

MEMORANDUM

TO: Dean Hannah R. Arterian

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

RE: The Center for Law and Business Enterprise Activities, 2002-2003

DATE: July 10, 2003

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). 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 support scholarly activities at the College of Law. The growth of the Certificate and Fellow programs has been remarkable. These programs 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 thirty-three certificates to thirty-one students. 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 current faculty staffing.¹ Faculty and curriculum shortcomings must be met and overcome if the Center is to meet the expectations of our

¹ 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.

students, their potential 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, 21 students
General Counsel Applied Learning Course, 21 students
Business, Finance & Economics, 42 students
Independent Studies (Fellows) 6 students (1—4 credits earned)

Certificate Programs: The *Law & Market Economy Program* granted 4 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.

Twenty-four *Corporate Counsel* certificates were earned in this program's fifth year of operation. We have offered eight 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 (29 students enrolled and 25 earned Certificates). This year one section was offered with 21 students enrolled and 24 students earning Certificates.²

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, 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.³

²One Certificate was awarded to a December graduate; the others were earned by students who enrolled in General Counsel in the spring 2002.

³ 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." If we adopted the two-adjunct model, Professor Day might make several guest appearances. He would also be freed for other academic assignments.

There remains a substantial, unmet demand for business courses.⁴ The addition of Professor Gregory Germain, an expert in tax, corporations and bankruptcy will ease some of the problem. Two clinics, the Community Development Law Clinic and Low Income Taxpayer Clinic provide business students with valuable clinical experiences. Two new offerings, Mergers & Acquisitions and Law and Principles of Business Valuation provide business students with new advanced electives. For a young program we are doing interesting things and the student demand for certificates confirms our efforts.

Finally, a fundamental problem that remains is that of sequencing—too many students fail to take basic courses, such as Corporations or Commercial Transactions, in the second year. This precludes them from benefiting from advanced electives and an orderly course of study. It would be most efficacious to provide three sections of both Corporations and Commercial Transactions to provide more opportunities for advanced study.

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.

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: Gender Based Property Interests as a Tool for Valuation in Involuntary Resettlement Projects* (2003).

The Fellows presented their reports to the World Bank in the spring of 2003 to a World Bank official who came to the College of Law. The World Bank Fellows will continue to work for the Bank in the 2003-2004 academic year. These projects have been published on The World Bank Website.

The Airport Case Study Initiative Team Fellows: In the fall semester, three students worked with the Syracuse Hancock International Airport. They produced an extensive report, *Study of the Economic Situation of the Airline Industry*.

⁴ Almost 70% of our students go into private practice or corporate law—with 10% working for corporations and the balance working for firms practicing business law. Nationally, corporations directly employ about 10% 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.

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.

Speakers: The Center sponsored Dr. Ivan Velez of The World Bank. He spoke to Professor Malloy's Property class on issues of property law in developing countries and emerging markets. He noted the importance of property law to economic development and democratic practices. Attorneys James Alexander and Peter Catalano presented a talk on how to start a law business to about forty students.

III. FACULTY ACHIEVEMENTS:

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

Professor Hilary K. Josephs : Professor Josephs completed the second edition of her book, "*Labor Law in China*," (Juris Publishing, 2nd ed. 2003).

Professor Josephs presented: "*Apology, Here and There, Now and Then-- Reflections on Wagatsuma & Rosett's 'The Implications of Apology: Law and Culture in Japan and the United States'*", at the conference, "Sharing Scholarship on East Asian Law," 2003, Harvard Law School, Cambridge, Mass., May 16-18, 2003.

Professor Josephs is a member of the Editorial Advisory Board, *The International Lawyer* (published by the ABA Section of Int'l Law & Practice) and a member of the Long Range Planning Committee, American Society of Comparative Law.

She was approved for a leave of absence in spring 2004 to undertake comparative research on China and India.

Professor Thomas J. Maroney, '61, '63: Professor Maroney he served as Coach and Advisor to students who competed in the Tenth Annual Willem C. Vis International Commercial Arbitration Moot held in Vienna, Austria this spring.

Professor Robin Paul Malloy: Professor Malloy published "*Framing the Market: Representations of Meaning and Value in Law, Markets and Culture*," 51 Buffalo L. Rev. 1 (2003).

Professor Malloy is hard at work completing "*Law in a Market Context: An Introduction to Market Concepts in Legal Reasoning*" (Cambridge University Press, Dec. 2003).

He participated in a two day workshop at SUNY Buffalo Law School on "Law, Technology, and Globalization" and presented "*The Integration of Technology and Real Estate Transactions.*" At the Law & Society Meeting in Pittsburgh, May 2003, Professor

Malloy presented a paper, "*Objectivity and Subjectivity on Legal Analysis.*" Professor Malloy also chaired a session on Interpretation Theory. Professor Malloy ~~also~~ taught a seminar, "*Introduction to Law and Economics: Understanding Law in a Market Context,*" for attorney/ staffers on Congressional Hill, Wash., D.C., Sept. 23, 2002, sponsored by George Mason University and the Mercatus Institute. Professor Malloy also presented: "*Law, Dead Capital, and the Representation of Property,*" for the Canadian Law and Economics Association Meeting at the University of Toronto, September 2002. Additional presentations include: Faculty Lecture and Workshop at Mercer University School of Law, March 11, 2003, "*Framing the Market as an Interpretive Institution,*" and Faculty workshop at Syracuse College of Law, Oct. 21, 2002, "*Law and Market Economy: Understanding the Relationship Among Law, Markets, and Culture.*"

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 2003 meeting) and as a Board Member of the International Round Table for the Semiotics of Law.

Professor David Driesen: Professor Driesen also attended the Law & Society Meeting. The Center assisted with some of his expenses. He talked about his book, "*The Economic Dynamics of Environmental Law*" (MIT Press 2003).

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.

Professor Day attended "Symposium on Control Transactions," University of Pennsylvania Law School, Institute for Law and Economics, February 8-9, 2003. He attended a conference sponsored by the Kaufman Center for Entrepreneurial Leadership, "Teaching Practical Business Law and Running a Small Business Clinic," April 24-25, Chicago, Illinois. Day spoke on the topic "*Teaching Entrepreneurship and Related Business Law in the Classroom.*" He gained insight into a number of ways to structure entrepreneurial law clinics as well as teach entrepreneurialism in law schools.

Professor Day completed "*Partner to Plutocrat: The Separation of Ownership from Management in Emerging Capital Markets—19th Century Industrial America.*" This paper was accepted for a conference, "Frontiers in Finance and Economics," Lille, France, August 2003, sponsored by the International Society for the Intercommunication of New Ideas (ISINI). He will also comment upon a paper "*Governance, aid flows and market access: a new challenge for International Financial Institutions.*"

IV. FUTURE PROJECTS

Continuation of Relationship with The World Bank. Professor Malloy continues to expand his work with The World Bank and enhance student learning and professionalism through his World Bank Fellows Program.

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.

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, 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 to work for all the Centers. Ms. Lisa MacDonald (now in the Clinic) served ably as our first administrative assistant. Ms. Chris Ramsdell replaced her in 2001. Both assistants have been superb professionals that have been invaluable to the Center's work.

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 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 business law 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 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. This idea is severely limited by the number of faculty interested in Center activities. At present, we are too thin to embark on such an undertaking.

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,

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