. Until College of Law faculty are interested in such opportunities, both students and the community will forgo these beneficial activities.

<sup>3</sup> Two Certificates will be awarded next year to students graduating in December 2002 who enrolled in General Counsel in the spring of 2002.

<sup>4</sup> Almost 70% of our students go into private practice or corporate law. See Exhibit 2. Corporations directly employ nationally about ten percent of all attorneys and about 50% of all law is business-related. *Legal Education and Professional Development—An Educational Continuum, Student, Ed.*, at 80 (1992 Robert MacCrate, ed.), (commonly referred to as The MacCrate Report). Thus our business programs barely meet the needs of our current students.

three-credit alternative. Further, the certificate requirements cannot be met by merely expanding the General Counsel Applied Learning Course. This offering, as approved by the faculty, has a cap of 16 that can be increased to 20 if circumstances merit. The solution is to add an additional section staffed by another adjunct /faculty team or staffed by two adjuncts if they are trained adequately.<sup>5</sup>

Many of our students have obtained corporate counsel positions or corporate work in law firms. For example, the class of 1998 has two students with unusual corporate positions for newly minted lawyers: James Ferrari is an executive doing management and legal work for the Susquehanna Railroad; another, Shermin Ladha has reported that she is the General Counsel to one of the largest auto dealerships in Florida. This year a number of our students have obtained positions with large, corporate law firms. For a young program we are doing interesting things and the student demand for certificates confirms our efforts.

*Fellows:* The Center has created positions for students wishing to work on “real world” issues and problems. To that end, Professor Malloy began to work with the World Bank on projects. In February 1999 the Program in Law and Market Economy formalized its relationship with the World Bank.

*World Bank Fellows:* Professor Malloy initiated a program with the World Bank to assist The World Bank in enhancing and expanding property rights in emerging market economies in 1998. This year, three World Bank Fellows worked under Professor Malloy’s supervision and created studies for use by the Bank in its Property Initiative of the Private Sector Development Department of the World Bank. The report was entitled *World Bank Property Initiative: Displacement, Resettlement and Cultural Habitat* (2002).

The Fellows presented their reports to the World Bank in April 2001. Their work was presented in a seminar at the Bank. The Bank personnel who participated in the seminar found it and reports very helpful. The World Bank Fellows will continue to work for the Bank in the 2002-2003 academic year. These projects were published on the World Bank Website.

*The Airport Case Study Initiative Team Fellows:* In the spring semester, two students worked with the Syracuse Hancock International Airport. They consulted on a variety of projects and produced an extensive report on airport governance structures that recommended the establishment of an airport authority (*Airport Governance Structures and Marketing Review* (2002)). Commissioner Everett found their work very useful and he is distributing the report to Congressman James Walsh’s ad hoc committee on air service for the committee’s use.

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<sup>5</sup> Professors Rudnick and Day have developed extensive materials and problems that could be followed and supplemented by the two-adjunct model. However, it is the Director’s recommendation that he or Professor Rudnick team with the new faculty “to bring them up to speed.”

Both Fellows programs permit students to engage in business consulting on real world problems for actual clients. Students perfect their research, writing, management and speaking skills working for the World Bank and Hancock International Airport.

### III. FACULTY ACHIEVEMENTS

The Center faculty were very busy and productive. Representative activities are detailed below.

Professor Hilary K. Josephs:

Professor Josephs published two articles: "*The Review of Mathew Sommer, Sex, Law and Society in Late Imperial China*, 28 J. L & Soc'y 328 (2001) and "*Upstairs, Trade Law; Downstairs, Labor Law*," 33 Geo. Wash. U. Int'l L. Rev. 849 (2001). Professor Josephs has a contract to revise her book, "*Labor Law in China: Choice and Responsibility*" (Juris Publishing).

Professor Josephs continues to serve in the following capacities: external examiner, University of Hong Kong Law Department; editorial advisory board of International Lawyer; Long-Term Planning Committee, American Society of Comparative Law; outside reviewer for the Hong Kong Research Grants Council. Professor Josephs ably assisted the World Bank Fellows this year having "lent" her research assistant to the project and reviewing the report before it was submitted.

The Council for International Exchange of Scholars has approved Professor Hilary Josephs' candidacy for the Fulbright Senior Specialists Roster. The appointment, which lasts five years, makes Josephs eligible to be matched with overseas institutions that request someone in her areas of expertise, including Chinese law, international business transactions, and international trade law. Fulbright Senior Specialists' activities are designed to provide U.S. faculty and professionals with opportunities to assist overseas educational programs.

Professor Thomas J. Maroney '61,'63:

Professor Maroney was Program Chair and a Panelist at the New York State Bar Association, Labor and Employment Section meeting. His topic was "*The Supreme Court's Recent Arbitration Decisions*." May 29, 2002 he attended a Forum on "International Commercial Arbitration" in Dublin, Republic of Ireland, sponsored by the International Centre for Dispute Resolution, an affiliate of the American Arbitration Association.

Professor Maroney continues to tweak his ADR Seminar by bringing in a number of distinguished guests and experts. Last, but not least, he served as Coach and Advisor

to students who competed in the Ninth Annual Willem C. Vis International Commercial Arbitration Moot held in Vienna, Austria this spring.

Professor Robin Paul Malloy:

Professor completed three books and made substantial progress on a fourth. He completed: Robin Paul Malloy, *Real Estate Transactions 2<sup>nd</sup>* (with James C. Smith, Aspen Law Publishing, 1,000 pages); Robin Paul Malloy, *Real Estate Transactions Teachers Manual 2<sup>nd</sup>* (with James C. Smith, Aspen Law Publishing, 300 pages); Robin Paul Malloy, *Real Estate Transactions 2<sup>nd</sup> : Transactional Documents & Problems Supplement* (with James C. Smith, Aspen Law Publishing, 130 pages). Professor Malloy is writing *Law in a Market Context: Exchange, Cultural Values, and Legal Reasoning* (with Denis Brion, Cambridge University Press for 2003).

His book *Law and Market Economy: Reinterpreting the Values of Law and Economics* has been selected for consideration for the Law & Society Herbert Jacobs Book Prize.

Professor Malloy published *Law and the Color of Markets*, vol. 9 The Digest 65 (2002) and *Advertising and the Commodification of Law(yers)* in the Spring 2002 issue of Cardozo Studies in Law and Literature. Professor Malloy is writing *Framing the Market: An Interpretive Approach to Law, Markets, and Culture*.

Professor Malloy also attended a number of conferences and presented papers. July 4-7, 2001 in the Law and Society Annual meeting in Budapest he chaired a session and did a paper for one session on Law and Semiotics, "*Semiotics and the Jurisprudence of Exchange.*" March 7-9, 2002 at the Association for the Study of Law, Culture & the Humanities Conference at the University of Pennsylvania Malloy presented "*Law and Market Economy As a System of Signs*" and "*Identity As a Complex Sign in a Law and Market Economy.*" He also chaired two sessions. In April he delivered a lecture to the Advisory Board of Ticor Title Insurance in Buffalo, New York entitled "*Title Issues in a Changing Real Estate Marketplace.*" May 14-19 he was a participant and paper presenter at the Workshop on Contemporary Issues in Law and Semiotics. Professor Malloy presented two papers and chaired a session at the Annual Law and Society Meeting. He has been invited to deliver a paper entitled "*Law, Dead Capital, and Representations of Property*" at the Annual Canadian Law & Economics Association Meeting in Toronto this coming September.

Professor Malloy serves as Editor-in-Chief of The Digest, the law journal of The National Italian American Bar Association, as a Board Member of the AALS Section on Law and Humanities (Program Director for the 2002 meeting) and as a Board Member on the International Round Table for the Semiotics of Law.

Professor Malloy served on the dissertation committee for Mr. Ivan Velez of the World Bank. He received his Ph.D. from Maxwell in May 2002. His dissertation was entitled: *Property Rights and Market Institutions: The Case for Russian Property Reform.*

Adjunct Professor M. Jack Rudnick, '73:

In addition to being the Vice President and General Counsel of Welch Allyn, Inc., a leading hi-tech medical products firm located in Skaneateles, New York, Professor Rudnick continues to serve as the Advisor for the Corporate Counsel Certificate. He also serves on the Board of the Central and Western New York Chapter of the American Corporate Counsel Association. Professor Rudnick also serves as the Vice President of the chapter.

Professor Christian C. Day:

Professor Day served as the Advisor to the Corporate Law Society of the College of Law and The Federalist Society and assisted the student groups with their programs. Professor Day is a member of a working group of entrepreneurial and small business law teachers. He met with the group at the 2002 AALS meeting and spoke to them about the Center Fellows Programs and the Corporate Counsel Certificate.

Day attended the following conferences: "Academic Assistance and the Bar Examination," Midwest Region Academic Support Workshop, sponsored in conjunction with the National Conference of Bar Examiners, Capital University Law School, Columbus, Ohio, June 8-9, 2001; the Association for the Study of Law, Culture & the Humanities Conference at the University of Pennsylvania conference, March 7-9. Day presented "*From Partner To Plutocrat: The Evolution Of The Investor's Identity*" and moderated "*Loose Canons: 'Myths' of Objectivity in Legal Theory and Practice.*" Day attended a conference sponsored by the Kaufman Center for Entrepreneurial Leadership, "Opportunities and Challenges Teaching Entrepreneurship Law," April 2-3, 2002, Kansas City, MO. He described our Center and the World Bank and Airport Initiative Fellowship Programs and gained insight into a number of ways to structure entrepreneurial law clinics as well as teach entrepreneurialism in law schools. Finally he attended "Global Markets, Domestic Institutions: Corporate Law and Governance in an Era of Cross-Border Deals" at Columbia University, April 5-6, 2002.

Professor Day published two articles: "*Investor Power & Liquidity: Corporations, Capital Markets and the Industrialization of America,*" 5 J. of Small & Emerging Bus. Law 345 (2001) and "*Teaching Students How to Become In-House Counsel,*" 51 J. of Legal Educ. 503 (2002). While on leave in the fall semester, he wrote two articles that have been submitted to law reviews: "*Memorandum To: Law Schools Re: Our 'Bar Pass Problem'—'Do the Work.'*" (2002) and "*Leaving Publishing to Lieutenants: The Case for Professionally-Edited Law Reviews*" (2002). He is presently at work on "*From Partner to Plutocrat: The Evolution of the Investor's Identity.*"

Professor Day served on the dissertation committee for Mr. Ivan Velev of the World Bank. He received his Ph.D. from Maxwell in May 2002. His dissertation was entitled: *Property Rights and Market Institutions: The Case for Russian Property Reform.*

#### **IV. FUTURE PROJECTS**

*Continuation of Relationship with the World Bank and Hancock International Airport.* Professor Malloy continues to expand his work with the World Bank and enhance student learning and professionalism through his World Bank Fellows Program. Commissioner Everett has asked that students work with Hancock International Airport next year.

*Creation of Materials for Promotion, Recruitment and Fundraising.* The Center activities and its programs should be touted in materials suitable for attracting students, promoting its faculty's work, and fundraising. The Director and his Assistant will create prototypes and cost their production. These promotion pieces should be ready for use during the 2002-2003 recruiting season.

While this is beyond the scope of this report, the College of Law should devote more resources to promoting faculty achievements. "*Syndicus*" and "*Advance Sheets*" barely cover faculty publications and presentations. Both the University of Michigan and the University of Virginia, for example, list all faculty presentations and publications. Further, these schools publish excerpts from selected articles to make them readily available to their readers and to give alumni, academics and judges a feel for the breadth and quality of faculty scholarship.

#### **V. CENTER SUPPORT AND BUDGET**

From its inception the Center has used its resources to support faculty research and teaching. Thus, Center funds have been used to attend conferences to aid research, to develop courses,<sup>6</sup> and to present papers. Adjunct Professor Rudnick's salary is funded directly by the Center budget.

*Center Administrative Assistant.* The College created the position of Center Administrative Assistant in 2000. Ms. Lisa MacDonald (now in the Clinic) served ably as our first administrative assistant. Ms. Chris Ramsdell replaced Ms. MacDonald last summer. Both assistants have been superb professionals that have been invaluable to the Center's work.

Last year we lost the use of a research assistant who worked with the Center Administrative Assistant and with faculty on their publications and presentations. I urge that the research assistant be restored.

*Promotion of the Center and Its Programs.* Chris Ramsdell has endeavored to produce timely material for inclusion on our Website. These postings include Center news, requirements for the various programs, faculty developments, etc. She has also

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<sup>6</sup> For example, the Director has attended a number of conferences for general counsel. These programs contribute to the development of current materials and problem sets, as there are no casebooks or textbooks on general counsel practice.

collected data on Center activities for use by the Center and the College of Law. She communicates with students regarding certificate requirements and will be assisting the Director in creating databases for certificate holders.

## **VI. RECOMMENDATIONS TO PROMOTE EXCELLENCE**

The Director and Center faculty are grateful for the opportunities that the Center has provided for the College of Law business students and its faculty. However, pressing needs must be met if the College of Law is to provide students interested in business with a first-rate legal education.

### **Program Needs:**

An additional section of General Counsel must be offered to meet program needs.

The College needs at least one more corporations/tax professor. We have been understaffed historically in the business area despite the fact that ten percent of all lawyers are involved in corporate practice and that business law accounts for about half of all legal work. The College has not met the market.

A fully affiliated teacher should staff International Business Transactions I & II.

The Center's program would be enhanced with the addition of another intellectual property teacher. This would strengthen the Center's programs and the very strong Law, Technology and Management Program.

The Research Assistant should be restored to the Center. In 2000-2001 the Center's Research Assistant worked with faculty on publications and course materials and assisted with Center programs and speakers. The renewal of the research assistant will enhance scholarship and program offerings.

The College should support Center publications to attract students and tout the Center's activities and accomplishments.

### **Wish List:**

**Entrepreneurial Clinic:** We should hire a faculty member to direct an entrepreneurial law clinic. She would have substantive law responsibilities as well as clinical duties. This program could link up with entrepreneurial courses and projects in both the School of Management and the School of Information Studies. The Management School is a top 60 school (out of 600 graduate programs) and SIS is one of the national leaders. Our students and College would benefit from this association. Funding for such a Center might come from the State Economic Development offices.

**Annual or Bi-Annual Working Paper Conference:** Ideally the Center should offer at least once every two years a high-quality working paper conference. The Maxwell School and School of Management might jointly sponsor such conferences. One day could be devoted to paper presentation and the second to networking and touring the Finger Lakes, for instance. Ten to fifteen papers would be selected by peer review for presentation at the conference. The conference would charge a nominal amount for attendance. Funds would be needed for honoraria for keynote speakers and panel chairs to organize panels.

## **VII. CONCLUSION**

The Center has provided strong, professional education for students interested in business and law and economics. Center faculty have been engaged in an astounding amount of creative research and publication. The Center has fostered links with the Syracuse business community and the World Bank. It is poised to undertake new links with other academic units. Its potential is great, but the College of Law must provide more faculty who will provide a foundation in commercial law, intellectual property and taxation.

Respectfully Submitted,

Christian C. Day  
Professor of Law  
Director, The Center for Law & Business Enterprise