

# LEX | BREVIS

WESTERN NEW ENGLAND UNIVERSITY SCHOOL OF LAW

**“You want to be self-critical  
and honest with yourself.**

**You want to be constantly  
learning and improving.”**

**— Judge Ferrara**

# IN THE NEWS

Congratulations to our own Tasha Marshall '15, for receiving the National Lawyers Guild Massachusetts Chapter *Student of the Year Award*. Tasha will be among a small group of recipients honored by the National Lawyers Guild Massachusetts Chapter at the 2016 Testimonial Dinner on May 13, 2016 held at the Dante Alighieri Cultural Center in Cambridge, MA. Tasha spearheaded many progressive and anti-racism projects during her time in Law School.

As a student, Tasha served as President of the law school's chapter of National Lawyers Guild; Vice-President of the Law School's Black Law Student's Association, volunteered at the Committee for Public Counsel (CPCS) and is a Staff Writer for *Lex Brevis* among other things.



Congratulations to the Western New England University School of Law Transactional Law Meet Team -- Semi-finalists in the Mid-Atlantic Region. Katy Trogdan, Kristin Goodchild and Rachna Khanna competed in this "moot court for deal lawyers" in Philadelphia. Thanks also to Kelvin Thomas '14 and Tatenda Chitemerere '15 who helped to coach the Team. Professor Reich-Graefe and Dan McKellick, '14 also helped in the preparation, and Professor Statchen served as a judge in our regional round.

This year, teams negotiated a merger of two emerging technology companies. The drafting stage took place over two months, with students drafting term sheets, interviewing their clients, and marking up opposing teams' drafts. The regional portion of the competition culminated with live negotiations on Friday, February 26, 2016.

Partners from some of the leading law firms in the country, corporate general counsels, and other senior practitioners served as judges for the Law Meets held around the country. The finalists from the Mid-Atlantic region were the University of Virginia and the University of Richmond. Western New England and Villanova were the semi-finalists.



# LEX | BREVIS

MARCH 2016 ISSUE 7 VOLUME 43

Memorial Bridge in Springfield, MA  
By John Phelan - Own work, CC BY 3.0

## 1 | HEALTH POLICY

Where Public Health Meets  
Law

## 3 | NEGOTIATION MOOT COURT

## 5 | ANNUAL BASKET- BALL TOURNAMENT 41st Annual Competition

## 7 | NUTS & BOLTS

## 8 | HOUSING LAW

A look at Seattle's proposed  
legislation for affordable housing

## 11 | LEX RELAX

## 17 | ROVING

REPORTER



## 13

### Spotlight On: Judge John Ferrara

Hampden County Superior Court Judge

## 15

### Alumni Profile

Katrina Victoria Anop, Esq.

Class of 2011

We, at Lex Brevis, are always looking for ways to improve. We would love to hear any feedback so we can work on making next year's issues better. Please email Amara at [LexBrevis@gmail.com](mailto:LexBrevis@gmail.com)



Most health policies originate through a rigorous and objective assessment of data that is then implemented and enforced by various government agencies. Some of these implementing agencies are found within the Department of Health and Human Services (HHS) (similar to the CDC) or in non-profit organizations. But before this can happen, suggestions collected from the data first make their way to Congress, where they are voted on to become laws or regulations that are to be implemented or enforced.<sup>5</sup>

Now, going back to the HHS, it plays a role in health policy and is a part of the executive branch of the President's cabinet. This agency has twenty-five sub agencies that include the CDC, CMS (Centers for Medicare and Medicaid Services), and AHRQ (Agency for Healthcare Research and Quality) just to name a few.<sup>6</sup> These agencies are designed to strengthen the healthcare system, advance safety and scientific knowledge in the healthcare arena, as well as promote effectiveness.<sup>6</sup> A great example of a major health care policy that was recently implemented in 2010, is the controversial ACA (Affordable Care Act), originated by President Barack Obama. However, do keep in mind that, as with the ACA, not everyone will be benefited or will agree with all implemented or enforced health policies despite the benefit to others.

In conclusion, health policies are forever changing as society evolves and becomes more modernized. For now, what we can say is that the future is uncertain within the field of health policy, particularly for the ACA because as this new election approaches, no one knows whether the new President will expand, undo, or try to repeal the ACA or any other forms of

health policies. One thing is definite, November looms large for the area of health policy.

## CITATIONS

- <sup>1</sup> World Health Organization (W.H.O). Public Health. 2016. <http://www.who.int/trade/glossary/story076/en/>
- <sup>2</sup> University of South Florida, Health (USF). College of Public Health. 2015. [http://health.usf.edu/publichealth/programs\\_offered.html](http://health.usf.edu/publichealth/programs_offered.html)
- <sup>3</sup> World Health Organization, (W.H.O). Health Policy. 2016. [http://www.who.int/topics/health\\_policy/en/](http://www.who.int/topics/health_policy/en/)
- <sup>4</sup> The Free Dictionary. Health Policy. 2016. <https://docs.google.com/document/d/1QDryMlhxfG9OujmL1F52OQC8Saulyh0yXnlbnrvZs/edit>
- <sup>5</sup> The National Academic Press. Society's choice: Social and Ethical Decision Making in Biomedicine. (1995).pg 336. <http://www.nap.edu/read/4771/chapter/17>
- <sup>6</sup> HHS.gov. U.S. Department of Health Human Services. 2016. <http://www.hhs.gov/about/agencies/orgchart/index.html>

# More Exciting than a Chargers Game

A Recap of the ABA Law Student Division Negotiation Competition Finals Weekend in San Diego, California

by **MATTHEW MINNIEFIELD**

LEX BREVIS Guest Writer

Matthew.Minniefield@wne.edu

From February 3-6, 2016, Negotiation Moot Court Team Members Emily Dubuc and Chris Rousseau, Faculty Advisor and Coach Professor Reich-Graefe, and myself (as Student Coach) traveled to San Diego, California, for the ABA Law Student Division Negotiation Competition National Finals. Emily and Chris had secured their spot in the competition last semester with a stellar performance in the regional competition hosted by Western New England University School of Law. After a bit of air travel chaos (one of the flights was delayed over six hours), the team landed on the west coast ready for action.



Chris Rousseau, 3L; Emily Dubuc, 3L; Professor Reich-Graefe, Matthew Minniefield, 3L

## A GENERAL OUTLINE OF THE COMPETITION

For those of you unaware of how the Negotiation Moot Court competition works, here is a brief outline of what occurs: Two teams of two members ultimately “compete” against one another in front of a panel of at least three judges (though, in certain situations of conflict, there may be less). A set of general facts is distributed to each team containing anywhere from 3-10 pages of common knowledge of the situation to be known by both parties. Each team is also given a 1-3 page set of “confidential” facts known

only to them, their coaches/advisors, and the other participants who are representing the same side. Of course, no conversation or communication is allowed between teams regarding any of the facts. The actual “competing” portion consists of a 50-minute round wherein each team is allowed to take one five-minute break. During this time, the teams attempt to come to a long-term resolution whereby the clients of both sides walk away from the deal somewhat happy (and, consequently, somewhat upset). Following the ne-

gotiations, each team prepares a 10-minute self-analysis whereby they must answer two questions, among other strategies the teams employed during the negotiations (more on that later). The two questions are: (1) “In reflecting on the entire negotiation, if you faced a similar situation tomorrow, what would you do the same and what would you do differently;” and (2) “How well did your strategy work in relation to the outcome?” Teams should also expect the judges to ask questions during this portion of the competition,

though that is not a necessity.

Each set of judges will see two rounds of negotiations and rank the four teams in order, one being the best and four being the worse.

At the end of the round, the team with the lowest cumulative score wins.

## THE NATIONAL COMPETITION

The National Competition invited 20 teams from across the United States and Canada. The first day consisted of two rounds of negotiations for every team based on problem sets that had been distributed well in advance. Therefore, each team came to the negotiation table with a strong sense of the facts and strategies.

## THE QUARTER-FINALS

After a long night of preparing each problem and multiple practice negotiation rounds between the competitors and coaches, the law school's team was ready to shine. Emily and Chris faced off against competitors from University of California – Davis School of Law and University of Illinois College of Law on the first day. Both negotiations lasted close to the full 50-minute allotted time, and in both sets of negotiations the competitors came to an agreement. Not surprisingly, the minimum allowable by the clients on one side was often times the maximum allowable by the clients on the other. This is where the negotiations will ultimately end up, but it is how the team utilizes an

effective strategy in getting there that matters to the judges.

As is often stated by our faculty advisor and coach, Professor Reich-Graefe, the competition is won and lost in the self-analysis. Chris and Emily employed a back and forth approach wherein both competitors discuss certain strategies that the team implemented and how it worked for them. This answers the two questions stated above without sounding boring or scripted.

At the receptions dinner where Chris and Emily received their award for being a Regional Finalist, it was announced that they had placed eighth in the quarter-finals and would advance to the semi-final round of 16 the following morning. The confidential facts of the semi-final round were distributed, and the team took a quick break before re-grouping and spending the night preparing for the following day.

## THE SEMI-FINALS

Since the confidential information for the semi-final round is not distributed until the teams whom are participating are announced, time becomes extremely precious at this point. The four of us worked on the problem for hours on end until no more could be done. Chris and I took a quick trip to In-N-Out Burger for good measure before getting some sleep.

The semi-final round follows a 16 team bracket format, distributing four teams to each section. A set of

judges will watch the four teams in its respective section of the bracket compete, and determine the winners in a similar fashion as before. Therefore, to advance to the final, a team must finish first in their respective section of the bracket. In the semi-final round, Emily and Chris went up against competitors from Texas Tech University School of Law. After the negotiations were over, the team immediately started preparing for the finals. The timing here is extremely important: a team will be notified of advancing to the final round during lunch between 12:30 and 2:00 where they will receive the confidential facts of their respective client. The final round starts a mere 30 minutes later. Therefore, it was essential to prepare for the final round based on speculation of what might be in the confidential facts before finding out if the team actually made it to the final round. Ultimately, Emily and Chris finished tenth in the nation out of 199 teams that started the negotiation competition. Not bad for a small school tucked in western Massachusetts.

# Duke Men, Syracuse Women Champions of 41st Annual Invitational Basketball Tournament

by STEVE LAMONICA  
LEX BREVIS Guest Writer

Matthew.Minniefield@wne.edu

Springfield, Mass. – 20 Men's and four women's teams from 15 law schools across the northeast and eastern seaboard descended on the Alumni Healthful Living Center on the Western New England University campus over the weekend of February, 19-21, 2016 to play in the 41<sup>st</sup> Annual Invitational Basketball Tournament, hosted by the School of Law's Student Bar Association's Athletics Committee. On the men's side, Duke Law beat Pace Law Alum to win the championship in their first ever appearance in the tournament. Duke Law was the second straight first-time team to win the tournament; Rutgers Law won in their first appearance last year. On the women's side, Syracuse Law upset the defending champions from Suffolk Law.

The Western New England University School of Law teams were much more competitive than last year. On the men's side, the law school had two law student teams and an alumni team. The law school's Blue went 3-1 in the preliminary rounds to earn the 8 seed in the 8-team playoff on Sunday. The law school's Blue then lost to top seeded and eventual champion Duke Law. The law school's Gold had a ruthless schedule and fought hard despite not being able to come up with a win in the preliminary round. The law school's Alumni went 2-2 but were unfortunately eliminated before the playoff on Sunday.

On the women's side, the law school's Women went 1-2 in the preliminary round after not winning a game the last two years and earned the 3 seed in the 4-team women's playoff. Unfortunately, the law school's Women lost to eventual champion Syracuse Women in the semifinals of Sunday's playoff.

In addition to playing basketball all weekend, the social events at Paddy's on Friday night and Smith's on Saturday night were great successes. Many of the teams came out to one or both of the events and all had a lot of fun socializing with new and old friends.

As usual, the SBA Athletics Committee did a fantastic job in running the Tournament. Chair Alex Mazzella and his Committee, which included Jeremy St. Laurent, Mike Wysocki, Jaime Kruse, Arielle Aikens, Paul Stabile, and Phil McPhearson did a tremendous job in pulling all of the various moving parts together and ensuring this completely student run tournament succeeded for the 41<sup>st</sup> straight year.

Overall, the 41st Annual Tournament was another great success. All of the players had an exhilarating time competing and bonding not only with their fellow classmates/teammates but also with all of the competitors. That bonding and relationship building is what makes this tournament unique, there really is nothing like it.



Pictures taken by Natasha Doorn at the WNEU Law Women against Syracuse Law Women game.



# Student Organization Spotlight

## BLACK LAW STUDENT ASSOCIATION

E-board: Jennifer Obodo, 3L (President);  
Adwoa Nkrumah, 3L (Vice President);  
Jade Thornton, 2L (Treasurer);  
Pascale Jean-Gilles, 1L (Secretary)



*BLSA members at the What Not To Wear/Do Etiquette & Fashion Show on November 11, 2015.*

*Front row (left to right): Eulalia Sullivan, 1L; Tiffany Marrow, 1L; Jaime Kruse, 2L; Marketia Wright, 1L; Karina Ramos, 2L; Adwoa Nkrumah, 3L*

*Back row (left to right): Jennifer Obodo, 3L; Shannon Kennedy, 1L; Sophia Castillo, 1L; Sarita Manigat, 1L; Richard Embden, 3L; Josue Petion, 1L; Pascale Jean-Gilles, 1L; Paulette Eze, 2L; Jade Thornton, 2L; Tasha Marshall, 3L*

Black Law Student Association (BLSA) is a community of students and faculty dedicated to the advancement of diversity within the legal community. The organization's mission is to articulate and to promote the educational, professional, political, and social needs and goals of black law students; influence the legal community by bringing about meaningful legal and political change that addresses the needs and concerns of the black community; and foster and encourage professional competence.

In furtherance of its mission, BLSA's theme for the 2015-2016 academic year is Black Excellence, which focuses on mentor relationships, professional development, and academic achievement. On November 11, 2015, BLSA held a What Not To Wear/Do Etiquette & Fashion Show, where law students modeled outfits that showcased the do's and don'ts of professional wear. Students gained tips on professional etiquette and how to put their best foot forward at professional events.

This spring semester, BLSA will have a professional photo day at which law students and faculty may update their professional headshots for publications or social media platforms. BLSA has also recently launched the BLSA Mentorship Program where students will be matched with local attorneys based on similar backgrounds and interests in practice areas. The Program seeks to build relationships that help foster professionalism, personal development, leadership skills, and insight into career options within particular areas of law.

BLSA also provides a Summer Scholarship Program for active members. The organization fundraises to award scholarships to active BLSA members who will secure summer internship placement with a nonprofit agency or entity. One fundraiser BLSA holds is its annual law apparel sale that will include new and exciting designs for spring.

WNE BLSA holds regular meetings throughout the semester and is open to all students. The organization welcomes diversity and encourages anyone interested in BLSA events to attend.

## The “Grand Bargain”

A Message that Seattle Considers Social Justice Policies Just As Important as Economic Policies



by **LILYA RORABACK**  
LEX BREVIS Staff Writer

Lilya.Roraback@wne.edu

---

In response to Seattle’s unprecedented growth and rising cost of living, Seattle Mayor Edward Murray and Councilmember Mike O’Brien introduced legislation that targets the creation of affordable housing throughout Seattle. The city council passed an ordinance approving the Mayor’s “grand bargain” legislation in November of 2015.

---

### WHAT IS THE “GRAND BARGAIN?”

In September of 2014, Mayor Murray and the City Council called together lawyers, philanthropists, renters and homeowners, for-profit and non-profit developers, and other local housing experts, to form an advisory committee called the Housing Affordability and Livability Advisory Committee (HALA). HALA identifies policy concerns and develops recommendations pertaining to housing affordability, efficiency and other areas of land use and planning, for the Mayor and the Seattle City Council.

One of HALA’s recent recommendations was a mandate that affordable units be included in new residential developments and that commercial developments contribute fees towards affordable housing. In return these developments are provided associated upzone or floor area ratio (FAR) increases (See Illustration on next page).

Following HALA’s recommendations, Mayor Murray and Councilmember O’Brien introduced legislation to build new affordable housing. There are two major components to the “Grand Bargain.” The first requires commercial developers to pay a mitigation fee that will fund construction of new affordable housing. A fee of \$5-\$17 per square foot, based on the size and location of the commercial development, is paid into the Affordable Housing Impact Mitigation Program (AHIMP).

## Housing Seattle



### Commercial Linkage Fee (housing impact mitigation)

- New commercial development pays a mitigation fee by the square foot (\$5 - \$17), or provides an equivalent amount of affordable housing on or off site.
- The amount of allowed commercial development is increased by about 1 Floor Area Ratio (FAR).
- Affordable housing mitigation is required for all commercial development on the site.

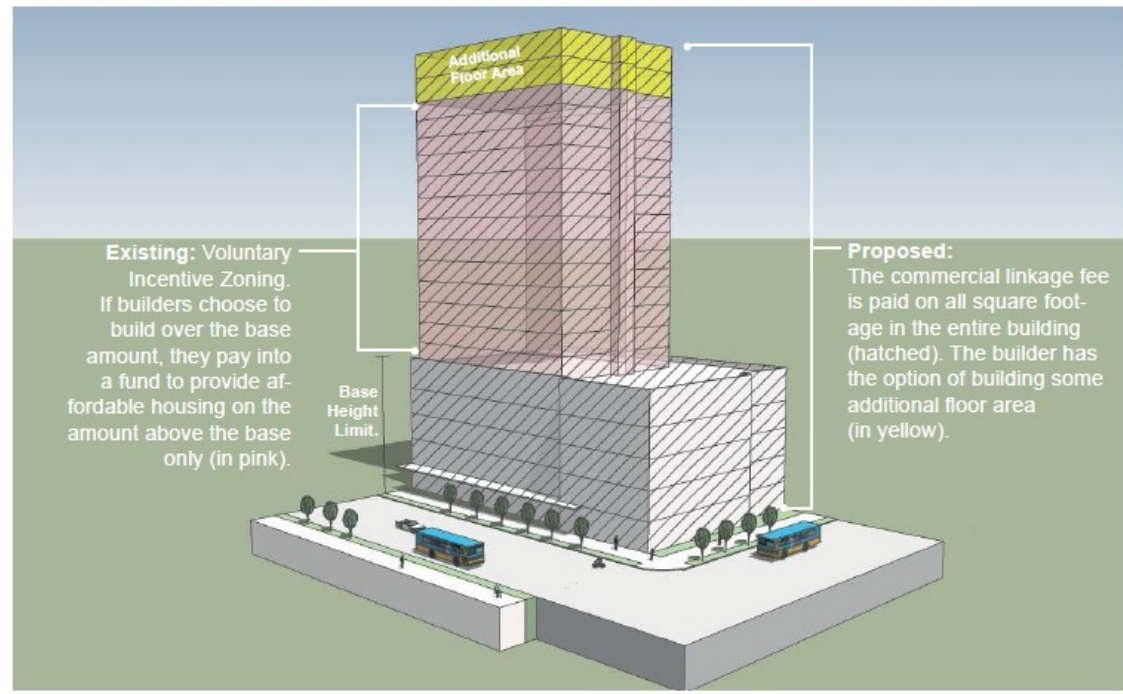


Illustration credit: murray.seattle.gov

The second component of the Grand Bargain calls for Mandatory Inclusionary Housing (MIH), meaning that residential—multifamily and mixed use—developers across the city will be required to include affordable housing in their plans.

MIH requires that multifamily developments dedicate five to eight percent of units for residents earning up to 60% of the Area Median Income (AMI) for a duration of 50 years. In 2015, 60% of AMI was \$37,680 for an individual and \$53,760 for a family of four. As an alternative to on-site affordable housing, developers have the option to pay fees into an affordable housing fund. Additionally, in exchange for these new restrictions being placed upon developers, new developments in the downtown area will be allowed an extra 1,000 square feet per floor. New buildings outside of downtown will be allowed one additional story in height.

# Housing Seattle



## Mandatory Inclusionary Housing

- About one additional story is allowed.
- The building must provide affordable housing or pay into a fund.
- 5% - 8% of housing is reserved as affordable for low income households.
- Affordable housing is required, whether or not the extra story is built.

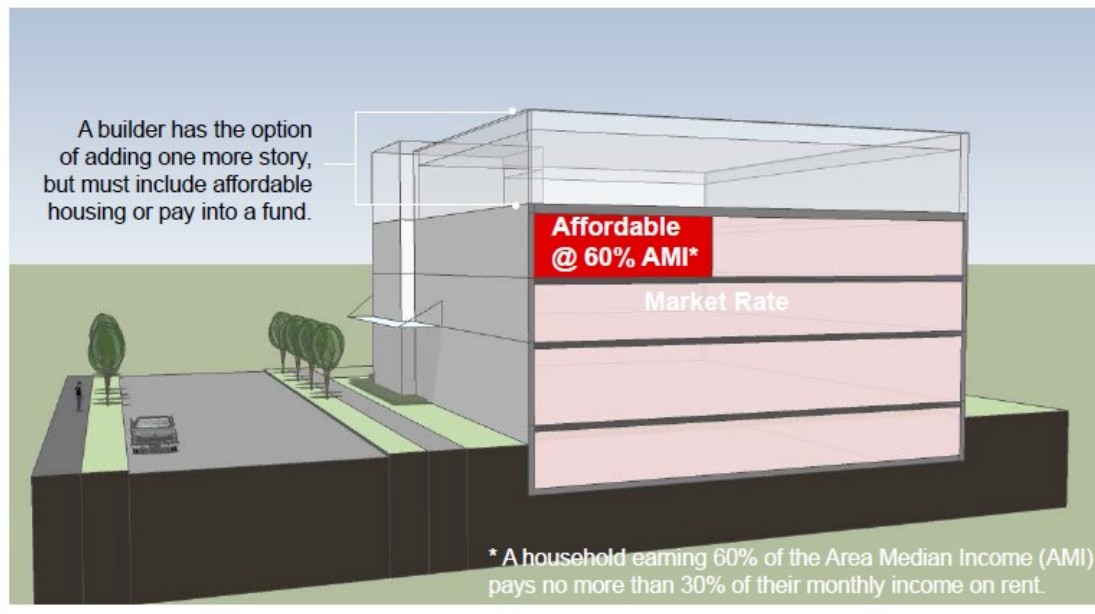


Illustration credit: murray.seattle.gov

The Grand Bargain is a tool for simultaneously promoting economic growth and social justice, by requiring residential and commercial developers to dedicate a portion of their projects to affordable housing. Downtown development has contributed fees toward the production of affordable housing in Seattle for years through the City's Incentive Zoning Program, but this is a step up for developers and for the City. The Grand Bargain will be phased in over several years, and after it is fully implemented, it should create 6,000 affordable homes over a 10-year period.

There are two sides of the story as to whether or not the Great Bargain is a good idea. One Seattle caregiver, and supporter of the Grand Bargain, claimed that he provides care for Seattle patients but cannot afford to live in the City. The worker revealed that the average rent in Seattle is \$1700 for a one-bedroom apartment. He believes this legislation will increase housing affordability for people like himself.

The downside is that, with upzoning—and allowing for an additional story to be built in exchange for inclusionary housing—comes a changing environment for people who purchased land in Low Rise 3 zones. There are many frustrated single-family homeowners who are against this type of growth in their neighborhoods, and the prospects of rezoning.

Hopefully the City Council did a thorough review of the petitions against upzoning, and came to the appropriate non-manipulated decision. It's true that a city doesn't get to be frozen in time for perpetuity and more growth must be supported. However, with a rapid increase in population in the city, there will likely be unaccounted-for consequences.

### Federal Income Tax Inspired Word Scramble

Follow the law of federal income tax and unscramble these words!

1. GSRSO INCEOM \_\_\_\_\_
2. FREGIN EISBFENT \_\_\_\_\_
3. NITUAYN \_\_\_\_\_
4. LFAEDRER \_\_\_\_\_
5. IFAR MTEARK UEVLA \_\_\_\_\_
6. GSCEIDARH FO DDEISSNBTENE \_\_\_\_\_
7. NZAARILIOET FO LSOS \_\_\_\_\_
8. ITGSF \_\_\_\_\_
9. NSIDTUCODE \_\_\_\_\_
10. ISSBSNUE AND OAESNPLR \_\_\_\_\_  
SENEPXSE \_\_\_\_\_

### It's Not A Crime to Work on this Word Search

W G I Z I C D F M H R S U E R S U T C A  
 A K X U R X E K T Z F E N O O H Q L D X  
 L G P R O V O C A T I O N F S M V R L Q  
 F N A M Y G T N E T N I C I F I C E P S  
 O I U S Q V R T N E M H S I N U P K F F  
 E T X M V I L F T N O I T U B I R T E R  
 K T Y A E N O P X T V Z Z B Y L H S L V  
 A E C N G O S D E T E R R E N C E F O H  
 T B A S X I J U S I T F I C A T I O N M  
 S A R L F T X E Y B D H R T O J P L Y Y  
 I D I A E A V N Q Z Q J O F C L U S M J  
 M N P U Y T I L I B A P L U C M R H U G  
 S A S G B I T L N P J G B S S R P O R B  
 R G N H E D O C L A N E P L E D O M D D  
 U N O T M E N S R E A G L S E F S I E O  
 V I C E C M Y T I S S E C E N Y E C R L  
 I D T R K E W G F L E A E N D W F I R Q  
 S I C A D R B J D I F K T Y I T U D U H  
 T A S U I P H C B Q S Q D T O S L E L Z  
 O Y C D R T C A F F O E K A T S I M E A

You will not be liable under criminal law for participating in this word search!

- |                  |                |                    |                     |
|------------------|----------------|--------------------|---------------------|
| Actus Reus       | Homicide       | Felony Murder Rule | Aiding and Abetting |
| Mens Rea         | Mistake of Law | Deterrence         | Justification       |
| Purposeful       | Premeditation  | Punishment         | Necessity           |
| Model Penal Code | Provocation    | Specific Intent    | Retribution         |
| Mistake of Fact  | Manslaughter   | Conspiracy         | Culpability         |

	9	8	5		2		4	7
6		2			3	8		
				6		9		
	6	3	1			7		
	7		4	3		2	5	
		1			7		6	
1		7		4				
			6			3		9
9	5		3	7		1	2	

**NORMAL**

							2	
6					5			
2			8			9		4
		2				1		6
	9			3		4	5	
								8
		5			8			1
	4		1			2		
	2	6	4	9				

**VERY HARD**

**SUDOKU**

Complete each 3x3 grid so that each row, column and box includes the numbers 1-9, without repeats!

SOLVED PAGE 8

# SPOTLIGHT

## ON TRIAL LITIGATION



by **AMARA RIDLEY**  
LEX BREVIS Editor-In-Chief  
Amara.Ridley@wne.edu



### **Judge John Ferrara**

Hampden County Superior Court  
Graduated: 1983, Western New England College  
School of Law

#### ***Why did you decide to go to law school?***

I wanted to be a trial attorney. I had an interest in both criminal work and civil litigation. I did both.

#### ***What was law school like?***

I was working—paying my way through school. For my first year I was a full-time student and the remaining three years I was a night student. It was pretty hectic.

#### ***What did you think about law school?***

I enjoyed it. I was a few years older than many of the other students. I had been out of college for about five years working as a social worker. I enjoyed being in law school—I liked the interaction with other students. We were collegial.

#### ***What else did you do in law school?***

I worked. I had been a social worker. I sold cars and I had my own small used-car lot while in law school.

“ You are going to develop a reputation. Make it one that you want. ”



***Did you start your own practice?***

Yes. I joined with another fellow my age who also had graduated though from a different law school. We started Dalsey & Ferrara, doing criminal and civil work.

***What were the first few years like?***

It was a struggle. It was hard to get new clients and everything was new. It was learning as you go. We both took court appointed work and within a short time I was fairly busy doing court appointed criminal cases and some private criminal and civil cases. It took about two years to build a client base.

***Over time how did things progress?***

I practiced for 28 years. I did a mix of criminal and civil matters because I enjoyed both. Beginning in roughly 1998, most of my criminal work was murder cases. On the civil side I specialized in medical malpractice. I became a judge in 2012.

***What was it like to work with that kind of clientele?***

It was challenging, interesting, and a lot of hard work preparing and planning. I enjoyed it.

***What did you like about it?***

I liked that it was challenging. Seeing the law evolving was and is interesting. Massachusetts did not have model homicide instructions until about 2000, so crafting jury instructions was a challenging exercise.

I also enjoyed the civil trial work, particularly the medical malpractice cases. You have to immerse yourself in a narrow area of medicine and try to develop some expertise. If you like medical science, it's very interesting.

***What would you suggest to law students?***

Find an area of law that is of interest to you; that you will enjoy practicing. The law is broad and touches all aspects of society, culture and business. There are a lot of things you can do. Remuneration is important and I know a lot of students will come out of school in debt, and that will affect their direction. But it is important to do work that you enjoy. Life goes by fast and you do not want to look back on your career and find it was something you endured rather than something that was fun and fulfilling.

***Is there anything else you suggest?***

I would advise students interested in being trial lawyers to do some extra preparation while in law school. For example, if you plan on practicing in Massachusetts, we now have the Massachusetts Guide to Evidence that I believe was first published in 2009. They are not rules of evidence like the federal rules. But they are prepared in consultation with the Supreme Judicial Court Advisory Committee on Massachusetts Evidence Law, and the SJC encourages that attorneys cite to the Guide.

***What did attorneys cite to previously?***

Cases and statutes. This is a more comprehensive way to cite to evidentiary principles that are at least persuasive if not determinative.

I would also encourage students who want to do trial work to find the time to come into court and watch some Superior Court trials. Trial skills are usually developed through experience and practice. Anything that you can learn by observation, rather than on the job, is a very good thing.

There are fewer opportunities for lawyers to try cases than when I started out in the 1980s. The

number of trials, civil and criminal, is decreasing. There are many reasons for that. It used to be that young lawyers could develop trial skills doing simple civil cases or misdemeanor criminal cases in our District Courts. Now, even in relatively simple civil cases, discovery and litigation has become more protracted and expensive so smaller cases tend to settle. On the criminal side, Massachusetts used to have a 'de novo' District Court trial system where a defendant could get two trials. He could first try his case to a judge, and if the defendant was convicted, he could then retry the case to a jury, *de novo* (afresh). In 1987, this de novo system was eliminated in Hampden and Essex Counties as an experiment, and the system was abolished state-wide in 1994. As part of that change, Rule 12 of the Massachusetts Rules of Criminal Procedure was amended to provide that a defendant could tender a change of plea with a specific request for a disposition, and if the court was going to exceed the requested disposition, then the defendant could withdraw his plea. The result was that the vast majority of cases were resolved with continuances without a finding or probation. So there are a lot fewer trials, and less of an opportunity to learn trial skills through simpler cases.

I encourage students to sit in on Superior Court trials where, generally speaking, more experienced lawyers are trying cases. Take notes, learn techniques for admission of evidence, and see different styles attorneys in presenting cases.

### ***What do you mean by styles?***

There is a wide range of skills and approaches. Everyone has a different personality. Some people are more assertive, while others are more reserved. Some are polished, others, not so much. I think it is important that new lawyers have the benefit of seeing the manner of experienced lawyers, particularly

the ones that are highly skilled. Develop a sense of what is persuasive and effective. Observe the jury and perhaps see how the jurors react to an attorney's presentation.

### ***How long did it take you to craft your own personal style?***

Your personality dictates your style to some degree. It took me a few years to be comfortable with the mechanics of a trial and gain confidence. I would say my basic style was probably developed at about five years, but it continued to evolve. You watch other attorneys and pick up things. You learn from your mistakes and your successes. Even now, when I am watching from the vantage point of the bench, I learn things that I would utilize if I returned to trying cases.

### ***Were there any particular cases that had a big impact on you when you were litigating?***

Every case that I lost where I felt the outcome was unjust impacted me; I always felt I should have done better. Every active trial attorney has some of those. You always second-guess yourself.

More positively, I tried criminal cases where I believed the defendant was not guilty and got acquittals. Those were tremendously satisfying. I had some favorable outcomes in some civil cases where I felt I had obtained justice for clients who not only deserved it, but really needed it. I handled an interesting civil rights case where a seventy-eight year old Jamaican woman whose grandson was being beaten by police officers approached and tried to intercede. She was pepper sprayed. Then her granddaughter tried to intercede on behalf of her grandmother and brother with the same result. All three were arrested and charged with resisting arrest, disorderly conduct, assault and battery on a

police officer.... Fortunately the events had been witnessed by a number of people. All three were acquitted of all criminal charges. A civil lawsuit against the city and the police officers settled for a substantial sum, and an apology to the family from the sitting mayor. I would note the mayor was gracious and sincere. I found that case personally satisfying.

### ***Second-guess yourself?***

There is little external feedback for a trial lawyer. You want to reflect on your trial work. You want to be self-critical and honest with yourself. You want to be constantly learning and improving. I would note that the law is constantly evolving, including trial practice. For example, in 2015, the Massachusetts Legislature enacted a statute providing for attorney-conducted voir dire, and for the first time permitted attorneys in civil cases to suggest to juries specific dollar amounts as damages.

### ***What is attorney-conducted voir dire?***

Previously, when selecting a jury, only the judge would ask questions of the potential jurors, some of which are required by statute, to be sure the jurors were not biased and could be impartial. The attorneys did not participate in the questioning. Now, because of the change in the law, attorneys have the option to ask questions of jurors, either individually or to a group (a “panel”). That is a change everyone is adapting to —attorneys and judges, we are all learning.

### ***How do you do it?***

I adopted a practice of one of our former, great Superior Court Judges, Geraldine Hines. (Judge Hines now sits on the Supreme Judicial Court). I use written questions that include the statutorily required ques-

tions and a few additional ones. I also inquire of prospective jurors individually, where appropriate, about racial or ethnic bias, or whether the juror has ever been victim of a particular type of crime. These are the kind of matters that must be asked individually for privacy. I let the attorneys ask follow-up questions of the jurors, either individually, or of a panel.

### ***How do you feel now, looking back, at becoming an attorney?***

It was a great career choice. I found it stimulating and satisfying. I cannot think of anything else I would rather do.

### ***Where do you see the legal profession going or where do you hope to see it going?***

I would like courts to be readily accessible to all persons who have disputes that need resolution.

Since my focus was primarily litigation, I hope that law schools develop improved methods of teaching trial skills. I would like to see the standard of practice continue to be high, with new attorneys developing the requisite skills. I would also like to see some innovation. Something that has surprised me is the lack of utilization of electronic presentation of evidence in our state courts. It is more commonly used in the federal courts. There are all kinds of opportunities to use electronic evidence. Trial presentation software has been available for years. It has become increasingly user friendly. I used it regularly and thought it was very helpful.

### ***How?***

I bought software and would upload pictures, important documents, or videos. Once the document or photo was introduced into evidence, I could then display it to all jurors simultaneously while inquiring

(Cont'd from Spotlight On)

of a witness about the content. I have been a judge for four years now, and I have not seen it used in any case. I am surprised that its use has not become commonplace.

***What made you start using electronic evidence?***

I started using it because I saw it used in federal cases and saw that it was effective. It permits a more sophisticated, organized and polished presentation. It was a readily available tool.

***Are there things that new attorneys should look out for?***

There is a lack of familiarity with evidence. Not knowing how to introduce and utilize documentary evidence to good effect. As I previously noted, new attorneys would be well served by watching trials. When you try a case, win or lose, you do not know what factors influenced the jury. When they begin trying cases, they should have someone watch them who is able and willing to give them critical feedback. When I first started out there were these three older guys who would sit in on trials and critique you, if you asked them. I would always ask them.

***Do you have any closing remarks?***

I would just reiterate the suggestion that new lawyers try to identify an area of practice they will enjoy and commit to it. Keep current with the law. Be professional in your appearance, attitude and demeanor. Be tolerant, patient, and earnest in dealing with clients. Be courteous and professional in dealing with opposing counsel. You are going to develop a reputation. Make it one that you want.

# Roving Reporter

**Claudia Quintero, 2L**

**Claudia.Quintero@wne.edu**



***What inspires you to pursue a law degree:***

Public interest lawyers and the work they do, and the opportunity to use the law degree for social change to help people who lack access to the legal system.

***What changes do you hope to see in the law:***

Laws that are aimed at protecting people rather than corporations and laws that afford all individuals equitable justice.

***What is your favorite/least favorite thing about law school:***

Favorite thing about law school is being able to work alongside like-minded individuals, both faculty and students; least favorite thing about law school is the amount of work that is required and the balancing of different obligations; extreme time management skills are a must and that is something I'm still learning to balance.

***What do you hope to accomplish when you become an attorney:***

I hope to give back to my communities and help and connect with people from these marginalized and disenfranchised communities, and provide them legal assistance that they may or may not have had access to.

**Richard Keidel, 4L**

**Richard.Keidel@wne.edu**

***What inspires you to pursue a law degree:***

My family inspires me to pursue a law degree. Specifically, my dad—who was an appellate lawyer on Long Island for over twenty years—passed away suddenly when I was fifteen. Since his passing, I’ve sought to make him proud. Obtaining a J.D. and becoming the best lawyer I can be serves this ultimate goal. In pursuing a law degree, I also aim to serve as a role model for my two, younger brothers, one of whom is a 1L at Hofstra Law School currently.

***What changes do you hope to see in the law:***

I hope that Massachusetts courts construe the Massachusetts Humanitarian Medical Use of Marijuana Act, along with chapter 151B of the Massachusetts General Laws, to require employers to make reasonable accommodations for disabled employees’ off-site use of medical marijuana. Specifically, permitting Massachusetts employers to refuse to hire a job applicant who tests positive for marijuana, when he or she is a registered cardholder, contravenes sound social welfare policy and public health needs.

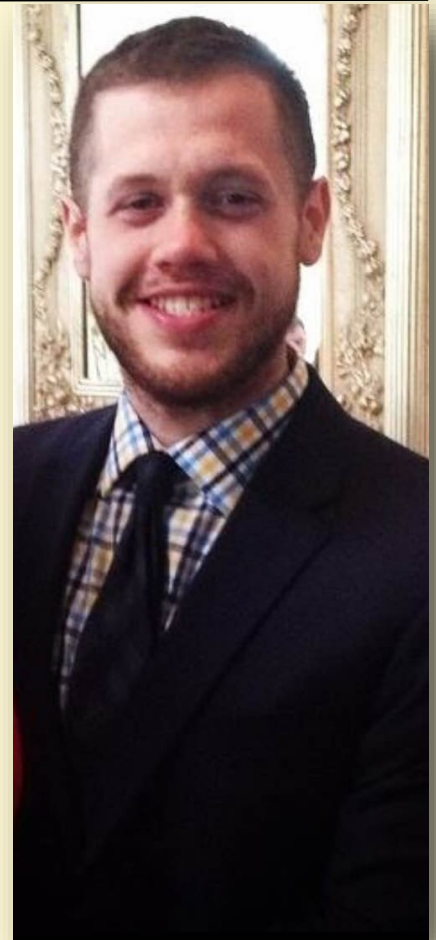
***What is your favorite/least favorite thing about law school:***

My favorite thing about law school is that you’re able to apply the knowledge you acquire in the classroom and the library to concrete problems in society. For instance, when I interned in the U.S. District Court for the District of Connecticut, I had the opportunity to apply my knowledge of the First Amendment that I acquired from my work on the Law Review to a factual scenario that actually took place in downtown Hartford. In this vein, honing my ability to resolve practical questions in accordance with legal norms makes legal education exciting.

My least favorite thing about law school is how taxing it is on my eyes. Since I suffer from a degenerative corneal disease, reading (both in print and on the computer) is next to impossible sometimes, even when I’m wearing both contact lenses and glasses.

***What do you hope to accomplish when you become an attorney:***

In general, I hope to defend individuals’ civil liberties from unlawful government action during my anticipated legal career. Additionally, I would like to present at least one oral argument before the Supreme Court of the United States sometime during my tenure as an attorney.



# ALUMNI PROFILE

**Your name:** Katrina Victoria Anop, Esq.

**Graduation Year:** 2011

**Where do you work:** Gove Law Office, Ludlow, MA

**The area of law you practice in:**

Family Law, Probate, Guardianships, Special Immigrant Juvenile Probate Matters, Civil Litigation, Real Estate



## 1. What is the most fulfilling part of your work?

Helping kids and families who are not familiar with the legal system gain access to justice. I enjoy interacting with my clients and helping them solve their legal problems.

## 2. During law school, what kind of work did you do that helped enhance your skills?

Participating in practice mediation exercises in a course called Negotiation, Mediation, and Arbitration.

## 3. What was the most difficult aspect of school and how did you overcome that obstacle/experience?

The first year was the most challenging even though I majored in Legal Studies as an undergraduate. There was a heavy emphasis on theory and I had to change the way I learned and analyzed the concepts.

## 4. Are there any specific programs, committees, clubs that you suggest current students to join?

I was a night student and since I worked full-time during the day, I did not have the opportunity nor the time to join any extra activities. I would recommend becoming involved in an internship/externship opportunity since it provides practical experience rather than just a single faceted classroom approach.

## 5. How did you network or if you didn't how do you wish you had? How can students benefit from meeting other attorneys and others within the legal profession?

I networked with the instructors and faculty throughout law school and kept in touch with them afterward. I attended events in the evenings whenever an esteemed alum or judge or attorney would speak on a topic that was of interest to me. Just interacting with people who have similar interests and passions led me to meet and develop a network of attorneys whom I interact with frequently now.

## 6. What is something you did or advice you were given that has helped you now?

Be approachable and treat everyone with respect. Yes, we want to zealously advocate for our clients, but it shouldn't be at the expense of treating others poorly, whether it be the opposing counsel or someone we encounter after a rough day. Your reputation is key in building a name for yourself and growing your business.

## 7. Was there a class or area of law you studied that has proven particularly helpful now?

Family, Child, and State, Negotiation, Mediation,

and Arbitration, and Employment Discrimination Law.

**8. What classes if you recall, helped you the most on the Bar exam and what states' Bars did you sit for? And do you have any advice for those about to take the Bar?**

Criminal Law and Criminal Procedure helped me most on the Bar exam. I sat for the Massachusetts Bar. My advice would be to set aside three months to study. I let my friends and family know that for the next three months, I wouldn't be available because I needed to focus on studying. I took the Kaplan bar prep course and I enjoyed the schedule and style of the online lectures, accompanying lecture book, outlines, and essay workshop book. It was very structured and I spent 6 hours studying each evening after work and 10-12 hours each weekend day. The consistent and structured approach enabled me to be successful in passing. Find a bar prep course and schedule that works for you and stay with it each and every day.

**9. What was your favorite part of attending Western New England University School of Law?**

The instructors and faculty were extremely understanding of night students' schedules, prior commitments during the day, and were accommodating if I had a conflict due to my work and travel schedule.

**10. How did the skills you learned in law school transition into the legal profession?**

The legal analysis and strategy skills have proved to be instrumental in practicing.

**11. What surprised you most about practicing?**

Research doesn't stop once law school ends. Every case is different and researching complex factual and legal issues is something that continues throughout your career.

**12. What have you enjoyed most in being an attorney?**

I have enjoyed being able to help people who have not known what to do or whom to turn to when faced with legal problems.

**13. What advice would you give current students to prepare them for practice?**

Don't get frustrated if you don't know everything right away. There are practical and procedural items that I never learned during law school and only learned through practicing.

**Thank you for your willingness to give back.**

**LEX BREVIS STAFF**

**Editor-In-Chief**  
Amara Ridley

**Managing Editor**  
Alex Mazzella

**Design/Layout for this issue**  
Amara Ridley

**Copy Editors**  
Renee Rastorfer  
Alex Mazzella

**Photographer**  
Natasha Doorn

**Sports Writer**  
Richard Cipolla

**Proofread Editors**  
Tyler Ingraham  
Joe Poulsen

**Marketing/Outreach**  
Karina Ramos

**Staff Writers**  
Chelsea Donaldson  
Emily Dubuc  
Rabia Hamid  
Brittany Hinojosa  
Mike Iovanna  
Philip McPherson  
Samantha Mastromatteo  
Tasha Marshall  
Allyssa St. Martin  
Evena Miscarlien  
Carolyne Pereira  
Lilya Roraback  
Rob Ferris

Lex Brevis is an independent newspaper published by the students of the School of Law at Western New England University. Lex Brevis is a recognized student organization chartered by the Western New England University School of Law Student Bar Association and funded by the activities fees collected from currently enrolled students at the School of Law. The opinions expressed in the paper are not necessarily those of the university, the law school, or the Student Bar Association. Undersigned editorials represent the views of the newspaper. Signed editorials, columns, reviews, cartoons and letters represent the personal opinions of the authors. Contributions from the WNEU School of Law community, the Bar associations and the legal community are welcome. Lex Brevis enthusiastically welcomes submissions from law students, faculty and staff, alumni, and other members of the legal community. Please send any **submissions, comments and inquiries to Amara Ridley at [LexBrevis@gmail.com](mailto:LexBrevis@gmail.com).**

# CT Bar Examiners Visit

**Tuesday, March 22, 2016**

**6:00 p.m.**

**Room D**

*Light dinner will be served*

**Please join us for a discussion with Jessica Kallipolites, Administrative Director of the Connecticut Bar Examining Committee. Jessica will address specific questions regarding the CT Bar Exam Application and review protocol, procedures and deadlines. Please look at the application over spring break and come to the discussion with your questions ready. This discussion is best for candidates sitting for the July 2016 or Feb 2017 bar exams.**

**All are welcome!**

Presented by **Bar Admissions Programs**

**WNE**

**WESTERN NEW ENGLAND  
UNIVERSITY**

**SCHOOL of LAW**