



Working Together

By Kellye Y. Testy, AALS President and Dean, University of Washington School of Law

I have enjoyed visiting member schools this year and learning about the exciting innovations happening throughout legal education on so many fronts. I am confident that the quality of legal education within AALS member schools has never been higher. Throughout our membership, faculty and staff are working hard to deliver more to our students while also trying to hold down costs. One of the most promising developments I am seeing in this spirit is a number of creative collaborations between and among our schools.

These collaborations hold considerable promise: not only do they communicate to our students and communities an alternative model to what is often seen as a highly competitive ethos in legal education, these collaborations also help to control costs while supporting innovation. While the below examples are by no means exhaustive, they do provide an introduction to the range of collaborations taking place. My hope in shining the spotlight on this aspect of legal education is to congratulate these schools and to encourage more of us to give this a try.

Some examples include:

Wisconsin and Marquette partner to provide the Annual Wisconsin Pre-Law Diversity Day, which concludes with a law fair featuring more than 40 law schools. Along the way, prospective students participate in a mock trial class and learn about the application process, life as a law student and lawyer, and the importance of diversity in the classroom.

Arizona's three law schools (Arizona, Arizona State, and Arizona Summit) together created an option for 3L students to take the bar exam in February, an option that has proved especially helpful to graduates with children.

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Nominations for President-Elect and New Executive Committee Members



The AALS Nominating Committee for 2017 Officers and Members of the Executive Committee met at the AALS Office in Washington, D.C. in September to consider nominations from faculty members and deans at AALS member schools. The committee is proud to recommend three individuals whose careers exemplify dedication to teaching, scholarship, and service to AALS and to legal education. At the second meeting of the AALS House of Representatives on Friday, January 6 at 4 p.m., the committee will present the following nominations:

President-Elect Wendy Collins Perdue

Wendy Collins Perdue is Dean of the University of Richmond School of Law. She received a B.A. from Wellesley College and a J.D. from Duke University School of Law. Her scholarship spans several areas including civil procedure, conflict of laws, land use, and public health, and her publications include two case books as well as book chapters and numerous articles that have appeared in the *Virginia Law Review*, *Northwestern Law Review*, *Washington Law Review*, and the *Journal of Law, Medicine and Ethics*, among other journals.

Before joining the University of Richmond as Dean in 2011, she served as Associate Dean and Professor of Law at Georgetown University Law Center.

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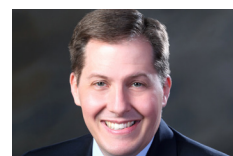
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Several schools are part of regional scholarship exchanges, such as the one in New York among Albany, Pace, NYLS, Touro, Temple, and Suffolk; there is also the Rocky Mountain Junior Scholars Conference that BYU and Utah jointly convene.

As schools have sought ways to help students launch solo or small firm careers, incubator projects have grown. In Los Angeles, the LA Incubator Consortium is a collaboration among Loyola, Pepperdine, Southwestern, and UCLA. In Boston, BU, BC, and Northeastern have launched a joint incubator program called Lawyers for Affordable Justice.

Other schools work together on justice projects such as the Innocence Project, the effective collaboration between Cincinnati and Case Western on wrongful convictions matters in Ohio. St. Mary's has launched a collaborative Peer Court pro bono program in which students hear non-felony infractions by high school students who would otherwise be in truancy and juvenile courts. Law students from every law school in Washington, D.C. (and a few nearby) participated in a Community Listening Project organized by UDC's Professor Faith Mullen to act as focus group facilitators or administer nearly 600 in-person legal needs surveys.

Some schools collaborate on programs in shared subject areas of emphasis, such as joint trainings and online courses that Maine and George Washington conduct in the area of government contracts and procurement. Another such example is my own school's work with Santa Clara on access to justice and technology. Southern Illinois and John Marshall similarly work together in the area of Veterans Legal Assistance.

“These shared programs can help us model effective team work and collaboration for our students while also broadening their opportunities.”

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More broadly, there is also the Consortium for Innovative Legal Education with California Western, Mitchell-Hamline, South Texas College of Law Houston, and New England Law/Boston. In Chicago, Loyola, DePaul and Chicago-Kent College of Law have joined to permit students to take electives at each of the other schools.



A large scale collaboration among more than 200 libraries (nearly all of them representing law schools around the world) was developed by Harvard's Library Innovation Lab. In two short years, they have come together to create Perma.cc, the distributed service allowing long term preservation of the online materials to which scholars and judges link in their papers and judicial opinions. Before this new project, more than half of the links in U.S. Supreme Court opinions and huge numbers of other links no longer worked.

Finally, I'd be remiss in not mentioning my own state, where the three Washington schools (Gonzaga, Seattle, and Washington) sponsor a joint "modest means" program with the state bar that provides our students an outstanding experiential opportunity while also helping Washington's underserved populations with foreclosure proceedings. And because we are both in Seattle, UW and Seattle have taken our collaborations an additional step to jointly launch a new law clinic (workers' rights) and to share two others.

While law schools, especially through clinics and pro bono programs, have long had many innovative and effective collaborations with the bar and legal services organizations, it is promising to see so many joint projects taking root between and among our schools. These shared programs can help us model effective team work and collaboration for our students while also broadening their opportunities. These collaborations can also help us to make the most of our precious resources as we all strive to fulfill our missions and advance law in the communities we serve.

In closing, let me remind you that AALS wants to know about your exciting programs and innovations and to help you spread the news of your school's success. If you have a great example of other collaborative projects, or other news to share, please send it to us at aals@aals.org for inclusion on our website. We are here for you. See you all at the Annual Meeting in the great city of San Francisco, if not before!



Improvements to the *Directory of Law Teachers*

AALS is pleased to announce that the Directory of Law Teachers now features an online search function. This password-protected tool is only available to deans and tenured, tenure-track, long-term contract, and emeritus faculty members.

In addition to searching by name and school, the new search function can sort faculty members by subjects taught. Users may also execute sub-searches, including whether the instructor is currently teaching, for how many years the instructor has been teaching, and their seminar offering. It also allows users to cross-search for multiple faculty and multiple subject areas at the same time.

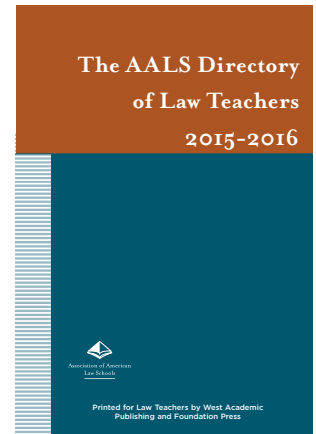
The new online portal presents advantages over the printed directory. Because it is constantly accessible for updates, it provides a more complete snapshot of an instructor's profile in "real time."

Participants in the directory have the opportunity to adjust their privacy settings so their listing reflects the amount of information they would like to be available online.

Institutional access to the online search will be granted by request to law librarians, academic deans, and select professional staff.

Users and participants may access the online search by signing directly into the directory portal (www.dlt.aals.org). The search function is located in the upper left hand corner. Online biographies for the directory may be updated at any time throughout the year. Please contact dltsupport@aals.org for questions or additional information.

Information for the printed directory is collated every fall and distributed to schools in the winter of that academic year—AALS sends a reminder in early fall asking faculty members to update their biographies before the directory is printed.



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Dean Perdue has held a number of positions within AALS, including Chair of its Membership Review Committee, Chair of the Sections on Civil Procedure and Conflict of Laws, and membership on a prior Nominating Committee. Most recently, from 2013-15, Dean Perdue served a three-year term on the AALS Executive Committee.

Dean Perdue is a former Vice President of the Order of the Coif. She has also served on the Duke Law School Board of Visitors, the Editorial Board of the *Journal of Legal Education*, and the Board of Governors of the Virginia Bar Association.

Executive Committee (Three-Year Term)

Camille A. Nelson

Camille A. Nelson is the Dean of the American University Washington College of Law. She received a B.A. from the University of Toronto, an LL.B. from the University of Ottawa, and an LL.M. from Columbia University. Nelson is an expert on the intersection of critical race theory and cultural studies with particular emphasis on criminal law and procedure, health law, and comparative law.

Dean Nelson has worked to augment discussions of equality and justice in academic areas of culture and race through articles in a variety of publications such as the *Journal of Politics and Law*, *Berkeley Journal of Criminal Law*, and *Yale Journal of Law & Feminism*. During her time at Suffolk University Law School, Dean Nelson was awarded the Trailblazer award by the Black Law Students' Association and the Malcolm Donahue Award, and the law school's annual diversity award has been named The Dean Camille A. Nelson Award in honor of her work. In 2013, Dean Nelson was honored as one of the "Top Women of Law" by *Lawyers Weekly*, and was named to the Power 100 most influential Black attorneys by *On Being a Black Lawyer* from 2012-2015. She has also received the Ida B. Wells Award from Massachusetts Black Women Lawyers as



Wendy Collins Perdue, University of Richmond School of Law

Photo courtesy of University of Richmond School of Law



Camille A. Nelson, American University Washington College of Law

Photo courtesy of American University Washington College of Law



Erwin Cherminsky, University of California, Irvine School of Law

Photo courtesy of University of California, Irvine School of Law

well as a Faculty Excellence Award during her time at Washington University in St. Louis.

Dean Nelson has previously been appointed to the Senator Elizabeth Warren and Senator Ed Markey Advisory Committee on Massachusetts Judicial Nominations (2013-2015) and was recently a Boston Bar Association (BBA) Board Member.

Dean Nelson has served AALS in a number of capacities, including as a member of a prior Nominating Committee and the Steering Committee of the Deans Forum, and as co-chair of Section on the Law School Dean.

Executive Committee (Three-Year Term)

Erwin Chemerinsky

Dean Chemerinsky is the founding Dean, Distinguished Professor of Law, and Raymond Pryke Professor of First Amendment Law, at the University of California, Irvine School of Law, with a joint appointment in Political Science. He received a Bachelor of Science from Northwestern University and a JD from Harvard Law School. His areas of expertise are constitutional law, federal practice, civil rights and civil liberties, and appellate litigation.

Dean Chemerinsky is the author of eight books and more than 200 law review articles. He frequently argues cases before the nation's highest courts, including the United States Supreme Court, and also serves as a commentator on legal issues for national and local media. He writes a regular column for the *Orange County Register*, monthly columns for the *ABA Journal* and the *Daily Journal*, and frequent op-eds in newspapers across the country.

In January 2014, *National Jurist* magazine named Dean Chemerinsky as the most influential person in legal education in the United States.

Previously, he taught at Duke Law School for four years, during which he won the Duke University Scholar-Teacher of the Year Award in 2006. Before that, he taught for 21 years at the University of Southern California School of Law. Dean Chemerinsky also taught at UCLA School of Law and DePaul University College of Law.

Dean Chemerinsky's association with AALS spans decades. He has moderated and spoken at a number of Annual Meeting sessions over the course of nearly 30 years. He has chaired the Section on Federal Courts, and sat on the Planning Committee for the 1990 Annual Meeting Mini-Workshop On Teaching the Law and Ethics of Lawyering Throughout the Curriculum and the Committee to Review Scholarly Papers for the 2007 Annual Meeting. In 2009, he authored "Why Not Clinical Education," published in the AALS joint publication *Clinical Law Review*.



AALS ON YOUTUBE



Visit the AALS YouTube channel to check out hundreds of legal education videos on law school programs, clinics, teaching, lectures and advice for prospective students. The channel also hosts a selection of videos from AALS meetings. Subscribe to the AALS YouTube channel at www.aals.org/youtube to keep up with the latest additions to the channel.

Q&A with Jeff Allum, New AALS Project Director for Before the JD

By Barbra Elenbaas

Jeff Allum currently serves as Project Director for Before the JD, a national study of potential law students, conducted by AALS, to understand the factors contributing to their intention or decision to pursue a JD or not.

Dr. Allum was formerly the Assistant Vice President of Research and Policy Analysis at the Council of Graduate Schools (CGS) where he oversaw the CGS/GRE Survey of Graduate Enrollment & Degrees and the CGS International Graduate Admissions Survey. He also supported the research components of several grant-funded projects on topics such as completion and attrition, career pathways, financial education, and inclusion and diversity.



Jeff Allum

Dr. Allum has worked and studied both domestically and internationally. His work has appeared in *Diverse Issues in Higher Education*, *Fortune*, *Kuwait Times*, *The New York Times*, *Politico*, and *Reuters*, as well as a number of other media outlets and university newspapers. He holds an EdD in education policy from the George Washington University.

Get us up to speed on the Before the JD project overall.

Before the JD is an attempt to understand the factors leading potential law students to make the decision to pursue a JD or not. That includes understanding the array of other education and career alternatives they might be considering, as well as the sources of information from which their decisions take shape.

There has already been a lot of very good work put into the project and we received positive feedback from the research firms we have been in touch with. We are confident that it will provide some useful answers to the legal education community upon completion.

What drew you to AALS and specifically to directing the Before the JD project?

I am particularly interested in understanding the interface between education and work, or education and the economy. I've been doing this kind of work for many years in a lot of different organizations, most recently at the Council of Graduate Schools. I was interested in looking at this issue of career pathways in a different and new domain, which is legal education.

As I've been working at AALS for the past couple of months, I've come to appreciate and learn about the situation legal education finds itself in. I knew anecdotally that enrollments and applications were down, but I didn't realize the extent to which it was happening. You read in the newspaper about student debt levels, which can be very high

not only for students who go to law school but also those who get masters and doctoral degrees. But I wonder if there are some other latent explanations that we haven't found yet.

I want to get beyond student debt and employment rates as explanations and find out what else we might not be thinking about. Maybe this generation just isn't interested in doing the work that lawyers do. Perhaps they don't know enough about what lawyers do. Maybe they're interested, but want to do it in a different way or in a different venue. It could be that there's something about the legal profession or legal industry that we haven't understood before.

I'm really interested and excited to see what I can do to serve the AALS mission to advance excellence in legal education. I'm growing to appreciate the nature of the problem and the importance of legal education, not just for the legal profession, but for society as a whole.

Tell us about your previous role at the Council of Graduate Schools.

I was the Assistant Vice President of Research and Policy Analysis, overseeing two large annual surveys of enrollments, admissions, and degrees. One was general and the other was specific to international graduate students.

I also supported the research components of a lot of CGS's grant-funded projects. I developed surveys to help us understand issues relating to completion and attrition, and I conducted focus groups with underrepresented minority doctoral STEM students to find out what was happening on campus to help them succeed. Those were my primary responsibilities.

Prior to that, I was at the American Chemical Society, where I led what was probably the largest employment survey of its kind at the time. It went out to about 90,000 chemists nationwide to get a sense of where they got their education, where they're working, what their salary is, and other related information.

What parallels do you see in the challenges facing legal education and graduate education?

The surplus issue is certainly one in certain doctoral programs—in STEM fields and in the arts and humanities. Some make the argument that there are simply too many PhDs being produced. The flip side to that is that maybe they're just not being fully utilized. Maybe the workforce hasn't caught up to the type of education they've already achieved. That's one parallel.

Another one has to do with access, diversity, and inclusiveness. From what I gather, certain populations are still underrepresented in legal education and the legal profession. That's also true in many PhD and master's programs as well. The extent to which we can explore why that is and what can and should be done to expand the population is another parallel that I see.

A third is the nature of education delivery. There are important conversations happening on this—I'm thinking specifically about online courses. How is that shaping higher education in general as well as legal education in particular?

“I'm really interested and excited to see what I can do to serve the AALS mission to advance excellence in legal education.”

I also think that this question gets to a bigger issue, beyond law and graduate school. I think the United States is in an “in-between” place in every way—politically, economically, environmentally, and socially. Take the case of human capital: education and career pathways just don't quite play out the way they used to, but we don't exactly know what the future holds. Traditionally, if you wanted to be a teacher or a truck driver or a lawyer, there used to be obvious pathways for you to get to those points—career paths were fairly linear and jobs would be there.

What we're seeing now is this new era in which career pathways, and the education and training required to manage them, are in a stage of mass deconstruction and reconstruction. Many jobs and career pathways—even in the professions—are evaporating, and we really don't understand what's next. In the legal profession, one scenario is that artificial intelligence may be able to assume the burdens of “lower-skill level work” carried out by many types of legal professionals, thereby allowing attorneys to more fully put their education and experience to use in solving the most challenging problems that we face. But this is just one of many scenarios. It has huge implications for the education and training of up-and-coming legal professionals, and it also makes me wonder: Is that something that's playing in the minds of millennials as they search for careers? We just don't know. What resonates with college students and recent grads is what we need to find out.

What prior experience do you bring to AALS that will particularly benefit the Before the JD project?

There are a couple of things: I have done similar research in terms of why individuals pick certain education programs and careers. When I was at the American Chemical Society many years ago, I did this work with community college students. I

conducted a survey to see why they chose the field of study they did and why they got into those careers. It was similar work as I described at CGS, talking with hundreds of PhD students via focus groups about why they chose a particular field and school and what they hope to get out of that.

I've also managed research firms before. At the American Chemical Society, I managed a big project with the Harris Interactive. Harris did the research but it was my job to find them, get a proposal from them, and to manage the project and make sure they were doing the work that needed to be done.

“ I hope this information can be used to improve legal education. Through the process of understanding the expectations and concerns of potential students, law schools can strengthen legal education and the profession. ”

You have served as a principal investigator and managed external research firms. How are the two roles different?

I think that's very important. At CGS, my staff and I did the research, but at ACS I largely managed research. I think it's important to have experience both in the kitchen, cooking the food, and at the front of the house, managing the operations of the restaurant. Seeing both sides of how things work. I like to think my hands-on research experience makes me a better manager because I know what to look for as an outside firm begins to produce deliverables. Managing will also help me connect to the big picture and help AALS think about research in general.

What will you look for as you choose a firm?

A team that has experience in this domain with people who know something about higher education and surveys. There are plenty of firms who do great market research but don't know anything about higher education. In many ways, the very task of identifying and contacting potential law students will be one of the most challenging aspects of this project, one that will require both experience and creativity.

I'll also be looking for creative ways that they can help share the findings of these results, some of which we believe might be newsworthy as well as useful for the law schools and prospective students. We've already agreed that a manuscript or report is going to be one product, but I'll be looking for firms that can also provide materials we can use for online and social media, including data visualizations.

As someone who has overseen similar studies regarding graduate schools, how can leaders use this information to better understand prospective students?

I hope this information can be used to improve legal education. Through the process of understanding the expectations and concerns of potential students, law schools can strengthen legal education and the profession.

I hope this process helps give law school deans, as well as legal professionals, information they can use. I also hope the information we learn can also clarify and dispel some myths about the legal profession, and cast light on aspects of law school that prospective students might be interested in. I figure there are a lot of people who may be socially-minded, who want to do good things and exercise their passion, but, for whatever reason, decide that law school is not their path. I hope what we learn from this study can help create new paths to law school and legal education that we haven't thought about before.



AALS LEGAL EDUCATION NEWS WEEKLY DIGEST

Since the launch of the new AALS website in late 2014, the association has been collecting news articles related to legal education, higher education, and the legal profession. AALS now has a feature where faculty, staff and the general public can subscribe to a weekly email digest to get those same stories sent directly to your email inbox. Just follow the instructions on right hand side of the Legal Education News page at www.aals.org/news to sign up for the weekly emails.

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Law schools explore online learning

U.S. NEWS - Some J.D. program professors are straying from the traditional teaching model and incorporating blended courses.

[Read More](#)

Spotlight on Sections

By Barbra Elenbaas

AALS Sections provide a forum for law school faculty and staff to connect on issues of shared interest. Each of the 101 AALS sections is focused on a different academic discipline, affinity group, or administrative area. For a full list of AALS sections and information on how to join, please visit www.aals.org/services/sections.

AALS officially welcomes the following three Sections, which were approved as permanent at the June 2016 meeting of the Executive Committee:

European Law

The Section on European Law promotes the communication of ideas, interests, and activities among members and makes recommendations on matters of interest in the teaching and improvement of the law relating to European Law.

Economic Globalization and Governance

The Section on Economic Globalization and Governance fosters scholarship and teaching of professors in courses that deal with the economic and financial framework and effects of globalization, including social welfare repercussions (i.e. “corporate social accountability issues”).

Law School Administration and Finance

The Section on Law School Administration and Finance promotes dialogue and collaboration among administrators and faculty with regard to law school finance policies and practices and the fostering of scholarly endeavors focusing on law school finance, affordability, and access.

At the same meeting of the Executive Committee, AALS also provisionally approved one new section, raising the total number of sections to 101. AALS welcomes the new Section on Technology, Law, and Legal Education.

The purpose of the Section on Technology, Law, and Legal Education is to promote scholarship and the communication of ideas, interests, and activities among members with respect to ways to: (1) use technology to enhance teaching; (2) prepare students to use technology effectively in their learning and future practice; and (3) equip students to create technology to improve our legal system (including improving access to legal information and services). The Section will also make recommendations to AALS on matters of interest with respect to how technology is impacting our teaching and the practice of law.

AALS spoke with Michele Pistone, chair of the new section.

SECTION ON TECHNOLOGY, LAW, AND LEGAL EDUCATION

How did the idea to create this section come about?

I was an economics major in college, and a few years ago I started seeing changes that got me thinking about the business model and economics of legal education. I wanted to understand situations like the drop in applicants and interest in law school. I think the first book I read back in 2008 was Richard Susskind’s *Tomorrow’s Lawyers*. What he said about the standardization and commodification of legal services was interesting to me, and led me to think about how technology is changing the practice of law. That, in turn, led me to the work



Michele Pistone, Villanova University Charles Widger School of Law, Chair

Photo courtesy of Villanova University Charles Widger School of Law



Michael Bloom, University of Michigan Law School, Chair-Elect

Photo courtesy of University of Michigan Law School

of Harvard Business School Professor Clay Christensen. His writing is about how changes in technology and business models disrupt industries, and how hard it is for incumbent institutions—which are embedded in the existing culture of an industry—to adjust when there are larger forces imposing change on them.

This initial reading made me think it was important to understand how technology is changing the practice of law. As law professors, we need to understand those changes if we are to figure out how we’re going to incorporate them into our curriculum, so that we can prepare our students to prosper in the new market for legal services.

I also started researching technology and its impact on higher education. In my view, legal education will soon experience the most profound changes since Dean Langdell in the mid- to late 1800s. Over the last few years, the focus of my scholarship has been on these changes and how they will impact the legal education business model.

How is technology changing the practice and business model of law, and how is that translated into the classroom?

There have always been pressures to become more efficient through the use of technology. By the beginning of my own legal career, word processors had replaced typewriters. Westlaw and Lexis were available. I started as a corporate associate at Willkie Farr & Gallagher, a big Wall Street firm. We didn't have computers at our desks. When I would draft a document, I would write it by hand, and then walk it to a secretary or, in the evenings, to a pool of word processors, who would then type it up. Then I'd review the document, make handwritten edits, and make another walk to my secretary's desk or to the word processing pool. When the pool was busy, it could take hours just to get a typo fixed.

The difference between now and then is that the pace of technological change has accelerated, and so have the consequences for lagging behind. More important than the adoption of any one technology is the development of a mindset that looks forward to technological change, and that consciously strives to overcome practical and cultural obstacles to mastering new technologies. Since many attorneys traditionally have looked upon technological change with about the same enthusiasm as they have for getting a tooth pulled, I understand that prescribing cultural shift will not be easy. But the consequences of failing to try to change in this way could be fatal to a practice, and knowledge of that fact can help to concentrate the mind.



Michelle Pistone at the 2015 AALS Clinical Conference

The implications for legal education are vast. At the most basic level, it becomes an imperative for law schools to teach students how to use technology to make their work more efficient and more effective. We must teach not just the rules on discovery, but how to use predictive coding to handle discovery requests. Opportunities to give students a technological advantage exist also outside of the traditional subject-matter curriculum. For example, we assume today that our students know word processing, but very few know all the word processing shortcuts that, when they are used in practice, could save them hundreds of hours each year.

Beyond making sure that students possess state-of-the-art technological knowledge, law schools also need to think about how they can inculcate into students the forward-looking technology mindset that is crucial to a successful legal practice. Law schools can do this through professors modeling the mindset, particularly in clinical settings; through hiring, by making technological knowledge a factor in the selection process; and through adding technology-heavy topics to the curriculum.

It's a very interesting and exciting time to be a law professor.

With the legal profession becoming more technology based, what can legal educators do to stay on top of the latest advances?

That's really what our section is all about, so follow what we're doing! Attend our programs, which are designed for everyone across the legal academy. We hope that law school administrators, librarians, doctrinal faculty, clinicians, legal writing instructors, and everyone should think this is of interest. This section is a space for everyone who is interested in the future of legal education and how to better prepare our students for that future.

In this section, we're hoping to foster scholarship in this area so there are more available resources. A few years ago, I helped the *Journal of Legal Education* produce a collection on how technology is changing the practice of law. We'll think about ways to collaborate with publishers to come up with venues for scholarly research on this topic.

Another thing faculty can do to stay on top of things is to watch carefully how their own students are using technology and think about new ways they can incorporate technology into their own teaching, based on what they're seeing.

Law schools should also seek to bring in people who understand the role technology is playing in changing the practice of law and legal education. I think the natural place to think about that is if you're hiring someone for IP or a technology clinic. But it should go beyond that, as there are a lot of people out there who are technologically savvy and understand how technology is changing our society, but who are not necessarily coming from a field we associate with technology.

What do you hope to accomplish with this section? What are some of the early ideas for section activities?

One of the section's first projects is a webinar series for law faculty to teach ourselves and the community about how technology is being used in legal education. In November, our webinar will be on the Legal Tech Audit. It is a product that was developed by the general counsel at a company. He found that a lot of his outside counsel weren't familiar with the basic functions of Microsoft Word, so he came up with this audit and had all his lawyers take it. He basically said to the firms that he was working with, "If you're going to put associates on any of my cases, they need to have passed this audit. I don't want them spending needless time on, for example, formatting a document when Word has built-in templates and formatting functions."

The tech audit has evolved and a lot of firms are using it. All the students I have in my clinic this fall passed the audit. The section decided to start the webinar series with the basics. It's a tool that we're using every day.

There are some faculty members in Australia who are successfully using Twitter in their legal education, so we're going to have them do a webinar on how to incorporate Twitter. We'll also have one on how to make educational videos.

Our goal is to do one webinar per month during the academic year. We'll record them and put them online for people

to view even if they can't attend the live event. We hope to create an ongoing library with relevant topics.

You host a video series called LegalED on teaching. How have these videos affected your own teaching? What else have you learned as the result of this effort?

I've been interested in this idea of how we can scale what we do in legal education. I think there are many ways we can use technology to be more effective, bring in more learning competencies, and expand the tasks that students do.

“Beyond making sure that students possess state-of-the-art technological knowledge, law schools also need to think about how they can inculcate into students the forward-looking technology mindset that is crucial to a successful legal practice.”

One common thread in legal education, higher education, and education generally is the move away from the "sage on the stage" and the move toward the professor as more of a facilitator, mentor, or coach. The way our traditional law school classes are structured, a lot of time is spent delivering knowledge. One of the things I'm trying to do with LegalED is figure out how to move some of that knowledge delivery to something that's more scalable, with the hope of freeing up classroom time for more problem-based learning or discussion or coaching.

Another reason for starting LegalED was to foster a community of professors interested in sharing ideas on how to

teach differently, how to develop learning outcomes, how to provide formative assessment, and so on. I believed that if we're going to move in that direction, and if we want professors to think differently about how they use classroom time, we also want to educate professors and ourselves about best practices. We need to learn about technology and how things are changing in the practice of law but also about how education is changing.

I started by making some basic videos about pedagogy directed at law professors themselves. Then, I organized two conferences at American University Washington College of Law—we call them "Igniting Law Teaching." They're styled as TED talks, so they're short, well-rehearsed talks on particular aspects of legal education pedagogy. Those videos are available for professors to watch at their own pace and on their own time, at legaledweb.com/teaching-pedagogy.

I also directed a series of videos at the Clinical Conference in 2015. The project was sponsored by the AALS. We recorded 11 short videos (available at <http://legaledweb.com/teaching-pedagogy-aals-series/>) on different aspects of legal education. There are videos about assessment, feedback, learning outcomes—all the issues law professors are currently grappling with. We created this series so professors can hear from and learn from each other on those topics.

Tell us a little about your program at the upcoming AALS Annual Meeting.

Our section's inaugural program is on the topic of using technology to advance our learning outcomes and assessments—things that a lot of law schools are focused on right now because of the change in the ABA accreditation standards. We thought that would be a relevant topic to a range of people. Michael Horn, who is one of the co-founders of Clay Christensen's Institute for Disruptive Innovation, has agreed to speak and moderate the panel.

How did you go about forming this section? What was the process?

It happened relatively quickly over this summer. The idea for petitioning to form this section started to gain support in the technology committee of the Section on Clinical Legal Education. That committee met at the May AALS Conference on Clinical Legal Education and we realized the audience for what we were doing was much broader than just clinicians, and that a new AALS section would be the perfect place to continue the conversation. We decided to pursue it, identified a cohort of people with the same interests, and came up with a purpose and mission statement for the group. The very first thing I did was check the bylaws to see what you need to do to create a new section. For that, you get a successful petition with the signatures of 50 professors from at least 25 different law schools. So we created a form that we emailed to different listservs, asking those lists to send it along to their colleagues. Within about two weeks, we had close to 75 people join the petition. The next step was to draft our own bylaws and attach the list of petitioners, and send the whole thing to AALS.

I was so impressed with how quickly AALS and the Executive Committee moved on approving it. I believe within a month or six weeks from initially filing the paperwork we had already gotten provisional approval. It was an easy, stress-free process. And there, again, technology made it easy!

What could someone joining the section look forward to in terms of their active participation and opportunities for leadership roles?

It's a new section, so we're open to all ideas and new ways of thinking. I want to foster experimentation, sharing, and collaboration. We invite the community to share ideas with us.

There will be the Executive Committee, or at least some section leadership. We're also going to create committees. There

will likely be a committee to schedule and run the webinars. We may also form a committee to survey professors to figure out what technologies are already being used in legal education. Running a survey would be another way for someone to get involved.

Another idea is to start or contribute to a blog. We might have, on a running basis, columns about technology and the law or technology and legal education. We'll likely have section awards, so another way to get involved could be on the awards committee.

There are more and more people teaching courses about (or at least involving) technology and the future, so there is talk of starting a curriculum bank. A few months ago, I read about J.B. Ruhl from Vanderbilt's new course called "Law Practice 2050." I immediately emailed him and asked him to send me his curriculum. Current section members have also discussed a literature search or a bibliography of the must-reads in this area. We will present these as options, and to the extent people are interested in doing it, we will support them.

Those are some thoughts, but I want to stress that the section is totally open to new ideas. One way to share any ideas you have would be to come to the business meeting we're having at the end of our program at the Annual Meeting. You can also email me directly at pistone@law.villanova.edu.

What ideas and activities have you seen work in other sections that you would like to bring to the Section on Technology, Law, and Legal Education?

The webinar idea is a great example that the Section on Clinical Legal Education started doing a few years ago to much success. Awards can be good in terms of highlighting and drawing attention to innovations that are happening in legal education and technology. A lot of sections are doing programming in collaboration with a journal, so that the papers are all published as one collection.

We want people to write articles about the things they're doing in this area so that more people have access to it.

We might also think about new things to do. I'd like to identify the resources members want and then figure out how to make them accessible to as many people as possible.

Is there a long-term vision for what you would like the section to become?

I'd like the section to encourage law schools and professors to understand how technology is impacting the practice of law, to understand and figure out how to make students aware of these changes, and to help our students thrive in the new legal world. I also want it to help faculty learn about, think about, and facilitate innovation in terms of how to use technology to scale what we're doing while making teaching more effective and efficient.

A few years ago, I was involved in a group that realized there were a lot of people interested in this and we had to figure out a way to come together so everyone isn't doing the work on their own. I guess that's one of the goals here: to use AALS, this great base that everyone is a member of, to have a conversation about how to use tech most effectively in legal education in a way that promotes our goals. And our goals are to make our students as prepared as they can be for the practice of law. We as law professors need to understand how practices change so that we can best prepare our students. Ideally, the section could be a resource to make it easier for law schools to innovate in these areas so that every school and professor isn't working from scratch, but can build off the best practices of what other schools and professors are doing.

This is new to everyone, so if we can collaborate and share resources and ideas, I believe we can catapult what's going on at this very important time for legal education. Sometimes it's only one or two people at a school who are interested in this, and they might feel alone at their

institution. One purpose of this section, at the beginning, is to create a community of like-minded people to give them the support they need to move forward. Ideally, the section could be a resource to make it easier for law schools to innovate in these areas so that every school and professor isn't working from scratch, but can build off the best practices of what other schools and professors are doing.

The time is ripe and AALS is the perfect host, since they bring together everyone in the academy. Technology is something that impacts everyone in the legal academy. My vision for this section is that it becomes an advocate, a support network, and a resource for crowdsourcing so that we're thinking about it collectively, as a community.

SECTION ON CIVIL PROCEDURE

The Section on Civil Procedure promotes the communication of ideas, interests and activities among members of the section and makes recommendations on matters concerning civil procedure, including pleading, practice, jurisdiction, judgments, and federal courts.

What can you tell us about the membership of the Section on Civil Procedure?

Simona Grossi: The membership of the Section on Civil Procedure includes a broad spectrum of proceduralists from a wide variety of schools. Consistent with that membership profile, membership on the Executive Committee is equally eclectic, with new members rotating in on an annual basis. Our current Executive Committee is large, with eight members.

Ira Nathenson: We have a collegial group of folks who are active in our section, and our prime method of communication is through the "Civ Pro" listserv—it's a big section and the list itself is full of people talking about teaching issues, scholarship,

developments in law and policy, and recent important cases. One of the most wonderful things about it is the pleasant, collegial tone people have whether you're junior or senior. People are always willing to help out, pipe up, and lend a hand.

How do your section members interact and collaborate outside of the annual meeting?

SG: We are very participatory. There are discussions going on every day on the listserv, about teaching, scholarship, and sometimes practice. A discussion could be initiated by someone who is seeking advice on teaching, and anyone with an idea jumps in to help.

We do not typically use the list to market ourselves, our scholarship, or our own casebooks. We just use it to support each other.

IN: There's an unspoken norm against what we call "shameless self-promotion." People are hesitant to bring up their own work unless it's directly pertinent to a question that someone is already asking. As legal scholars, we have other venues through which to promote our scholarship.

In addition to scholarship and helping each other with teaching, our members are very active in trying to make better procedural law. The current rules drafting and rules amendment process seems (in my opinion) to be dominated by the defense bar and by corporate interests. You'll see people on our listserv, for example, circulating sign-on letters that will be sent to the advisory committee or draft amicus briefs for comments and signatures.

SG: In terms of other interactions: there is a University of Pennsylvania conference on class actions in November and another one at New York University in December. There seems to be a lot of interest right now in class actions. Since conferences are a great forum for discussion, they're attracting good scholars, and I think we can be confident they'll generate important ideas for reform.



Simona Grossi, Loyola Law School, Los Angeles, Chair

Photo courtesy of Loyola Law School, Los Angeles



Ira Steven Nathenson, St. Thomas University School of Law, Chair-Elect

Photo courtesy of St. Thomas University School of Law

What are the important conversations happening right now in legal education regarding civil procedure?

IN: We follow the U.S. Supreme Court, which started its term in October. As it grants review in cases or releases new opinions, it catalyzes our scholarship but also helps with our teaching—I love to see what other people have to say about a particular case. Other people will often see a new opinion differently than I do and that gets me rethinking how I view the law.

SG: There are two currently pending cases before the Supreme Court that are generating debate. One is dealing with the pleading standard, and the other is dealing with pleading and jurisdictional

standard under the Foreign Sovereign Immunities Act. I would say that the pleading standard continues to be a hot topic.

IN: The rules regarding pleading are the rules that govern gatekeeping to a system of civil justice. If you make it too hard to plead and to stay in the court, then you prevent people from getting discovery and redress for a possible wrongful injury that they have suffered. In recent years, the rules of pleading have tilted strongly toward narrowing those gates and making it harder to get through those doors and into the land of discovery. It's a huge topic that permeates a lot of our concerns. The broader issues of procedural justice are affected greatly by the Supreme Court's recent approaches to pleading. I find them very troubling, as do many of our colleagues.

SG: Along those lines, another topic of debate is the frontloading trend that has developed at the lower courts as well as the Supreme Court level. Essentially, the recent trend is to frontload the merits of the case to the outset of litigation. This trend is not reconcilable with the vision of the drafters of the Federal Rules of Civil Procedure in 1938. The procedural pre-conditions of the action to be satisfied are now more formal, more technical, harder to satisfy, and the analysis required at the pleading stage is something you would expect to meet after discovery. These problems are evident also in the class actions context.

IN: It's an important topic. And not just for scholars, but also for the public.

SG: Also, the new discovery rule amended last December provides a proportionality requirement. Basically, discovery should be proportional to the needs of the case and the amount at stake, and several other factors. This has generated discussion among the members of our section. Some of us argue that Rule 26(b) is now largely redundant with respect to Rule 1, and we wonder whether the amendment will generate new litigation on the scope and meaning of proportionality.

IN: It seems like the Supreme Court, in its decisions as well as the rulemaking process, which ultimately goes through the Supreme Court, is setting up more and more roadblocks to make it easier to get rid of cases early. As Simona pointed out, they do this by frontloading the merits of the case at the beginning of the case. Also, to reduce the cost of discovery or limit discovery so that cases might settle earlier and quicker. Again, that's very troubling.

“As teachers, we have to convey the idea that civil procedure is not about a rule and then another rule, or a topic and then another topic. As scholars, we have to do the same.”

– Simona Grossi

How can civil procedure teachers stay up to date as your subject area becomes more complex? How do you respond to that in your teaching?

SG: Personally, I continually think about teaching and how to approach the subject. Every year, I change my approach slightly to meet the new complexities, reforms, litigation, debate, and so on.

The challenge is that you're teaching first-year students. You don't want to overwhelm them. Civil procedure is a topic that seems extremely far from them when they enter law school. They've heard about torts somehow, they've heard about contracts, but civil procedure? Jurisdiction, venue, service of process? What is that? So you need to find the right balance between the evolving complexities and the need to communicate specific central ideas. That's challenging.

IN: Civil procedure is a more challenging course to teach than torts or contracts or property, and the reason is that it's different. Think of a tort like a course in recipes: one day you learn the recipe for battery, the next day you learn the recipe for negligence. You're learning the elements of various causes of action. Students can identify and connect with that because everyone has a basic understanding of what battery or negligence might be even if they've never studied it.

If a tort claim is like a recipe, then civil procedure is the language in which all the recipes are written, whether it's a recipe for contracts, torts, property, whatever. If you were a professor teaching French, you wouldn't expect your students to show up fluent on the first day of class. Equally so, experienced civil procedure teachers know their students are not going to be able to speak civil procedure in the first week or two.

Instead, they learn bits and pieces. We start tying it all together so that eventually students start to see the big picture. In fact, each year I do a comprehensive review of personal jurisdiction and I call it “Personal Jurisdiction Big Picture Day.” Students often comment that they don't see how it fits together until it's laid out for them as a comprehensive whole and they can see the parts fitting together.

SG: You cannot teach civil procedure topic by topic, as the subject articulates itself and fully expands itself through litigation from the beginning to the very end. The problem often is—and this doesn't get addressed as much as it should—that the reforms as well as the scholarship address each topic or view separately. Some recent reform movements—regarding Rules 23 and 26, for example—seem to be proceeding by treating the rules in question as separate from the rest. This is troublesome.

As teachers, we have to convey the idea that civil procedure is not about a rule and then another rule, or a topic and then another topic. As scholars, we have to do the same. We need to convey a

holistic vision. Send the message that to be effective, a reform itself, as well as scholarship, should have the unified, holistic vision.

IN: As scholars, one of our responsibilities is to be advocates for a better system of procedure. When we have Supreme Court justices who don't bother reading most legal scholarship because they find it to be useless, as scholars, we need to ask ourselves how we can produce scholarship that solves not just a particular isolated problem, but impacts the broader system of procedure with all the various values that underlie procedural justice.

What changes to law school curricula have you seen as a direct or indirect result of the work of this section? How has the study of civil procedure changed since you've been teaching it?

IN: There are several currents going in legal education that affect our jobs as civil procedure teachers.

First, civil procedure is now on the Multistate Bar Exam. Now we have to be cognizant of how our teaching is going to impact students' performance on the bar, which becomes all the more important considering that scores in many states seem to be plummeting and there is controversy regarding the MBE itself.

Along with that, law schools are now grappling with the ABA requirements for posting outcomes and for providing formative assessment. These are things that legal educators and scholars have been writing about quite a bit in the last couple of years. It seems to me, since civil procedure is so different from other courses, anything our section can do to work together to come up with better outcomes and assessment and teach our students in an era where civil procedure is finally on the bar exam, that can only be a good thing.

SG: On the issue of curricular reform, we think that procedure has been on the losing side of the battle for a number of

years, with unit value shrinking from six to five to four units at many law schools. Thus, at a time when the law of procedure has become increasingly complex, the coverage of procedure has sometimes become more simplified and less sophisticated. From the discussions I've had with colleagues who are enthusiastic and passionate about the subject, we feel that the four-unit formula is limiting.

IN: My opinion on four credit courses is wait and see. I agree that it's insufficient if that's all that's taught. What we're doing at my school to try to make sure students are getting everything they need is adding mandatory second and third year classes that fill in some of the gaps and repeat materials they learned in the first year.

The idea underlying this is that although a six-credit course has great benefits in terms of comprehensive coverage, the danger with a first-year course is that students will often have forgotten much of what they learned by the time they take the bar exam. I'm hopeful that having four credits will allow us to focus more on the basics of civil procedure and learning the legal process and analysis, then the students will get reinforcement in the second and third year.

In addition, we've been making a concerted effort as a faculty to come up with gap filler courses that would provide coverage on something that might not be covered in the first year, such as a course in complex litigation that covers class actions.

SG: This should make us reflect on the balance between coverage and essentials. You cannot possibly cover everything. The more you go into details of litigation, the more you run the risk of them forgetting the essentials. It is a problem, especially since Civil Procedure is now tested on the bar exam. But Civil Procedure is, beyond the bar, an important subject for their career after law school. Yet, it is disappearing. We have to find a way to cover some of the very important federal courts doctrines—which are indeed civil procedure doctrines—one way or another.

IN: Procedure itself has challenges not just because of the nature of the material but because it's an area of law that's changing all the time. There are additional challenges that have required innovation and improvements, which include the changing nature of JD students. Much has been written on the challenges of teaching millennials, who tend to be technologically savvy but may not have the critical thinking or reading development that might have been the case with students from 10 years ago. It's incumbent upon us as educators to come up with ways of reaching and helping these students.

I've begun using more active learning methods. Speaking for myself, I tend to do a lot more teaching than I did 10 years ago, and it's become less Socratic. I try to keep things rigorous, but in a friendly way that gets students to realize making a mistake is not a shortcoming but rather a learning opportunity. There are other methods as well, such as flipping the classroom: using online videos and materials for students to self-teach and then bringing that into the classroom.

I have established a website—nathenson.org—with hundreds of pages of problem sets, handouts, charts and tables, and study questions. It also features flow charts done with the innovative “Coggle” flowcharting platform (available at <http://coggle.it>), which allows users to zoom in and out of colorful flowcharts on complex subjects such as the Erie Doctrine and personal jurisdiction. In addition, I have a YouTube channel with over sixty Civil Procedure videos, including reviews, selected classes on key topics, and a number of “Khan Academy”-style videos where I use a tablet and stylus to mark up statutes and rules, diagram joinder scenarios, and analyze hypotheticals. Last time I checked, I had over 900,000 minutes of videos watched on my active and legacy YouTube channels.

I know there are folks at other schools doing the same things. Perhaps one of the things we can do as a section is continue our efforts to develop shared resources for teachers and students. We do maintain an exam bank within our section, but perhaps

there are ways to expand, even into things that are open to students at large to provide go-to places for learning civil procedure. Since legal education is changing so much and we as civil procedure teachers have so many additional, unique challenges, anything we can do to help each other can only be a good thing.

“..it would be wonderful to have something recognized by the outside world as a source or alternative view of procedure that stands up to the various stakeholders out there who aggressively pursue their own agendas.”

– Ira Nathenson

How does your section support the scholarship of your members?

SG: We do a call for papers. A paper will be selected each year for presentation at the Annual Meeting. Recognition of scholarship is done through other forums. Sometimes there are workshops that select papers for presentation, which is a form of recognition. There is, for instance, the very prestigious Yale/Stanford/Harvard Junior Faculty Forum that recognizes the scholarship of people in various disciplines.

IN: I think one of the strengths of our section is its total lack of focus on status. Anybody can speak up in the listserv and we'll all be happy and enthusiastic to help. We're here as a resource for each other; that's one of the main functions AALS serves. We're a hub. I'd be concerned that if we start naming the best scholars or the best paper, that politics and status would creep into the functioning of the group in a way that could adversely impact the good things about the group,

which is the collegiality and willingness of anyone to participate freely.

SG: It's very democratic.

What programming do you have in the works for the 2017 AALS Annual Meeting?

SG: Our session is on “The Roberts Court and the Federal Rules of Civil Procedure.” We selected this topic because it's a hot topic of debate—the way the Supreme Court has altered the rules by way of interpretation. The discussion will touch on a list of subtopics including interpretation, recurrent doctrinal themes, amendments to the rules, membership on the advisory committee, historical perspective on the rulemaking process, and pending decisions and future outlook. The selection of the panelists was determined by those topics. The speakers are very diverse and we're expecting a lively debate.

We also have our call for papers on the same theme, and we're planning—because the panel already has six speakers and me as the moderator—to invite the selected author or authors to present the paper at our breakfast session. That will be a further opportunity to discuss the topic and subtopics.

What is your vision for the section, this year and in the years to come? What new initiatives, project-based or ongoing, would you like to see as part of the section now or in the future?

SG: My sense is that there hasn't been enough debate on the theories that underlie the specific issues and hot topics that we've been talking about. The theory of pleading, of class action, of discovery. The scholarship addressing these topics often does not make an effort to develop the underlying theories. My hope is that sometimes in the near future the AALS meeting will address the topic of the missing theories of civil procedure. My hope is that there will be some space to discuss these issues next year, because it is very important.

IN: We do lack any big-picture consideration of why the law is the way it is. I tell my students that you really can't understand the law until you understand why the law is the way it is. Now, it seems like a lot of laws are being changed with, perhaps, some sort of political or economic agenda but without any consideration as to how it affects the other rules or the underlying theoretical foundation of why that rule even exists in the first place. This is a topic well worth considering in detail.

My personal starting point for thinking about the future is often how can we be better educators. What are the challenges facing us as civil procedure teachers in an era when we're on the bar exam, with limited resources, and new kinds of students?

Speaking more broadly about the legacy of the section, I wonder if there's something we can build as a section that can be self-sustaining—whether it be expanded online resources or something that builds outside the section such as blogs and websites that benefit teachers and our students by providing useful information and learning tools.

It could be aimed toward the broader legal community, as well. I'm reminded of how many judges go to training sessions on how to do the rules of procedure, but you don't see judges interacting with procedural scholars. Perhaps this is optimistic, but it would be wonderful to have something recognized by the outside world as a source or alternative view of procedure that stands up to the various stakeholders out there who aggressively pursue their own agendas.

These are lofty goals, but interesting ideas. Our decision-making is a collaborative, deliberative process within our section, so the program for next year's meeting is very much yet to be determined. Getting from here to there is a big journey.



The logo for the 111th Annual Meeting, featuring the number '111' in a large, stylized, yellow font with a blue outline, and the words 'th ANNUAL MEETING' in a smaller, blue, sans-serif font below it. The background of the entire page is a photograph of a city skyline at night, with illuminated buildings and a bridge structure in the foreground.

WHY LAW MATTERS

SAN FRANCISCO, CA | JANUARY 3-7, 2017

Hot Topic Programs Selected for 2017 Annual Meeting

Hot topic programs at the AALS Annual Meeting highlight important and timely topics on some of society's most pressing legal issues. These programs were selected by the Program Committee for the AALS 2017 Annual Meeting from proposals submitted by law school faculty.

The Securities and Exchange Commission and Sustainability Disclosure

Wednesday, January 4
10:30 am - 12:15 pm

The SEC recently (and for the first time) sought guidance on whether it should require more disclosure on environmental, social, and governance facts. They received an outpouring of comments. Clearer, more standardized disclosure on companies' taxes, political contributions, effects on and efforts to avoid climate change, human capital investments, and the human rights effects of company activities around the world received support from a wide range of entities, even some members of Congress and other government agencies such as the Environmental Protection Agency. In contrast, a number of issuers (trade associations such as the U.S. Chamber of Commerce, law firms, and some Attorneys General) wrote in opposition to greater sustainability disclosure, calling it "special interest disclosure."

This panel will examine sustainability of the SEC's Concept Release. Examination is particularly apt in light of: the stalled petition to the SEC from leading law professors in 2011 asking it to promulgate rules to require disclosure of companies' political donations, which has generated over 700,000 signatures in support; and the academic and policy controversies over Dodd-Frank's Conflict Minerals and "Publish What You Pay" provisions, which directed the SEC to promulgate required disclosure requirements on international accountability topics.

Declining Bar Exam Scores, the New Bar Pass Accreditation Standard, and Ensuring New Lawyer Competence: A Perfect Storm

Wednesday, January 4
1:30 pm - 3:15 pm

By January, the ABA Council is likely to have voted to adopt a new, more demanding accreditation standard on bar pass rates for law school graduates. This change comes at a time of significant declines in pass rates over the past four administrations of the Multistate Bar Exam, and places increased pressures on law schools with respect to admissions decisions and bar preparation.

At the same time, some jurisdictions are adding or considering adding experiential curricular preconditions for licensure, more stringent than the six-unit experiential requirement already added by the ABA. These new state licensing requirements reflect a judgment that the public needs better protection than currently offered by bar exam passage, and they highlight the tension between what students need to learn in order to be competent lawyers and what students need to learn to achieve a passing MBE score.

This interactive roundtable session will engage participants in a discussion of three critical questions: How should law schools and legal educators respond to the reality of a new bar pass accreditation standard and declining bar exam scores? Is the current bar exam a reasonable measure of new lawyer competence? Can we envision—and move toward creating—a more accurate measure in order to better protect the public?

Federal Power Over Immigration

Thursday, January 5

8:30 am - 10:15 am

The Supreme Court's divided 4-4 ruling in *United States v. Texas* and Republican presidential nominee Donald Trump's advocacy of severe restrictions have focused public attention on federal power over immigration. This panel will consider both the specific issues raised in the case and the broader issues at stake in the debate over immigration law and the Constitution.

Some of the panelists will address the specific issues raised by *United States v. Texas*, including whether the president has discretionary authority under the Constitution and federal statutory law to systematically defer deportation of large categories of undocumented immigrants. Other panelists will address questions related to the scope of federal power over immigration law. These include whether the "plenary power" doctrine is consistent with the text and original meaning of the Constitution, and whether the Court should impose limits on that doctrine.

The panel will include a diverse range of perspectives on these questions.

New Frontiers in Reproductive Rights and Justice

Friday, January 6

8:30 am - 10:15 am

This panel will address recent developments and new frontiers in the law and constitutional politics of reproductive rights. The discussion will span a number of reproductive justice questions, with an eye to how the outcome of the Presidential election and a new member of the Supreme Court might impact both law and politics.

Several important cases from the last Supreme Court Term provide a natural frame for this discussion. *Whole Woman's Health v. Hellerstedt* stands as easily the most important abortion case in a generation, meriting discussion from a number of angles. The Court in *Zubik v. Burwell* avoided resolving a claim of religious objection to contraceptive coverage, instead remanding the case to the lower courts after post-argument briefing. The ongoing saga in the lower courts is a reminder that important questions about religious objections to laws regarding contraception and reproduction remain entirely unanswered at the Supreme Court, and are likely to turn on the views of the next justice.

The panel will also cover related bodies of law, including the treatment of pregnancy in the workplace and the Supreme Court's 2015 decision in *Young v. UPS*.



Hot Topic program "Beyond Michael Brown and Ferguson, Effective Responses to Police Force" from the 2015 AALS Annual Meeting

The *Juliana v. United States* Atmospheric Trust Litigation: Will the Children Save the Planet?

Saturday, January 7

8:30 am - 10:15 am

On August 12, 2015, panelist Julia Olson filed *Juliana v. United States* in the U.S. District Court for the District of Oregon. This case has progressed into what may become a landmark constitutional case on climate change. The plaintiffs—21 young individuals from across the United States who were between the ages of 8 and 19 when the suit was filed—assert that the federal government has known that carbon dioxide pollution has been causing catastrophic climate change for decades and has failed to take necessary action to curtail such emissions. By promoting the use and development of fossil fuels that cause climate change, plaintiffs contend that the federal government has unconstitutionally violated their substantive due process rights to life, liberty, and property. The plaintiffs also assert that the federal government has failed to protect essential public trust resources.

The federal government moved to dismiss all claims and organizations representing various entities in the coal, oil, and gas industries, which had moved to intervene in the action, moved to dismiss the amended complaint. On April 8, 2016, both motions to dismiss were denied. On September 13, 2016, Judge Ann Aiken, Chief Judge for the United States District Court for the District of Oregon, heard oral arguments. Judge Aiken's questions and comments during oral argument hint at a strong possibility that this case will proceed.

This panel will examine the arguments regarding the plaintiffs' constitutional and public trust claims, as well as the reasons this approach to climate mitigation became necessary and the potential impact of this groundbreaking case.



Journal of Legal Education

The *Journal of Legal Education (JLE)* addresses issues of importance to legal educators, including curriculum development, teaching methods, and scholarship. Published since 1948, it is an outlet for emerging areas of scholarship and teaching. The journal is now under the editorial leadership of Northeastern University School of Law and the University of Washington School of Law. Last year, AALS launched a new website for the *JLE* at aals.org/jle. The site includes subscription, submission, and copyright information, and serves as a repository for current and past issues of the journal.

The *JLE* released its Autumn issue this month. This issue includes research and analysis on “The Future of Legal Scholarship.” Articles include:

- “The Contested Value of Normative Legal Scholarship” by Robin West
- “The End(s) of Legal Education” by Frank H. Wu
- “Criminal Justice for All” by Deborah Tuerkheimer
- “Why We Are All Jurisprudes (or, at Least, Should Be)” by Michelle Madden Dempsey
- “What Remains “Real” About the Law and Literature Movement?: A Global Appraisal” by Richard Weisberg
- “Is There a Future for Critical Race Theory?” by Adrien K. Wing
- “Thinking in the Box in Legal Scholarship: The Good Samaritan and Internet Libel” by Benjamin C. Zipursky
- “Notes from the Border: Writing Across the Administrative Law/Financial Regulation Divide” by Robert B. Ahdieh
- “The Future of Empirical Legal Scholarship: Where Might We Go from Here?” by Kathryn Zeiler
- “Population-Based Legal Analysis: Bridging the Interdisciplinary Chasm Through Public Health in Law” by Wendy E. Parmet



The Autumn issue also features two research articles: “Writing the Short Paper” by Andrew Jensen Kerr, and “Suffering in Silence: The Survey of Law Student Well-Being and the Reluctance of Law Students to Seek Help for Substance Use and Mental Health Concerns” by Jerome M. Organ, David B. Jaffe, and Katherine M. Bender.

The “Review Essay: Christopher Columbus Langdell and the Public Law Curriculum” by Peter L. Strauss and Michael C. Dorf’s “Book Review of ‘Divergent Paths: The Academy and the Judiciary’ by Richard A. Posner” (with a response from Judge Posner) round out the issue.

Articles in this issue may be downloaded individually from jle.aals.org.



AALS Remembers Dan Bernstine

President of the Law School Admission Council and longtime leader in legal education passed away this fall

AALS remembers and honors the contributions of the late Dan Bernstine to legal education and the legal field.

Bernstine earned a BA at the University of California, Berkeley; a JD at Northwestern University School of Law; and an LL.M. at the University of Wisconsin Law School.

He led the Law School Admission Council as President since 2007, and had spent three decades in legal education prior to accepting that role.

Before joining LSAC, Bernstine served as president of Portland State University in Portland, Oregon for 10 years. He was also the dean of University of Wisconsin Law School and professor and interim dean at Howard University School of Law. He was general counsel at Howard University and Howard University Hospital. He was the William H. Hastie Teaching Fellow at Wisconsin and a staff attorney for the U.S. Department of Labor early in his career. He had been a visiting professor and lecturer all over the world, including Taiwan, Germany, and Cuba.

Bernstine was awarded the Michael P. Malone International Leadership Award in recognition of his work in internationalization in higher education and was a recipient of the International Citizen Award by the Oregon Consular Corps. He received numerous honorary degrees from universities internationally, including programs in the Russian Federation, Japan, Korea, and Peru. He coauthored legal textbooks and contributed articles to journals, among them *Wisconsin Environmental Law Journal*, *The Bar Examiner*, the *Wisconsin Law Review*, *Black Law Journal*, and *Villanova Law Review*.

Bernstine's involvement with AALS spanned several decades, most notable are his tenures as Chair of the Nominating Committee and the Committee on Accreditation in the mid-1990s.



Photo courtesy of Law School Admission Council

He leaves behind a legacy that will greatly enhance the future of U.S. legal education. AALS President Kellye Y. Testy said “Dan’s consistent leadership over decades opened countless doors for so many. He is one of the true giants of higher education and our profession.”

AALS Past President Blake D. Morant called Bernstine’s commitment to diversifying legal education and the legal profession one of his greatest contributions. “This is a huge loss for American legal education,” he said to *The National Law Journal*. “This is a person who has been a vanguard of legal education for many years.”

“Dan Bernstine was a wonderful person,” said AALS President-Elect Paul Marcus. “So many of us are truly in shock, it is difficult to imagine U.S. legal education today without him. Dan and I were friends for many years. He was a mentor, a wise counsel. I—and many others—shall miss him terribly.”

AALS Executive Director Judy Areen told *The National Law Journal* that “He exemplified very understated leadership... He didn’t need to be in the spotlight, but he was always working on his passion, which was building a more diverse legal profession.”



AALS Calendar

2017

Annual Meeting

Tuesday, January 3 – Saturday, January 7
San Francisco, CA

Conference on Clinical Legal Education

Friday, May 5 – Tuesday, May 9
Denver, CO

Workshop for New Law School Teachers

Thursday, June 22 – Saturday, June 24
Washington, DC

Faculty Recruitment Conference

Thursday, November 2 – Saturday, November 4
Washington, DC

2018

Annual Meeting

Wednesday, January 3 – Saturday, January 6
San Diego, CA

Conference on Clinical Legal Education

Sunday, April 29 – Wednesday, May 2
Austin, TX

Workshop for New Law School Teachers

Thursday, June 7 – Saturday, June 9
Washington, DC

Faculty Recruitment Conference

Thursday, October 11 – Saturday, October 13
Washington, DC

2019

Annual Meeting

Wednesday, January 2 – Sunday, January 6
New Orleans, LA



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