

LEX BREVIS

WESTERN NEW ENGLAND UNIVERSITY SCHOOL OF LAW



SPOTLIGHT ON:

MENTORING

OCTOBER ISSUE

Our **SPOTLIGHT ON** series highlights a different theme each month. In October, Lex Brevis focuses on the importance of mentoring and is given a glimpse into the lives of a local litigator and his mentee. Attorney Joe Smith III and WNE 2L, Keydar Ismail allowed Lex Brevis to share their story. Page 16

“A mentor is not just a person to job shadow. It’s bigger than that.”

“An imperfection can show that you have learned how to cope with your habits in a professional environment. ”

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“Prisoners in solitary typically spend somewhere between 22 and 24 hours a day in a prison cell that is, on average, the size of a typical parking spot. ”

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ACADEMIC CALENDAR: FALL 2015

October 12:
Columbus Day/
No Classes

November 6:
Last Day for
Applying for
Degrees to be
awarded in
February

**November 25-
27:** Thanksgiving
Recess

December 4:
Last Day to
Withdraw/Last
Day of Classes

December 5-8:
Study Period

December 9-18:
Final
Examinations

Time To Play Catch Up: Cyber Laws & Why They Are Important

By: Michael Iovanna, 1L

Take a second and think. How much information do you post on the internet? How much information of your own information is on the internet? How much time do you personally spend on the internet every day? Every week? Every month? Now think of all the other millions of people who are doing the same. Not only do millions of individuals currently use the internet, but thousands of businesses that also participate as the vast majority of internet users in the age of cyber space. Undoubtedly, the internet has become an important factor to individuals and businesses alike, the security of these users however; not so much.

It is no secret that in the past ten years alone the internet has exploded exponentially so much so that many of the stories involving data breaches are no more foreign to us than eating a hotdog at a baseball game. In fact, according to a survey released from the Ponemon Institute, "Hackers have exposed the personal information of 110 million Americans, or roughly half of the nation's adults, in the last 12 months alone."¹ This is just a recent example, of many, that poses a question: What's next and how do we deal with this effectively?

A more recent example, which occurred in early June of this year, involved over 20 million people whose private information was hacked and stolen from the United States Office of Personal Management. The kicker? According to the Congressional Research Service, "Criminal charges appear to be unlikely in the case of the OPM breach."² Why would there not be criminal charges when 20 million

people had their private, sensitive data stolen you might wonder. Why are hackers not facing the music? The answer to that question ultimately lies in jurisdiction and anonymity.

A former professor of mine, and a 15-year practicing Cyber Law attorney, Bob Cherry, said, "Cyber Law is becoming so prevalent now because the idea of anonymity on the Internet develops a sense of unrestricted freedom."³ Attorney Cherry is not the only one who believes that anonymity is becoming a huge issue when it comes to cyber crime. Eugene Kaspersky, founder of internationally renowned security software company Kaspersky Lab, stated, "To design a safer e-world, we need better Internet regulation, such as Internet passports for individuals, accreditation for businesses, and temporary storage of necessary requests, while there is also a need for what I term an Internet-Interpol which will see more international police collaboration on cyber crime."⁴

Kaspersky brings up two points that I believe are important. The first being what he calls "Internet Passports," which equates to having a specific ID for individuals who access the web regardless of their physical location. While this does bring up serious privacy concerns, some argue it is a necessary step in our society if we are going to be continuing to increase our usage and dependence on storing our sensitive data in the digital universe. Currently there are services that allow user's IP addresses to be "masked" by services called VPNs. A VPN is Virtual Private Network that hides the user's IP address, which links back to their physical location. VPNs help users hide their geographical location and avoid leaving a digital footprint. While VPNs are legal and are encouraged to secure sensitive data (for corporations, educational institutes, etc.) they are also considered a double edged sword. VPNs and services alike are used by criminals, which makes it increasingly difficult to track them down.

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Strategies To Success

Interview Tip: Perfecting Imperfections



By: Tasha Marshall, 4L

Have you ever been in an interview and the interviewer says, “So, tell us about your weaknesses?” When asked this question in the past, the first thing that came to my mind was, “Yeah right! I’m going to tell you, the decider of my fate with this job, that I am a control freak with Type A personality?!”

Always keep in mind that every point of the interview, including discussing your imperfections, is an opportunity to sell yourself. Sometimes an imperfection can be a positive trait. An imperfection can show that you have learned how to cope with your habits in a professional environment.

Here are 7 ways to perfect your imperfections for an interview:

1. “I’m a perfectionist.”

This can be a weakness because getting a work product to its perfect state takes a lot of time. Sometimes the company does not have extra time and it needs the work product yesterday. This can be turned into a positive by adding that you care about your work products and want it to be perfect every time because it is a reflection of you. Explain that, although you are a perfectionist, when there is a time pressure you have learned to adjust your notion of perfection to for the circumstance.

2. “I work better alone.”

This may sound like you are not a team player and/or do not work well with others. This can be turned into a positive by stating that when given a task you like to think about the problem alone first to flush out your ideas before presenting them to a group. Add that, while you are happy to work in a team to put your ideas together after given time to think

about them alone, you are able to execute tasks on your own.

3. “I always have to be the leader.”

This is a huge weakness for any organization. The interviewer will easily interpret this as your inability to follow and learn. Explain that when given a group task it is easy for you to take lead. Explain that you are natural leader and share examples of when took lead and it worked out well. Also, provide examples of how your insight into the leadership role allowed you to support the leader when that was your role.

4. “I overanalyze.”

This is a tough weakness to sell because it can be interpreted as you do not understand the issue at hand and create problems that never existed. However, you can turn this into a positive by stating that you think about all possible outcomes and you are rarely surprised. If it is a legal question, you analyze the problem and ensure that you are not missing any ways that the courts have interpreted this question and that you want to ensure that you have not missed any exceptions that could be applied to this question.

5. “I think way too outside of the box.”

Just like the last weakness, this weakness can be interpreted as a competency problem without careful framing. Your ideas may be so out of this world that others may think that you are simply wrong. You can sell this imperfection by stating that you think outside of the box to think about any and all potential problems that could arise. If you are litigating, state that you think about what the other side could possibly argue. If mediating, you are willing to cast a broad net to find all potential means of reaching an agreement. If you are drafting a contract, state that you are thinking about new problems that could arise once the contract is executed.

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Guest Writer

The Law in Hawley:

A Local Official's Perspective on Small Towns, Legal Know-How, and the Importance of Volunteerism



By: Hussain A. Hamdan, 2L

Ever heard of Hawley, Massachusetts? Probably not. It's a small rural community in the northwestern portion of the Commonwealth, 20 miles west of Greenfield. The population is around 350 residents, distributed over 31 square miles and 41 miles of road. There are no gas stations; not even a post office, as this is shared with neighboring Charlemont. The Town Office -- urban folks might call it City Hall-- consists of one room plus a bathroom. This is an improvement on the past, considering that until the 1980s you had to use an outhouse. Much of Hawley remains without cellular coverage or high speed Internet and rotary phones remain common household fixtures. The dominant economic activities are agriculture and logging.

I probably would never have heard of Hawley myself, except that I grew up and live there. I also happen to be quite deeply involved in local government. Yes, Hawley does at least have a government. I serve on the regional School Committee, the Communications Committee (tasked with attempting to improve the Internet situation), and the Volunteer Fire Department..

What does any of this have to do with law and lawyers? Given that small towns lack the financial resources to fight expensive legal battles, small towns must follow the law. There's Open Meeting Law, the Public Records Act, the Conflict of Interest Law, and the Wetlands Protection Act. Combined with numerous other statutes and even more numerous executive regulations pertaining to public health and safety, education, the environment, employment, and so forth, all directly impacting the operations of municipal government. And, of course, there are all those nagging, nasty, little questions about potential liabilities, both real and imagined.

Whereas a city, such as New York, or even Springfield, may have a staff of attorneys, a

small town like Hawley has a single town counsel. There is a lawyer, hired by the Town part-time, who makes a living by also serving a number of other Towns in the same capacity. She is only consulted when absolutely necessary. With an overall budget under \$2 million—which must cover road maintenance, salaries, the regional school, etc.—there isn't money to seek professional legal advice on every matter where it might potentially help.

As State laws and regulations become increasingly complex and require increased intrusion into the minutiae of making little towns work, local officials need more sound legal knowledge. That is where the spirit of volunteerism, which pervades in small towns, becomes essential. As a law student and soon-to-be attorney, I have a base of knowledge which helps me make more informed decisions as a town official. We also have several businessmen who help with financial issues and an ex-Massachusetts Environmental Police Officer who gives input on environmental law and conservation matters.

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Color of Law Roundtable Discussion Series

Rishi K. Desai '09

Career Paths: Director of the Business Law Department at Shah & Associates, P.C.

In his New Jersey-based practice, Rishi K. Desai '09 oversees the Business Law Department at Shah & Associates, P.C. His practice is focused on advising small business owners on the purchase, sale, and financing of their businesses and commercial real estate.

Mr. Desai has closed on a variety of business enterprises and commercial real estate, such as restaurants, retail stores, liquor stores, and multi-unit franchise purchases.

Mr. Desai is licensed to practice law in New York and New Jersey. He is the President-Elect of the South Asian Bar Association of New Jersey, as well as a member of the Diversity Council Committee for the MID Jersey Chamber of Commerce.



Please join us for this inspiring speaker.

**Thursday
October 1
2015**

12:00 noon
Blake Law Center
Faculty Lounge

Lunch will be served.
Seating is limited.
Reservations required by
contacting Professor Sudha Setty
at sudha.setty@law.wne.edu.

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For more information, contact Professor Setty or Professor Bridgette Baldwin at bridgette.baldwin@law.wne.edu.

Alumni Profile

1. Name: Megan MacKenzie

Graduation year: May 2014

Where you work: I work as an ADA in Essex County at the Lynn District Court.

What kind of work you do: I handle all sorts of cases but my specialty is fraud and financial cases.



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

During law school I participated in the joint degree program and got my MBA and JD. I focused mainly on business and transactional law. I participated in the small business clinic and the transactional law team to help develop my drafting and negotiation skills.

3. Are there any specific programs, committees, clubs that you suggest current students to join? Either for classes, studying, fun, networking etc.

SBA. I can't stress enough how rewarding of an experience it was being apart of SBA. The most rewarding part was being a part of the different committees. I enjoyed engaging with other students and planning social events. Being a part of the student faculty committees allowed me to have an actual say in what happened within the school especially with the curriculum committee. It is an amazing ex-

perience and I met many people I wouldn't otherwise have had the opportunity to.

4. 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 mostly networked by getting involved in the ABA. I went to the national annual meeting and many of the section meetings. It was a great way to meet many people who were practicing the same type of law I wanted to. I still participate in the section meetings and go to many of the local events the ABA puts on.

I wished I were more involved in local bar associations while I was in law school. I participate in them more now that I've been admitted to the bar, but I feel like it would have been helpful while I was in law school.

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

The best advice I got in relation to school work was to find a study method that works best for you and stick to it. I felt there was a lot of pressure to form study groups or to outline in a certain way- but everyone learns differently. Just find the method that works for you and stick to it.

6. What class(es) if you recall, helped you the most on the Bar exam and what state Bar did you sit for? And do you have any advice for those about to take the Bar?

I took the NH and MA bar exams. I hated taking the bar prep class the law school offered when I was a 3L but when it came time to actually sit down and start studying, it helped a lot. I felt like it gave me a good foundation and helped me figure out how to approach studying.

Alumni Profile

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

Right now in my career I do all criminal law. But I think my transactional experience sets me apart and let's me view things from a different perspective.

8. What was your favorite part of attending WNE Law?

It's a small school and small community, but we have many clubs and organizations. It's really easy to get involved. I liked that at WNE we weren't numbers. It was personal. Being a small school allowed for that. When I talk to many of my colleagues that attended larger schools, they didn't have the personal experience you can get at WNE. I appreciate it more now that I've graduated.

9. Overall, how well did the skills that you learned in law school transition into the legal profession upon graduating?

It's shocking when you actually enter the work force. I think no matter how much you learn or study there will always be a learning curve. That being said, I do feel like my education prepared me for my career.

10. What has been your favorite part of being an attorney?

My favorite part of being a prosecutor is the challenge it presents. You always have to be on your toes. It's a lot of fun.

11. If there were anything that you could tell current students today as advise for school, what would that be?

I would say have an open mind and try a lot of different things. Don't fall into one topic or category and get

stuck. I didn't take any trial classes or criminal law classes and now I'm a prosecutor. I was so certain I wanted to be a transactional lawyer. After trying it out, I found that being a prosecutor suited me better. So keep an open mind and try a lot of things to see what suits you best. ■

(Continued from P. 4) HAWLEY

The bottom line is that in small towns, where we cannot afford to "buy" much expertise, the benefit of everyone bringing something unique to the table cannot be understated. I definitely would encourage my fellow aspiring attorneys, especially those of you from smaller communities, to volunteer in some capacity of public service. It might not involve working as a lawyer; however, your legal background will prove helpful. Your contribution need not be large to be greatly appreciated. By serving the public, you serve yourself, your family, and your community. ■

Newsworthy

Continued from Page 2 CYBER LAWS

As most of us know, jurisdiction means the authority to make legal judgments. The problem arises when crimes are committed by a perpetrator who is in a different country than his victims. What might be illegal in the United States may be legal in South Korea or China, or any country in the world. Further, even if the crime was illegal in both nations, U.S. law enforcement has no authority or jurisdiction to arrest an individual in another country. The best case scenario would be extradition, when one country transfers a suspected or convicted criminal to another country. However, nations are not obligated to transfer any criminal to the country in question. This makes catching criminals from out of our nation's borders almost impossible. At the very least, for the sake of not invading privacy, one must ask is this the best option when it comes to curtailing cyber crime in the future?

Often law does not keep pace with the rapid growth of technology. That is something

we can all recognize. However, there is no excuse for the blurred lines and weak laws that encompass these crimes. It seems that we are always one step behind. Is there a way to get ahead of incidents like this? Should we be devoting more resources or should we be pushing for a globalized jurisdiction when it comes to cyberspace? These questions raise more additional questions than answers. However, at present, it is equally important to raise these questions as it is to answer them. In this rapidly expanding digital age it is time to have a meaningful discussion about how laws must keep up with the digital medium. ■

¹ Ponemon Institute. 2014: A Year of Mega Breaches (n.d.): n. pag. Ponemon Institute. Jan. 2015. Web. <http://www.ponemon.org/local/upload/file/2014%20The%20Year%20of%20the%20Mega%20Breach%20FINAL_3.pdf>.

² Cyber Intrusion Into U.s. Office Of Personnel Management: In Brief. Cyber Intrusion into U.S. Office of Personnel Management: In Brief (n.d.): n. pag. Federation Of American Scientists. 17 July 2015. Web.

³ Finnimore, Erika. "CyberLaw Course Teaches Virtual Justice." UCF - College of Health and Public Affairs. N.p., 29 Mar. 2011.

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Clason
Speaker Series Fall 2015

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Join us for a semester of conversation related to some of the most pressing issues in today's society.



Katharine B. Silbaugh
Tuesday, September 22

**Reactive to Proactive:
Title IX's Unrealized Capacity to
Prevent Campus Sexual Assault**

In 1972, Title IX of the Education Amendment was enacted with the primary focus to prohibit discrimination on the basis of sex in educational programs. What had become synonymous with leveling the playing field for female athletic participation today is seen to offer much broader protection against sexual violence and harassment. Katharine Silbaugh will argue a more effective application of Title IX to the problem of campus sexual assault would abandon the present criminal justice model in favor of one adapted from the government's approach to public health, and in this way focus more on community-wide prevention instead of punishment in individual cases.

Katharine Silbaugh is a professor of law at Boston University. She is an expert on gender, family care, and household labor, as well as various topics in education law such as testing, bullying, and Title IX.



C. Thomas Brown
Tuesday, October 13

**Keynote to Public Interest Week
Litigating Marriage Equality:
A Law Firm Attorney's Role in
*Obergefell v. Hodges***

This summer, the Supreme Court issued its landmark decision in *Obergefell v. Hodges*, which interpreted the Constitution to protect the equal rights of gay and lesbian couples to marry in all states. The Court's decision would not have been possible without the work of many attorneys from non profit organizations and law firms, who worked tirelessly to create the winning arguments. In honor of Public Interest week, we will hear from one such attorney, C. Thomas Brown. He will discuss his role in the marriage equality litigation and how law firm attorneys can incorporate public interest work into diverse practices.

C. Thomas Brown is a senior associate at Ropes & Gray in Boston focusing on actions under the Federal securities laws, mergers and acquisitions law, and other complex transactional matters.



Dr. Christina M. Greer
Monday, October 26
**Race, Gender and American
Democracy**

In this past year alone, growing concern over police violence against people of color, the rise of the Black Lives Matter movement, the bombing of an historic African-American church, and renewed controversy over the Confederate flag. Professor Christina Greer will examine the interconnectedness of race and gender in contemporary American society and the importance of examining both as a means to understand and improve the American democracy.

Christina Greer is a professor of political science at Fordham University. Her research and teaching focus on American politics, black ethnic politics, urban politics, quantitative methods, and public opinion. Dr. Greer is the author of *Black Ethnicity: Race, Immigration, and the Pursuit of the American Dream*.

All lectures are at 12:00 noon in the Law School Common. Open to students, alumni, the University community, and the general public. Pizza will be served.

Presented by the Clason Speaker Series and the Center for Gender & Sexuality Studies.

For more information, call 413-782-1405 or email Professor Erin Buzuvis at ebuzuvis@law.wne.edu.

UPCOMING EVENTS: OCTOBER 2015

Fall Back - Homecoming 2015 - October 2-4

- **Friday Oct. 2 - 6:00 PM**

School of Law Alumni and Students of Color Dinner

La Quinta Inn & Suites, Springfield

To RSVP, contact Kim Roeder at 413-782-1311

- **Saturday, Oct. 3 - 10:30 AM - 12:30 PM**

20th ANNUAL SUPREME COURT REVIEW CONFERENCE (1-day program as part of Homecoming/Alumni Weekend – October 1-4)

Blake Law Center: Moot Court Room - Simulcast Law Common

Featured Speakers: Professors: Leora Harpaz, Jennifer Levi and Bruce Miller

Moderator: Art Wolf

Event Contact: [Art Wolf](#), Program Director

Legislative Institute: (Event is open to students, alumni, the University community, and the general public)

- **Saturday Oct. 2 - 3:00 PM**

School of Law Reunion

Blake Law Center

Contact Kim Roeder at 413-782-1311

- **Monday, Oct. 5, 2015**

MA Appeals Court

9 AM - 12 Noon - Moot Court Room – Simulcast to the Law Common (Event is open to students, alumni, the University community, and the general public – *Please note there are special security measures for this event*)

Event Contact: [Paula Zimmer](#)

- **Tuesday, Oct. 6, 2015 –**

5:00 - 7:00 PM

Mass Bar Association

Risk Management and the SJC's Revisions to the Rules of Professional Conduct (CLE program)

Event Contact: [Shavonne Turner](#)

- **Clason Lecture Series:** (Event is open to students, alumni,

the University community, and the general public)

- **Tuesday, Oct. 13, 2015 -**

12:00-1:00 PM – Law Common

Litigating Marriage Equality: A Law Firm Attorney's Role in Obergefell v. Hodges

Public Interest Week Keynote Speaker: C. Thomas Brown

Presented by the Clason Speaker Series and the Center for Gender & Sexuality Studies

Event Contact: [Erin Buzuvis](#)

- **Oct. 20 – Nov. 17, 2015**

Mini-Law School Series: (Limited seating, registration required)

Five Consecutive Tuesdays - - 6:00–8:00 PM – Sleith Hall Wood Auditorium

Welcome to Mini-Law School: An Inside View of Law School and the Courts – Honorable Kenneth Neiman, United States Magistrate Judge, and Dean Eric Gouvin

Event Contact: [Beth Cohen](#) and [Pat Newcombe](#)

- **Wednesday, Oct. 21, 2015**

Mass Bar Association

Dial-A-Lawyer, – 6:00-8:00 PM

Event Contact: [Shavonne Turner](#)

- **Friday, Oct. 23, 2015**

Mass Bar Association

Professionals Course (CLE program), – 8:00 AM - 5:00 PM

Event Contact: [Shavonne Turner](#)

- **Monday, October 26, 2015**

Clason Lecture Series: (Event is open to students, alumni, the University community, and the general public)

-12:00 PM - 1:00 PM – Law Common

Race, Gender and American Democracy

Speaker: Dr. Christina M. Greer

Presented by the Clason Speaker Series and the Center for Gender & Sexuality Studies

Think Tank

Benefits of Being a Public Interest Lawyer



By: Rabia Hamid, 2L

Lawyers often say that working in public interest is more work than it is cut out to be. However, the burnout rate and anxiety level for lawyers

who work in a private law firm is drastic. A well-known 1990 Johns Hopkins University study examined more than one-hundred occupations for anxiety-related issues and found that lawyers suffer from depression at a rate 3.6 times that of the other professions studied. Lawyers in the public interest field find that their line of work is less stressful and they put in less hours, which includes having their weekends free and have more time for friends and family. Public interest lawyers tend to spend more time in the office when their cases are going to trial or their projects are facing a tight deadline, but often times they put in a manageable number of hours. Typically, the nature of the job is more stressful in the private sector. Both the clients and bosses tend to be more demanding.

Given the gap in starting salaries between the private sector jobs and the public sector jobs, people wonder why lawyers choose to make a career in public interest law. Most often, public interest lawyers choose their line of work because they believe in causes, and knowing their coworkers share their similar value systems and interests. This is true of the offices that represent people facing discrimination or domestic violence, or a Public Defenders' office. There is a level of friendship and sense of group work in this field. A victory for one attorney in the office is seen as a group victory. Additionally, public interest lawyers are more than a

“A victory for one attorney in the office is seen as a group victory.”

community of lawyers. A public interest office may include many allied professions, including social workers, private investigators, and clinicians who all work towards a common goal.

Though public and nonprofit organizations often lack the resources and funds of private law firms, they make up for it with the tenacity and passion of their attorneys. Though starting salaries are lower at a public interest field, often times a lawyer's median salary at a public interest law firm matches up with the median salary
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Closing Arguments

Solitary Confinement The Edge of Madness



By: Allysa St. Martin, 2L

The prison system can take its toll on those who fall within its ranks. It's not just the lack of adequate mental health care that prisoners receive while inside the walls of our nation's correctional facilities, but can also be attributed to how the prisoners are treated while locked up.

Solitary confinement serves as one of the more stark examples of this dynamic. Growing criticism of solitary confinement could soon be assessed in front of the Supreme Court in order to determine whether some conditions of solitary confinement violate the 8th Amendment.

Solitary confinement remains among the most severe punishments that can be inflicted upon prisoners for wrongdoing or gang affiliations on the inside. The ACLU estimates that every day more than 80,000 U.S. prisoners spend time solitary confinement. The use of solitary to punish what the prisons deem their worst

offenders has been linked to causing severe mental issues, most commonly depression, suicidal thoughts, withdrawal from society, and panic.

Prisoners in solitary typically spend somewhere between 22 and 24 hours a day in a prison cell that is, on average, the size of a typical parking spot. This not only brings the prisoners—in Justice Kennedy's words—"to the edge of madness,"; it undermines the ability of those men and woman to re-acclimate with society.¹

Those opposing the extended use of solitary confinement invoke the Eighth Amendment's prohibition of cruel and unusual punishment. In recent years Pelican Bay State Prison in California has become one of several prisons throughout the country that have received notoriety for overusing solitary confinement. The extended time spent in the Security Housing Unit (or SHU) in Pelican Bay has led to a class action lawsuit. *Ashker v. Brown* was filed by prisoners who had spent more than a decade locked inside of Pelican Bay's SHU. In 2012, the Center for Constitutional Rights became counsel for the prisoners and filed an amended complaint.² *Ashker* will be heard in U.S. District Court for the Northern District of California later on this year.

Recently the issue was brought to the attention of the Supreme Court through the case *Davis v. Ayala*, heard before the

Court during its October 2014 term. Although the case itself involved the racial use of preemptory challenges during jury selection, solitary confinement came to light through Justice Kennedy in his concurrence, written alongside Justice Alito's majority opinion. Justice Kennedy stated in his concurrence that were a case on solitary to come before the Supreme Court in the future the judiciary may be forced to consider and require alternative punishments. Although this issue has not yet come before the Court directly it is poised to be heard sooner rather than later.

In July President Obama became the first U.S. president to visit a federal prison. In the aftermath of his visit to the medium security prison El Reno in Oklahoma, President Obama asked the Justice Department to review the use of solitary confinement within the federal prison system. Although this review alone will not end its use throughout state prisons, Obama remains hopeful that those prisons will follow the federal system's example.

As the proportion of mentally ill prisoners increases behind prison walls, the corrections system will need to adapt and search for other solutions to solve the problem of trouble-making prisoners.

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Employment Law



Hoorah! Oregon Is the Fourth State to Guarantee Paid Sick Time!

By: Lilya Roraback

Workers in Oregon are guaranteed the right to earn paid sick time thanks to Governor Kate Brown and the collective efforts of Oregon state legislators. When Governor Brown signed Senate Bill 454 on June 22, 2015, Oregon became the fourth state in the nation with a statewide paid sick time law.¹

When the law takes effect on January 1, 2016, employers will be required to provide paid sick time benefits to employees working in the State of Oregon. This time away from work can be used to care for personal health or the health of a family member.

“Many workers in America cannot afford to stay home with a loved one in a critical time of need”

Employees in a place of business with 10 or more employees will earn a minimum of one hour paid sick time for every 30 hours worked within the State, up to 40 hours per year. Employees in a place of business with 9 or fewer employees will earn a minimum of one hour “unpaid” sick time for every 30 hours worked within the State, up to 40 hours per year.

The City of Portland’s existing paid sick time law will remain in effect concerning accrual. There, employees at businesses with 6 or more employees earn a minimum of one hour paid sick time for every 30 hours worked within the State. Those at smaller businesses (5 or fewer employees) earn unpaid time.

The employer must allow the employee to carry over up to 40 hours of unused sick time from one year to a subsequent year. An employer policy may also allow employees the option to receive the cash value of unused paid sick time at the end of the year. The cash-out option is only applicable to a place of business with 10 or more employees. Unless the employer chooses to allow earlier use, employees may begin to use accrued sick time beginning on the 91st calendar day after the commencement of their employment.

The requirements of the law do not apply to the following: (1) employees whose terms and conditions of employment are covered by a collective bargaining agreement; (2) employees employed through a hiring hall or similar referral system operated by a labor organization or other third party; and (3) employees whose employment-related benefits are provided by a joint multiemployer-employee trust or benefit plan. If you’re an employee in Oregon (or plan to be), do not get discouraged if the law does not apply to you! After all, it’s clear that Oregon is an employee-friendly state.

As an employer, you may wonder, who is responsible for enforcing this law? The law grants authority to the Commissioner of the Bureau of Labor and Industries to adopt any necessary rule to implement and enforce the law. Further, the State of Oregon preempts all charter and statutory authority of local governments as defined in ORS 174.116 to set any sick leave requirements.

It is important to address the relevance of this law to employees and the concerns that employers face. Paid sick time is an imperative safeguard for many low-wage workers. Many workers in America cannot afford to stay home with a loved one in a critical time of need or

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(Continued from P. 3) STRATEGIES TO SUCCESS

Don't ever be afraid to think outside of the box! My greatest claim to fame is on the first day of my first legal internship, an attorney asked for my feedback on his argument. He was presenting the argument to the Maryland Court of Appeals, the court of last resort for Maryland. I asked a question that was so far left field that I even surprised myself. When arguing his side before the court, one of the Maryland Court of Appeals judges asked the same question that I had asked.

6. "I do not make quick decisions."

Depending on the legal job that you choose, this could be a great weakness. If you are a litigator you need to be a fast thinker and quick on your feet. You can turn this into a positive by stating that you like to think logically about your decisions before you make them. State that anytime you make a decision it is a reflection upon the company. Let them know you always want to make the best decisions for the company and put the company in the most positive light.

7. "Sometimes I take on more than I can handle."

This can be interpreted as you are easily overwhelmed or that you lack the abilities to say no or speak up for yourself. Easily turn this into a positive and state that you are always up for a new challenge. Add that you sometimes underestimate how much time a task may take, but that you always produce quality work and make deadlines. Let them know you've learned to more accurately gauge tasks before taking them on.

Now go get busy!

Now that interview season is fully upon us, it is imperative to always be prepared for any and all questions. Consider how you will answer these questions. Your explanation of your weakness can demonstrate that your potential employer is interviewing someone who can improve themselves to meet the demands of the job. Good luck! ■

(Continued from P. 11) PUBLIC INTEREST

of a lawyer in a private law firm after they have devoted five to seven years to the practice.

Work is rarely routine as a public interest lawyer, and one gets to work on new issues frequently. Big private sector firms do not allow newly hired lawyers or even interns to handle tasks range as widely as the tasks of a public interest lawyer does on a day-to-day basis. There are a vast number of fields for a service lawyer to choose from such as expanding civil rights, reducing the incarceration rate, and working of welfare and housing cases, to name a few.

Public interest lawyers spend their lives representing people who are unable to obtain legal services from lawyers in the private field due to a lack of finances, which is a truly noble endeavor. Public interest lawyers make a huge impact in the lives of the people they represent, including helping them understand more about the legal process. When choosing whether to work in the public or private sector, remember that working in the public sector has significant advantages in the long run even though not as financially advantageous. ■

(Continued from P. 12) SOLITARY CONFINEMENT

Prisons are not equipped to handle the mentally ill, and are even less prepared to rectify the severe aftermath that results when prisoners come out of the SHU. With names like Obama, Kennedy, CCR, and the ACLU all throwing their support behind limiting solitary confinement the issue could come to the Supreme Court any term now.

¹ Davis v. Ayala, 135 S.Ct. 2187, June 18, 2015.

² Amended complaint filed 5/31/12, Case No. 4:09-cv-05796-CW.

(Continued from P. 13) PAID SICK TIME

or even care for their own well-being if it means that they are losing income. Oregonians along with Californians, Connecticuters, and Massachusettsans will no longer have to fear that fate, due to paid sick time laws in their respective states.

Women are disproportionately impacted by the lack of paid sick time because they make up two-thirds of those working for low-wages. Scores of low-income men and women are forced to make difficult decisions every day: whether to care for ill loved ones or to deal with a loss of income and potential backlash at work.

Getting sick has serious economic consequences for workers and their families. Reports state that nearly one-quarter of adults in the U.S. (23%) have lost a job or have been threatened with job loss for taking time off due to illness or to care for a sick family member.

Employers, as well as employees, benefit from the enactment of paid sick time legislation. Paid sick time benefits businesses because when sick workers are able to stay home, the spread of viruses and bacteria slows and workplaces are in effect healthier and more productive. Additionally, workers recover faster from illnesses when they can stay home, enabling them to get back to work sooner and holding down health care costs. Further, paid sick time has been linked to reduce turnover (particularly, in lower-wage industries), which leads to reduced costs incurred from advertising, interviewing and training new hires. Moreover, “[r]esearchers say that *presenteeism*—the problem of workers being on the job but, because of illness or other medical conditions, not fully functioning—can cut individual productivity by one-third or more. In fact, presenteeism appears to be a much costlier problem than its productivity-reducing counterpart, absenteeism.” Overall, employers benefit from a more committed workforce when they offer paid sick leave.

On the downside, mandated employer benefits can sometimes increase labor costs for businesses. These costs may in turn be passed to employees by reduced wages or to consumers through increased prices of goods and services. Employers may also reduce workers’ hours to avoid workers’ benefits from accruing; this is more likely for employers with a minimum wage labor force. However, despite some of the drawbacks, the paid sick time laws have long-term implications that outweigh some of the short-term hardships employers might face. For instance San Francisco’s employment rate in the year following implementation of the paid sick time law showed that the city maintained a competitive job growth rate.

When individuals are forced to work because paid time off is not offered, both public health and employer bottom lines suffer. Adults without access to paid sick leave are far more likely to report to work sick, with contagious illnesses like the flu, than adults with paid sick leave. Moreover, parents without paid sick leave benefits are more likely than those with benefits to send a sick child to school.

In analyzing the potential costs and benefits of paid sick time laws, the Institute for Women’s Policy Research predicts a net savings for employers, employees and their families, and the society as a whole. ■

¹ S. B. 454, 2015 Leg., 78th Sess. (Or. 2015). Last accessed 9/27/15 at: <https://olis.leg.state.or.us/liz/2015R1/Downloads/MeasureDocument/SB454/Enrolled>

² Id.

³ Id.

⁴ Id.

⁵ Id.

⁶ Minnesota Coalition for Women’s Economic Security Executive Committee, *The Legislation* (2015). Last accessed 9/27/15 at: <http://www.mnwsa.org/the-legislation/2014-legislation/family-sick-safe-leave/>

⁷ Id.

⁸ National Partnership for Women and Families, *Paid Sick Days: Good for Business, Good for Workers* (2012). Last accessed 9/27/15 at: <http://www.nationalpartnership.org/research-library/work-family/psd/paid-sick-days-good-for-business-and-workers.pdf>

⁹ Paul Hemp, *Presenteeism: At Work—But Out of It*, Harvard Business Journal, (Oct. 2004). Last accesses 9/27/15 at: <https://hbr.org/2004/10/presenteeism-at-work-but-out-of-it>

¹⁰ Shelley Waters Boots, Karin Martinson, and Anna Danziger, *Employers’ Perspectives on San Francisco’s Paid Sick Leave Policy*, The Urban Institute, (Mar. 2009). Last accessed 9/27/15 at: <http://www.urban.org/sites/default/files/alfresco/>

LEX | BREVIS SPOTLIGHT ON: Mentoring

Interview with Attorney Joe Smith III and Keydar Ismail

Name: Joe Smith

Graduation Year: 2009

Work: Law Office of Joe A. Smith III

What was your background like?

AttySmith: I grew up in Nashville, TN. It was straight A's and all black schools. Nashville is diverse and progressive but very segregated. A lot of prestigious Black schools and universities. There are Blacks that do well but it's very segregated.

In 7th grade my teacher held me after class and asked me what I wanted to be. I told him a police officer but he suggested an attorney. My parents never said I couldn't do it. I never felt any limitations. But I also never met an attorney until I joined a fraternity in college. I had no concept of how to do it [be an attorney] but I wanted it anyway.

What did you study in college?

Atty Smith: In college I purposely majored in Political Science. I was into politics and I was on the student court for the student body at the University of Memphis.

What was it like, applying to law school?

Atty Smith: I never visited the campus. I just came after talking to Dean Johnson.

How was your first year?

Atty Smith: It was a hard adjustment, mostly because it was a new place. I had extreme culture shock. I was not a good student. I had no desire to

go work at a big firm; there's a lot of anxiety, competition [associated with that]. I didn't like it.

Not having money can be a big problem. 1L year I got a job in Admissions.

What did you like about working in Admissions?

“From my experience, people want to be mentors; it's fulfilling on both sides.”

Atty Smith: Everything.

What was it like dealing with applicants?

Atty Smith: I gave tours, etc I was candid with applicants. I knew people who went to other [law] schools. It appeared that at WNEC, the administration, was more hands-on and sympathetic with students. They were with me when my sister passed away.

What did you do while in law school to get experience?

Atty Smith: The summer after 1L I worked for the ACLU doing prisoner's rights. We educated prisoners on how to get voting rights and did a research pamphlet on prisoner's right to vote.

After you graduated, what did you do?

Atty Smith: I worked for the NFLPA (NFL Player's Association) and took the Contract Advisor's exam. I also opened a sport's agency firm with a then recent Tulane grad.

LEX BREVIS SPOTLIGHT ON: Mentoring

Interview with Attorney Joe Smith III and Keydar Ismail

Did you get a lot of experience doing that?

Atty Smith: No, we lost a lot of money. We just didn't know. But I got a call from Judge Groce (then Attorney Groce) to work with him. My roommate had been a law clerk for Groce. He wanted help for two weeks on a double rape in Pittsfield. It was complicated. Two weeks became two years.

Specializing in what?

Atty Smith: Criminal defense work; murders, home invasion, robberies etc.

What did you do?

Atty Smith: Jail visits, second-seated at trials, he introduced me to people in the legal community. When I passed the Bar, Groce helped set me up in my own practice. My introduction was in the Superior Court. I was only introduced to District Court once I worked.

What was the biggest difference you saw between law school and when you started practicing?

Atty Smith: It wasn't practice anymore. It was as close to being in the game as you could be. It was a lot more fulfilling than an exam. In law school I never had any interest in criminal defense work. I wanted to be in sport's management, managing entertainers, etc.

Was there anything in particular about law

school that helped you when you started practicing?

Atty Smith: The value. I went to WNE but because I was networking with my roommate I got to meet Judge Groce. It's the opportunity to network. The person that later on will give you your big opportunity.

There is a cultural disconnect [in law school] that can make you feel out of place and insecure and Groce filled that. He taught me a lot. The networking continued with things that you otherwise have no concept of dealing with because they are not a part of the way you grew up. You can read as many money magazines as you want but it's like law school— it's theoretical. It was easier coming from him than some class or program. It was much more different.

How did you transition into being a mentor for Keydar?

Atty Smith: I always felt I had an obligation- like it was my duty to take someone under my wing. For me, it was a natural fit. I could see a lot of myself in him- good and bad.

What about when you don't have that natural fit?

Atty Smith: If you can't connect it doesn't mean you stop attempting to find a mentor. It's just that mentor may not be for you. Don't limit finding a mentor to people just in the profession.

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Interview with Attorney Joe Smith III and Keydar Ismail

Why?

Atty Smith: Just because someone gets a law degree doesn't mean you practice they're an attorney. Business, finance, banking etc. any other profession you can think of uses people with law degrees. I especially don't think a mentor should be in the same area of law you want to be in.

Why?

Atty Smith: Unless that person gives you a job then you will be what your first job is unless you go out on your own- and that's unorthodox. You may end up following that path when it may not be right for you. Mentoring far supercedes the job part of it.

Why?

Atty Smith: A lot has to do with presentation, networking, financial responsibility. A mentor is not just a person to job shadow. It's bigger than that. It's a lot more involved if done correctly. There is a lot more to being an attorney than going to court and trying cases. Everyone's going to have a different experience and we all need someone to talk to about what we are going through in dealing with certain situations.

Had you been mentored before Judge Groce?

Atty Smith: Yes.

How was that different?

Atty Smith: Age 8-18 by a barber. That was more about keeping me out the streets, motivating me to keep grades up, keeping me away from drugs, gangs. It was a young Black guy. He taught me work ethic. What he gave me still resonates with me. Different times of your life you are going to have mentors. Some people don't have them.

“Mentoring far supersedes the job part of it.”

What do you suggest for students?

Atty Smith: Become involved in groups, extra-curricular ones that provide networking and exposure to people in the profession that gives you the opportunity to meet people. The onus is on the mentee. When I was a kid sweeping the barber-shop no one told me to come in. With Judge Groce, he wasn't begging me to do anything. The onus was on me to ask questions and do things. From my experience, people want to be mentors; it's fulfilling on both sides.

Why?

Atty Smith: You are able to offer people- you are giving back. There is a certain level of gratification that comes with that.

LEX | BREVIS SPOTLIGHT ON: Mentoring

Interview with Attorney Joe Smith III and Keydar Ismail

[to Keydar]: How has the mentoring relationship surprised you?

Keydar: How much it overlapped into law- making a transition. Seeing someone who looks like you, somebody who comes from the same level. It's confidence, experience, exposure.

[To Keydar]: What has the experience as an intern been like in terms of legal experience and being mentored?

Keydar: In terms of legal experience, I ran the whole summer with him- kept my wheels turning. My first time in court compared to now, I feel more at home. You learn how to craft your style and come up with what you learn. In terms of mentoring, it's person to person. It was a lot with my attitude and the transition with where I came from. Also, a lot of stuff you don't learn in law school. And helping me flourish.

Is there anything else you would like to add?

Atty Smith: I think mentoring is good. You put all this effort into academics. Even once you get into firms, the key to success is being mentored by a partner. When I worked for Judge Groce he would give me smaller clients and that helped me build my network.



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