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RWU Law: The Magazine of Roger Williams University School of Law (Issue No. 1) (Summer 2011)

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RWU Law

ISSUE 1 | SUMMER 2011

The Magazine of Roger Williams University School of Law

BUSH & THE LAW

TRAPPED IN THE USA?

R.I. ATTORNEY GENERAL
PETER KILMARTIN '98



SEA change

*Marine Law Comes to the
Fore in the 21st Century*

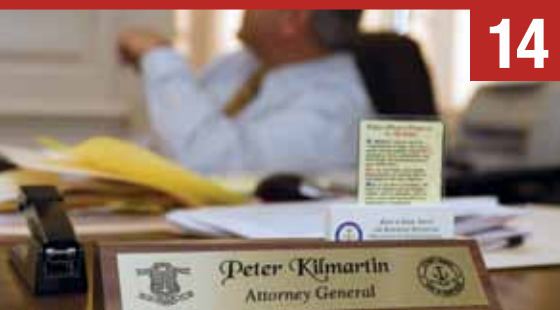


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Welcome to *RWU Law*

If any one theme unites the stories in this inaugural edition of *RWU Law*, the School of Law's new magazine, it is the powerful sense of an institution reaching a new phase, achieving a certain critical mass. "All of a sudden," as Attorney General Peter Kilmartin '98 notes in these pages, "it's like [*RWU Law*] has always been here."

From a communications standpoint, this "new" *RWU Law* is reflected in a fully redesigned website (winner of multiple awards, including a Georgetown Law rating as one of the U.S.'s 10 best law school websites), and a totally revamped suite of brochures and promotional materials (honored as one of the nation's top three "total recruitment packages" for graduate schools by Higher Ed Marketing Report). And now – it's the magazine's turn.

In undertaking a ground-up redesign of *RWU Law*'s flagship publication, we combed stacks of other law and graduate school magazines, as well as some commercial publications, compiling guidelines and examples. We solicited reader comments and suggestions; and utilized focus groups, surveys and one-on-one interviews to pinpoint which components worked and which didn't, for audiences ranging from prospective recruits to prospective employers, and from current students to alumni, staff and faculty.

The title change from *Amicus* to *RWU Law* was supported by this research and by decisive majorities on our editorial board

and redesign committee. It is a title uniquely our own (whereas *Amicus* is used by several other law schools, including Michigan State and Colorado Law) and brings the magazine into line with current best practices, even as it complements the branding and messaging already underway via our promotional materials and website. *RWU Law* is now of a piece with these and with wider University efforts, including its magazine, *RWU* (formerly *The Bridge*), which was redesigned and re-titled in 2008.

In recognition of the vital importance of tradition and continuity, we were pleased to retain and honor the name *Amicus* – with its connotations of community and goodwill – as title for the redesigned alumni pages of the new magazine.

We hope *RWU Law* will mirror the School of Law in its "new phase" – honoring its foundations, while celebrating the valuable work being carried out today by so many dedicated students, faculty, alumni, staff members and friends. If the magazine is a success, it is ultimately because you give us so many great stories with which to fill it.

Very truly yours,

Michael M. Bowden
Editor, *RWU Law* Magazine
Director of Law School Communications,
Roger Williams University



RWU Gains a New President

This spring, RWU's Board of Trustees appointed educator, scientist and attorney Donald J. Farish as 10th president of Roger Williams University. Dr. Farish officially joined the University this summer, and further coverage will appear in future editions of *RWU Law*.

In the meantime, visit *RWU Law* Newsroom at law.rwu.edu to read the announcement of Dr. Farish's appointment along with a complete biography and links to the myRWU channel on YouTube, where you can watch video of his introduction at Global Heritage Hall to the RWU community. – MMB

WRITE TO *RWU Law*

We welcome and encourage your comments, feedback, suggestions and letters to the editor.

Email letters to: rwulawmagazine@rwu.edu

Write to: *RWU Law* Magazine
Roger Williams University School of Law
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Bristol, RI 02809

Please include your full name, address and *RWU Law* affiliation, if applicable. Letters may be edited for clarity and/or length.

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While every effort has been made to ensure that information is accurate and up to date, we're writing about a dynamic educational environment, and it is not possible to guarantee that all items will be accurate at all times.

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A Chat with the Dean

Our Q&A with Dean David A. Logan

We're not the new kid on the block anymore...

RWU Law: *It's been an exceptional academic year for RWU Law – from the fall premiere of “Conviction” [see back cover – Ed.] to an alumnus being elected as Rhode Island Attorney General, to the First Circuit hearing arguments at the law school, and so much more. How do you account for all this extraordinary activity?*

DAL: Lots of terrific stuff is happening at the School of Law – but I don't think it's a fluke or an aberration. Rather, what we are seeing is the fruition of a long, steady evolution. Think about it: we've been turning out top-shelf lawyers for 15 years now. Our earliest graduates are entering mid-career – they are successful practitioners with major law firms and corporations, policymakers in government; we even have a couple of judges. And now, as you note, the new AG.

RWU Law: *We're more of a known quantity, in other words?*

DAL: We're definitely not the new kid on the block anymore. We have become an integral part of the legal culture – and wider community – of Rhode Island and Southeastern Massachusetts. We have forged excellent, symbiotic relationships with the bench and bar and community groups across the region. Our students know they are well positioned to pass the bar exam of

their choice and get a good job, even in a very tough employment market. Our alumni know their degrees are steadily appreciating in value as the school continues to cultivate and consolidate its reputation. Leaders in the public and private sectors, and in the media, all understand we're a superb resource.

RWU Law: *And the School of Law is giving back to the community in other ways as well.*

DAL: Absolutely. When Rhode Islanders first began debating the benefits of establishing a law school in the state, there were two particularly compelling arguments in favor. First, that a law school would provide a forum for impartial discussion and criticism of the state's legal system by lawyers not dependent on that system for their livelihood. And second, that it would provide a steady reservoir of young lawyers-in-training who could provide much-needed legal assistance to underserved and vulnerable communities. Those are promises we continue to deliver on every day.

RWU Law: *How so?*

DAL: A great example of critical discussion was [Professor] Michael Yelnosky's forum on judicial selection procedures – it could not have happened anywhere else. On the community service side, there are the dozens

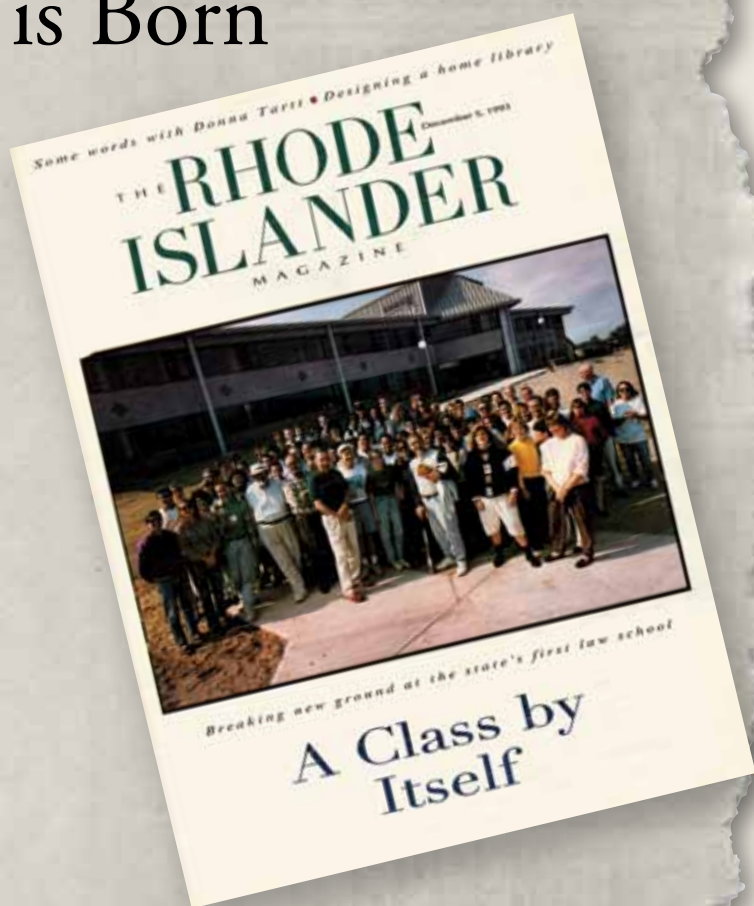
of initiatives underway through the Feinstein Institute and Pro Bono Collaborative; plus the casework being handled through our Immigration and Criminal Law clinics, for clients who would otherwise have had to face the massive power of government without legal representation. Our faculty, staff, students and alumni are out there in the community every day, collaborating with law firms, government agencies, hospitals, community-based organizations – you name it.

RWU Law: *Is it safe to say, then, that RWU Law has arrived?*

DAL: No way. The idea of arrival connotes, “There, we did it. We're done.” It's a static expression, and we're not a static institution; quite the contrary, we're incredibly dynamic. We are an ongoing, multifaceted, continually evolving enterprise. With each new student, each new alumnus, with every new faculty publication or study, every competition, every symposium, forum or public service project – every day we write a bunch of new subplots. The story continues to unfold, and it becomes deeper and richer with each new chapter. Rather than saying, “we've arrived,” I'd prefer to say that we strive for institutional and personal excellence every day, in all we do.

From the Archives

A Law School is Born



The School of Law opened its doors in August 1993. That October, Doug Riggs – writing for the Providence Journal’s former Sunday magazine, The Rhode Islander – spent a day on campus:

“Students dodge wooden sawhorses guarding an unfinished section of brick hallway. Bulldozers swarm around the building like outsized yellow jackets...

“But make no mistake: the state’s first law school is up and running. And if the wooden barricades that mark the building’s shifting frontiers bring to mind a revolutionary scene, maybe that’s appropriate... In a place like Roger Williams, the latest thinking doesn’t have to seep in through ivy-encrusted walls; it can march through the front door and become instant tradition.”

1993 THEN 2011 NOW

RWU Law Magazine tracked down a couple of students quoted in the *Rhode Islander* article to see how they felt about RWU Law and the legal profession, then and now:

THEN: “I don’t see myself as being one of those billable-hours corporate attorneys. It’s really the advocacy part that intrigues me: to be able to go forth and push for people’s ideas, rights.”

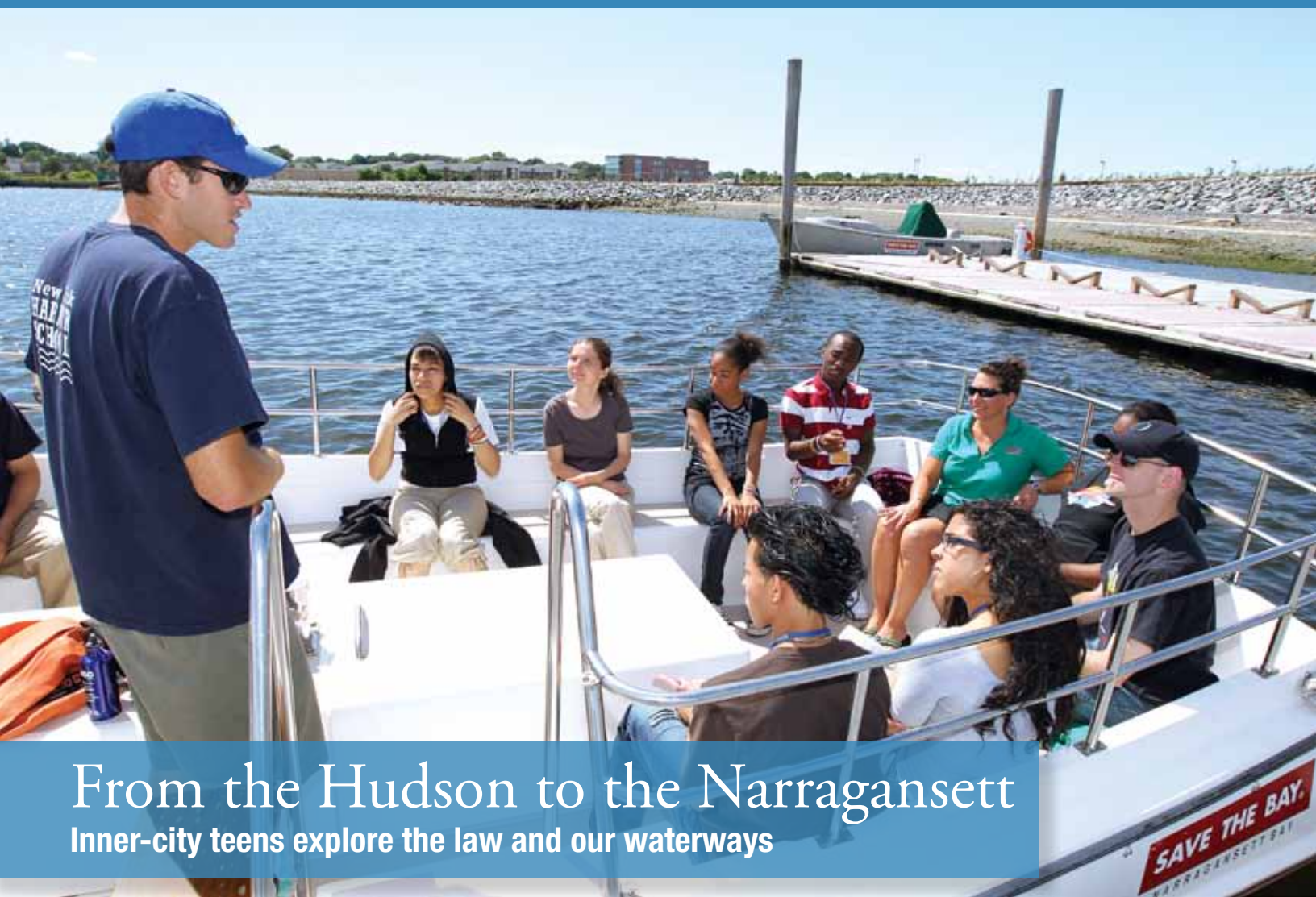
NOW: “I’ve taken on a handful of public interest cases, but – for strictly reality-based reasons – I surrendered to the corporate side some time ago. My wife [Debra Lord ’98, see *Class Notes –Ed.*], on the other hand, has dedicated her career to public service.”

– **Richard Lord ’96** is an attorney and analyst with Vermont Mutual Insurance Group in Montpelier, Vt.

THEN: RWU Law students “are competitive, but at the same time they’re friendly. If they keep that attitude, this law school will be something really special, because it will take the competitive edge out and give the caring edge – and that’s what we need in the law profession.”

NOW: “I still believe a more collegial approach is the better way. The profession is adversarial by nature – but you can be competitive and collegial at the same time. In domestic violence cases, for example, civility and empathy aren’t just ideals, they’re necessary job skills.”

– **James Donegan ’96** is an attorney with Gaul, Baratta & Rosello in Cedar Knolls, N.J. For 10 years, he was an assistant prosecutor with the Warren County (N.J.) Prosecutor’s Office.



From the Hudson to the Narragansett Inner-city teens explore the law and our waterways

Cruising aboard a small Save The Bay vessel, six young passengers fielded a series of environmental questions posed by Captain Rob Hancock as he guided the craft through an industrial section of the Narragansett Bay estuary.

The passengers – a group of rising seniors from the New York Harbor School, an alternative public high school located on Governors Island, off Manhattan – answered the questions easily and enthusiastically. The Harbor School offers its students – the majority of whom are black or Latino, hailing from the inner city – a college preparatory curriculum heavy on maritime education.

“My first impression was how engaged the students were, especially given their age,” says Wendy Waller ’02, an environmental attorney who helped coordinate the trip for Save The Bay. “They knew more answers to the captain’s questions than most visitors and were confident enough to answer them.”

Last summer, the students traveled to RWU Law for a weeklong program packed with classes in marine law, science-based field trips and local excursions.

“I thought it would be great to connect these students with Roger Williams and to develop a pipeline program that encourages their interest in law early on,” says Lydia Hanhardt, former director

of diversity programs for RWU Law, who coordinated the trip – with funding from the RWU Law’s Office of the Dean and an Inclusive Excellence Mini-Grant from the University – after hearing a feature about the Harbor School on NPR.

The week’s projects included a moot court competition, in which the students delivered oral arguments in a hypothetical case. Third-year law student Tysha Vaughn, a New York City native herself, helped coach the Harbor School teens.

“We taught them how to align points of law with issues presented in the case,” Vaughn explains. “They were bright, industrious students who were truly interested in the topic. They used a lot of creativity to look at the facts and come up with the most compelling argument.”

“This was, without a doubt, one of the most eye-opening experiences of my life,” agreed one student, Alpha, during an emotional gathering at the program’s end. “You’ve helped us sharpen skills – such as listening, speaking and critical thinking – that are applicable not only to law, but to everything in life.”

“They were certainly driven to make something of themselves,” notes Waller, “and I have no doubt that each and every one of them will.”

It's Unanimous! Mandell to Chair Board of Directors



With a legal career spanning four decades and an array of million-dollar-plus verdicts and settlements populating his book of business, there are few

assignments that prominent Rhode Island attorney Mark Mandell might consider daunting.

But succeeding the Honorable Joseph R. Weisberger '97H, a founding champion of the state's only law school, as chair of RWU Law's Board of Directors? That's daunting.

"One of the individuals I've admired most over the 36 years of my career is Justice Weisberger," Mandell says. "He's a man of enormous integrity; a scholar and a fine human being. I could never fill his shoes, and I wouldn't pretend to."

But Mandell brings his own formidable experience to the task. A former president of the Association of Trial Lawyers of America and of the Rhode Island Bar Association, among many other honors, Mandell feels there is no mandate more critical than charting an educational course for his future colleagues. The incoming chairman – proud father of Zach Mandell '11 – also hopes to further strengthen the school's deep ties to the area's bench and bar.

"We have a symbiotic, mutually complementary relationship," Mandell says. "That helps to attract talented adjuncts, opens doors to internships and jobs and gets so many of our wonderful judges involved. Students would never have the opportunity to gain that wisdom in any other state – not at the level they do at Roger Williams."

RWU Law's Dynamic Duo

Adjunct professor Donald Migliori and Leah Donaldson '07 of Motley Rice in Providence are making their mark at Roger Williams Law – and in the legal community beyond.

Migliori, a partner in the Providence office of the national law firm Motley Rice, is widely known for his work in asbestos cases, the historic tobacco lawsuits of the '90s and, more recently, his litigation involving the 9/11 terrorist attacks. He frequently appears on television, radio and in print discussing terrorist financing, aviation security and class-action litigation.

Migliori, recently named RWU Law's first Distinguished Practitioner in Residence, also served as mentor to four law school students this year. "To have a high-level student show an interest – actively observing and participating in moving our cases forward – keeps us motivated," he says. "Having students watch you practice your trade forces you to stop, look at the issue and get back to the basics of law; to help them understand what you're trying to accomplish. Doing that is so critical; it makes you a better lawyer."

It's great for students as well, notes Donaldson, a former Migliori protégé who is now an associate with Motley. "Don has the ability to draw the listener in, whether it's a judge, a jury or a student," she says. "Add to that the inherent interest of his topics – the real-life aspects of the litigation – and it's very compelling for a law student."

Today, Donaldson is making headlines of her own as president of the Rhode Island Women's Bar Association, having served on its board of directors since 2007. Like Migliori, she is driven by a deep commitment to accountability, a quality she attributes to her politically engaged father. "He taught me that everyone has a voice that needs to be heard," she said. "I carry that with me through everything I do."



GETTING TO KNOW...

Gail Winson

Associate Dean for Library and Information Services and Professor of Law, Retired

RWU Law says goodbye and thank you to founding librarian

When Gail Winson traveled 3,000 miles cross-country from San Francisco to take the position of library director at RWU Law, she crossed a new bridge in life – literally! In 1992 she arrived for her final interview via the Old Jamestown Bridge just before it permanently closed down – and departed over the newly opened Jamestown-Verrazano Bridge, heralding a new phase in her successful career. **Early Days:** Winson's first challenge was to build the library's collection and establish library services for students and faculty as the school's construction neared completion. "The ABA's accreditation inspection team takes a very close look at the arrangement of books, student accessibility and the collection itself," recalls Professor Anthony Santoro, RWU Law's first dean. "Thanks to Gail's efforts, we came through with flying colors." **Trailblazer:** Winson started law school in 1976, when Lexis and Westlaw were in their infancy, and student access to terminals was extremely limited. "I was the only one in my first-year class who used automated research, and I cited cases that no one else found. So the next year the school ruled that first-year students couldn't use automated research!" Winson later became one of the first professors in the country to teach such courses as Advanced Legal Research and International & Foreign Law Research. **Reflections:** "I'm proud of the collection we've built here and of getting the transition to online databases in place," Winson says. Santoro notes, "One faculty member told me he never asked for a book that Gail couldn't find." **Steps Ahead:** Winson has already found time for a new passion in retirement – dancing: "Ballroom, cha-cha, Cajun, swing... I've really enjoyed it!" As professor of law emeritus, Winson will stay involved with RWU Law – but has plans for much more. "I'm ready for a new phase of life!"



Policymakers in the House

A packed room of students enjoyed a rare opportunity to chat with Rhode Island's three top law enforcers about how their agencies work together to fight white-collar crime.

“You can't worry about the press or the public out there with pitchforks. You occasionally have to say no, there's no charge. And that is, perhaps, one of the greatest challenges. If you lose your moral compass, you're gone.”

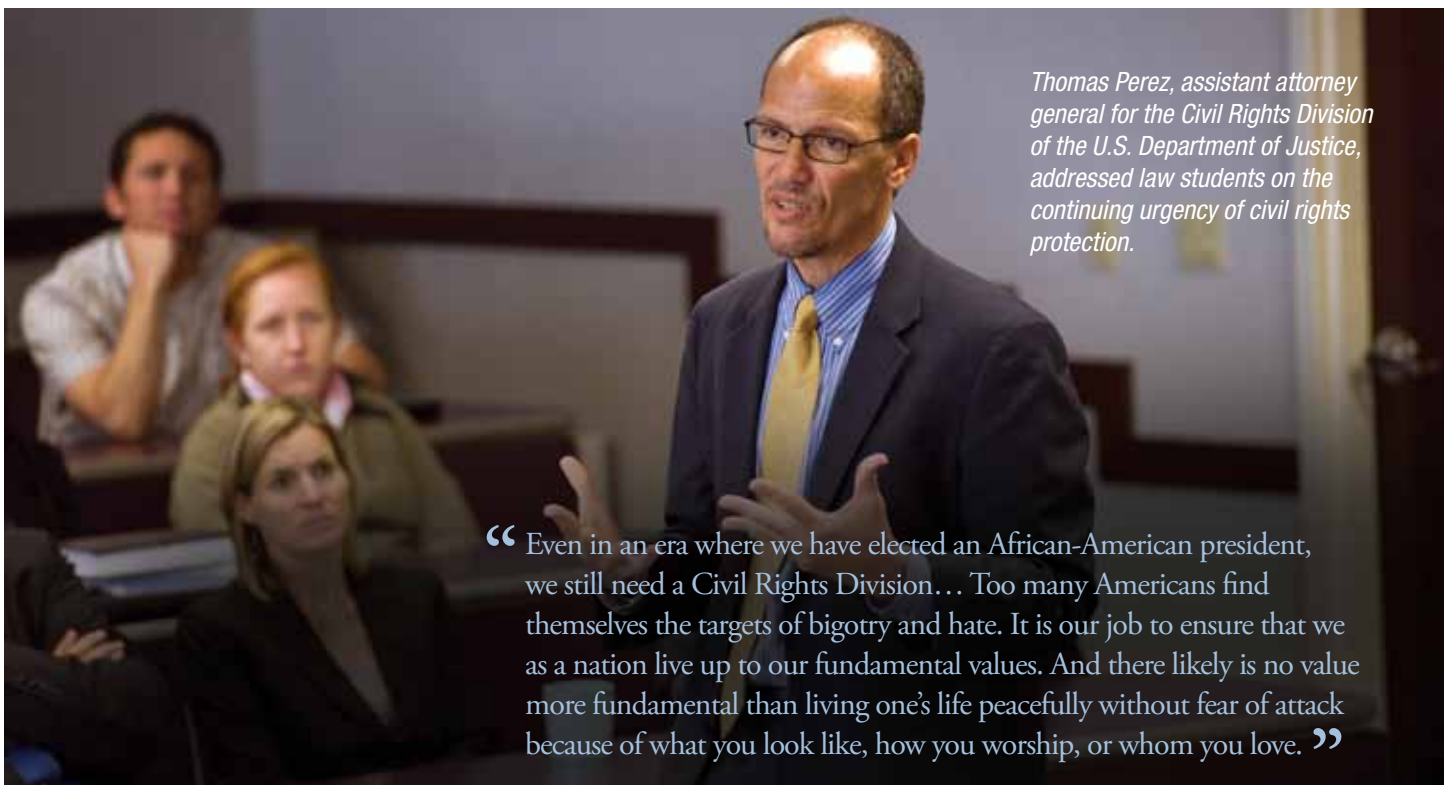
—Patrick C. Lynch, Attorney General of Rhode Island (2003-2011)

“There are so many different disciplines in law enforcement — and we have to think of all of them.”

—Col. Brendan P. Doherty, State Police Superintendent (2007-2011)

“There is a difference between what is morality and what is a violation of the law. You can never let the politics or emotions of the moment take over.”

—Peter F. Neronha, U.S. Attorney for Rhode Island (2009-Present)



Thomas Perez, assistant attorney general for the Civil Rights Division of the U.S. Department of Justice, addressed law students on the continuing urgency of civil rights protection.

“Even in an era where we have elected an African-American president, we still need a Civil Rights Division... Too many Americans find themselves the targets of bigotry and hate. It is our job to ensure that we as a nation live up to our fundamental values. And there likely is no value more fundamental than living one's life peacefully without fear of attack because of what you look like, how you worship, or whom you love.”

What Would Attorney X Do?

Legal ethics roundtable discusses, debates use of deception in law enforcement



Consider this: A young man is suspected of trading in child pornography. After prosecutors and police fail to obtain a search warrant enabling them to seize his laptop, they create a fake contest notice that he had won a new laptop – all he had to do was trade in his old computer. The man took the bait and computer forensics experts were able to extract incriminating evidence from his old hard drive. Were their means of obtaining this evidence ethical?

This hypothetical formed the basis of one of many intense debates that took place at the law school during an ABA-sponsored roundtable on legal ethics, part of a nationwide project examining key issues that affect everyday law practice and professional conduct. An attending judge replied with a story from his days as a young prosecutor, raising similar issues.

"You have to draw a strict line between the conduct of lawyers in court, in the context of a judicial proceeding, where absolute honesty to the court is a requirement; and outside the court, where it's a little naïve to believe the world operates the way it should," he concluded. "It can be very difficult to

navigate these shoals with integrity, but in some cases deceit can be part of the world of justice and truth-finding."

"So which rules are we free to disregard?" a female defense attorney shot back. "Which rules of ethics can we give a wink and a nod to and then engage in unethical behavior?"

A Wisconsin lawyer opined that ethical rules outright forbidding deceitful behavior don't eliminate it, but only force it into secrecy. "It's better to allow it in the open and discuss specific circumstances," he said, adding that his home state embraces such an approach. "This is behavior that *does* occur! It's better to have an open dialogue about it."

An Ohio law professor agreed with him, but cautioned, "Even where the rules explicitly say it is okay to use deception, we must be careful not to use it in a way that reflects negatively on our ability to practice law."

The goal was not to reach any hard-and-fast answers, but rather to create a nuanced and honest dialogue about the ethical conundrums that attorneys often face in practice.

"The ethical responsibilities of attorneys involved in the criminal process are a vital issue," said RWU Law Professor Peter

Marguiles, who organized the conference. "They're also sometimes misunderstood in public debate, which tends to center around how criminal defense lawyers can represent people who they know or suspect are guilty. But when you look at the system from the inside, you can ask a different set of questions – including how lawyers can practice ethically and still represent the interest of the public or the interest of their client."

Rhode Island attendees included Superior Court Judge Edward Clifton; Chief Disciplinary Counsel David Curtin; criminal defense attorney John Grasso '06; criminal defense attorney Robert Mann; Superior Court Judge Daniel A. Procaccini; attorney John M. Roney; U.S. District Court Judge (and RWU Law Adjunct Professor) William E. Smith; and defense attorney Lise Gescheidt. The geographic diversity of the panel – which also included non-Rhode Islanders such as law professor Kevin McMunigal of Case Western Reserve University – contributed to the experiential intellectual diversity of the conversation, Marguiles said.

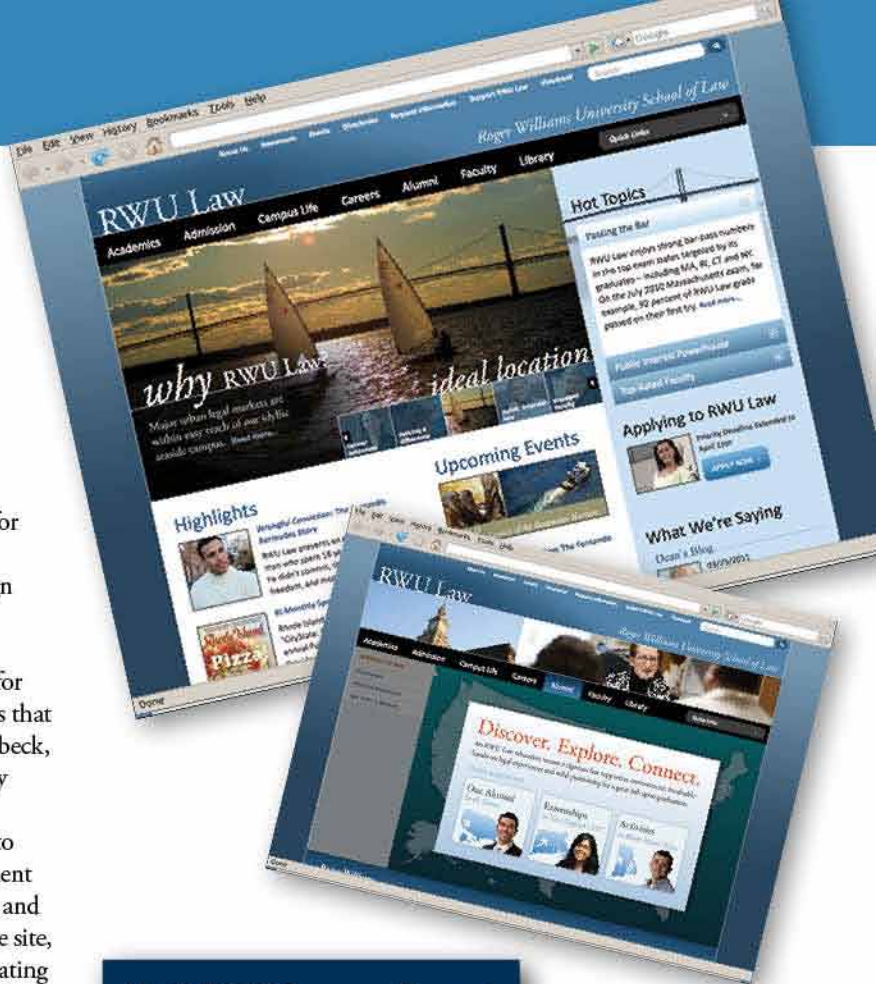
Website Among Nation's 10 Best New law school site earns multiple awards

Roger Williams University School of Law won a trifecta of honors for its redesigned website: a Georgetown Law survey rates it one of the nation's top 10 law school websites, while both marketing and design organizations also bestowed kudos.

The Georgetown report placed RWU Law solidly in the top five percent nationally among 200 U.S. law school sites reviewed for content, usability and other criteria. "The goal is to assess elements that make websites easier to use," wrote Jason Eiseman and Roger Skalbeck, law librarians at Yale and Georgetown respectively, in their January 2011 report.

Last fall, RWU Law's site edged out Northeastern and McGill to win the silver for Best Full Website from the Council for Advancement and Support of Education, the country's top educational marketing and communications organization. The design industry also honored the site, with the Massachusetts Innovation & Technology Exchange nominating it last fall for the 2010 Best Higher Education Website Design award.

"We may lack the brand recognition of some of our competitors," said Dean David A. Logan, "but — as with our high bar-pass and job placement rates — we've grown accustomed to exceeding expectations."



Visit RWU Law online at
law.rwu.edu

Movers and Shakers

From the State of the Union address to the Second Amendment, from state employee unions to the Tea Party... RWU Law faculty are go-to sources for expert commentary on all the news of the day.

Keep up at the RWU Law Newsroom:
law.rwu.edu/newsroom

TIME

"When politicians are scared, they don't always do what is best."
— Professor Peter Margulies,
on U.S. immigration reform

The Washington Post

"How do you measure a disaster for someone's life's work?"
— Dean David A. Logan,
on the Gulf oil spill

Raising the Bar

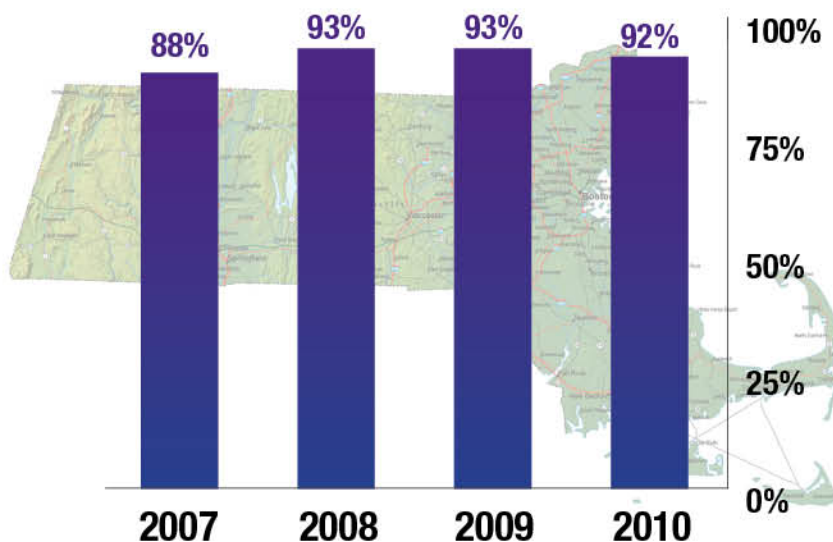
RWU Law continues to enjoy strong bar-pass numbers in the top states targeted by our graduates.

In Massachusetts – by far the number-one state in which RWU Law students sit – 92 percent of May grads passed the July 2010 bar exam on their first try. That top-shelf number places Roger Williams solidly in the company of Boston University and Boston College Law.

The picture is similarly impressive in Connecticut, where RWU Law's first-time pass rate reached 95 percent – a full 13 percent over the state average, and running ahead of regional schools like UConn and Quinnipiac. In New York – fourth in popularity among our grads – the first-time pass rate of 90 percent for Roger Williams grads easily topped the state's overall pass rate of 78 percent for first-time takers. In Rhode Island, our second most popular state, RWU Law's May 2010 alumni came in at 74 percent, on par for what is historically one of the nation's toughest bar exams.

Other RWU grads sat successfully for exams across the country, including Arizona, California, Colorado, Florida, Maryland, Texas and Wisconsin.

Mass. Bar Exam, RWU Law First-Time Takers



"The N.R.A. was reluctant to win a victory that might reduce their ability to stir up fear among their members..."

– Professor Carl Bogus,
on gun control

Los Angeles Times

"The charges did not specify what enemy he was alleged to have aided..."

– Professor Jon Shelburne,
on the WikiLeaks defendant



"This demonstrates the human and environmental risks of our appetite for offshore oil."

– Susan Farady of the Marine Affairs Institute,
on a post-BP oil rig explosion



Decision Time

First Circuit sits at RWU Law and stays to answer student questions

Last fall, a panel of three First Circuit judges – Chief Judge Sandra L. Lynch; Senior Circuit Judge (and RWU Law adjunct faculty member) Bruce M. Selya '02H; and Judge O. Rogerie Thompson '10H – left their seat in Boston to sit in Bristol.

“Federal courts do not travel out of their courthouse very often,” notes Dean David A. Logan. “It was truly an honor for RWU Law to be chosen as an appellate venue in the far-reaching jurisdiction of the U.S. Court of Appeals for the First Circuit.”

A full house looked on in the school's Appellate Courtroom as the judges heard appeals in five cases, including two from Rhode Island – one on the Narragansett “orange sticker” case and another concerning the reasonableness of a police search of Central Falls soccer players accused of stealing cell phones from an opposing team's locker room – then stayed on for a Q&A with students.

Local television news stations set up cameras outside the school as members of the RWU Law community enjoyed an exclusive opportunity to witness firsthand oral arguments before the court, which travels to satellite venues only a few times a year, including biannual ventures to Puerto Rico.

“This court is just a step beneath the Supreme Court,” notes 3L Kevin Olasanoye, a member of the Moot Court team and winner of the 2010 Esther Clark Moot Court Competition. “It's not every day that they decide to come to you. To see real lawyers arguing in front of real judges – when there is actually something on the line – was fascinating.”

Having taken Selya's Lessons in Litigation class at RWU Law, Olasanoye says he found it interesting to see the judge in his element.

After the hearings ended, the judges returned to field student questions for more than an hour, in a session closed to the public and the media. Calling the judges' gesture “both generous and astounding,” Dean Logan added, “This was an invaluable and unprecedented opportunity for our students, unlike anything I have ever heard of in my 30 years in legal education.”

Olasanoye agrees, noting that the Q&A session afforded a rare bench-side rather than bar-side view of the law. “Having a door opened onto that perspective is invaluable,” he says. “It was one of those intangible experiences that we might never get again.”

From the Q&A...

“You can use oral arguments to convert a judge to your way of thinking or to solidify a judge's preexisting opinion that you are correct,” Judge Selya said, but added that it's wise to listen very carefully to the questions judges ask. “They're a window into the thinking of the court. A good lawyer will take advantage of this opportunity to tailor his or her arguments to the mood and dynamic of the court.”

While stating that she is rarely swayed by oral arguments, Chief Judge Lynch stressed their importance. “Don't have high expectations that your advocacy skills are going to make a difference in the outcome,” she said. However, “you may change the

way in which the opinion is written,” creating useful precedent for future cases. “Even if you lose a case, you don't want the court to write its decision too broadly.”

Regarding the power of emotional appeals, the judges were uniformly skeptical. “Lawyering at the appellate level is a quintessentially rational undertaking,” Selya said. “It requires fine reasoning. When I see a lawyer who is too emotionally invested in his or her case, it means either that they're ‘too real,’ in which case I can no longer trust the lawyer's reasoning; or that they're faking it, in which case I can no longer trust the lawyer.”



RWU Alumni a 'Good Fit' for First Circuit Judge

When the U.S. Senate unanimously confirmed President Barack Obama's nomination of the Honorable O. Rogeriee Thompson to the First Circuit in 2010, her first order of business was assembling a high-functioning staff to support the enormous caseload she inherited. One of her first calls was to Max Greene '08 – and it took some doing.

Greene, who clerked for Thompson when she was an associate justice of the Rhode Island Superior Court, was on an extended excursion to Belize – but was thrilled when Thompson called. "This was a dream job for me, and not one I'm sure I would have gotten if I hadn't had the opportunity to work with Judge Thompson before," he says.

For Thompson, however, Greene was a natural choice. "Max was with me at a very critical time in the whole [First Circuit] vetting process, and he was a source of strength during a very difficult time," she says. "That was very important to me because it demonstrates loyalty."

Also high on Thompson's call list was Angie Cooper '08, who'd completed a summer internship with her while at RWU Law. "I had no clerking experience," Cooper admits. "But I felt that with the training I received at RWU Law and my internship experience, I could do the job just as well as anybody who had that prior experience."

Thompson emphatically agrees. "I get résumés from students from Harvard, Yale, everywhere," she says. "But you've got to do something that makes you, versus the other person, garner notice and the ultimate consideration for the job. A lot of people have capacity, but what makes you special?"

"I've had other law interns and clerks – and sometimes you mesh with them and sometimes you don't," she adds. "But these two people are very special. I just know because of my past experience with them how good they are professionally – and they're just good people."



The Red and The Blue

**Speakers Cover Both Ends
of Political Spectrum**

In the weeks leading up to the 2010 midterm elections, speakers from both ends of the political spectrum visited RWU Law, drawing supportive crowds.

The Federalist Society welcomed conservative icon John Bolton, former United States Ambassador to the United Nations (2005-2006), who asserted that – in the face of growing international threats from all quarters – the "very weak" Obama Administration didn't have "much of a foreign policy at all."

Soon after, the Feinstein Institute for Legal Service hosted Democratic stalwart and public service advocate Scott Harshbarger, former Massachusetts attorney general (1991-1999), former president of Common Cause, and longtime pro bono chair in the Boston office of Proskauer Rose LLP. He decried the ideological gridlock paralyzing the nation's political discourse, and called upon law students to help society's less fortunate. "My life has been enhanced by being able to serve in the public interest," he said, "and I commend it to you."



Peter F. Kilmartin '98 has hit the ground running as Rhode Island's new attorney general. Here he meets with LaDawn Toon '07, special assistant attorney general for tobacco enforcement, who originally joined the AG's office in May 2009 under Kilmartin's predecessor, Patrick Lynch.

Top Cop and Trailblazer

Peter Kilmartin becomes the first police officer elected attorney general in Rhode Island – and the first statewide elected official to emerge from RWU Law

By Brian E. Clark

Just three days before RWU Law's annual Public Interest Law Auction was scheduled to kick off at the Peerless Building in Providence this February, immigration rights advocates announced they would protest the presence of Rhode Island's newly elected attorney general, Peter F. Kilmartin '98, B.A. '88 who'd recently signed the hotly contested Secure Communities agreement with U.S. Immigrations and Customs Enforcement.

Student and staff organizers were aflutter: would the protesters disrupt the auction? Would guests decide to boycott? How would the AG react?

But when Kilmartin arrived that Friday evening, with the protest in full swing, he quickly allayed everyone's fears: "I shook their hands and thanked them for being there,"

he recalls. "This is America! They have every right to their opinion, they have every right to disagree with me – and frankly, they have every right to protest me."

Though not a crisis likely to rank high on the list of challenges he'll face over the next four years, the incident may provide a useful illustration of Kilmartin's approach to demands from manifold stakeholders – the citizens he serves, his colleagues in law enforcement and the political arena, the news media, and a law school inspired by its first alumnus to hold statewide elected office.

AG in the Making

A 24-year Pawtucket Police career, with an extended stint as officer in charge of prosecutions... 20 years in the state legislature, championing laws on such issues as tougher penalties for domestic violence offenders... a criminal justice degree and, a

decade later, a *juris doctor* from RWU...

It's tempting to connect the dots on Kilmartin's CV and conclude he's been running for AG since

he first joined the police force in 1984. But Kilmartin insists otherwise: "Two and a half years ago, if you'd told me I'd be sitting in the attorney general's office, it wasn't even on my

"My clients are the citizens of Rhode Island."

– Peter F. Kilmartin '98



radar screen,” he says.

But when friends and colleagues pushed him to consider a campaign, Kilmartin became intrigued. Upon closer inspection, his law enforcement credentials, his legal expertise and the legislation he’d espoused on behalf of

preceding attorneys general seemed to create a unique package of skills. More importantly, Kilmartin knew he could deliver the energy and interest needed for the demanding role.

“This is a statewide, full-time commitment – you have to want this job,” he says. “This office deals with so many aspects of life in Rhode Island beyond prosecuting criminals. That excites me. It isn’t unlike being a police officer or a zealous advocate. You’re there to do the best job you can possibly do on behalf of your client; and in this case, your clients are the citizens of Rhode Island.”

Cop’s-Eye View?

Bruce Kogan – a professor of law at Roger Williams since the school’s early days and a member of Kilmartin’s transition team – remembers Kilmartin as an eager student and a tireless worker who, like many of his fellow law enforcement officers in the evening division, had to dedicate extra time to nail down concepts that ranged beyond the criminal justice portion of the law curriculum. And while Kogan might not have predicted Kilmartin’s ascent to attorney general, he’s

also not surprised.

“Peter didn’t get his legal education to jump out and do defense work or become a patent lawyer,” Kogan says. “That was never in his bones – even 16, 17 years ago, I always saw him as a public sector person. In his fiber, he’s a law enforcement guy.”

Indeed, as the first police officer to be elected AG in Rhode Island, Kilmartin has faced criticism that he might unduly favor a cop’s-eye view of cases. Kilmartin disagrees: “My police experience provides good perspective on what this office should be about – protecting the victims, looking after their interests and achieving justice on their behalf.”

Kogan adds that Kilmartin has experience advocating for a variety of interests. “Peter knows he’ll have to make decisions for all of the constituencies that the attorney general serves – not just the police departments. He recognizes that citizens expect the AG to try to do the right thing. And Peter has always been about doing the right thing.”

As RWU Law’s first graduate to sit in the AG’s chair, Kilmartin sees his rise to prominence as mirroring RWU Law’s evolving place in the fabric of Rhode Island.

“All of a sudden, it’s like it’s always been here,” he says. “It’s the resource that people naturally go to for input on issues in the legal community. And it’s here to stay.”



The AG Debate – Arguing at the Alma Mater

As alma mater to both the Democratic and Republican candidates in the 2010 race for Rhode Island attorney general, RWU Law found itself in an essentially “undefeatable” position – a role underscored when students, faculty, alumni and others packed the Appellate Courtroom last October for a debate among the five candidates.

For Erik B. Wallin ’97 – the Republican who eventually captured 28.9 percent of the vote to finish second – the debate granted a chance to reflect on his law school days.

“I stepped away for a minute and just walked around the second floor, looking in the classrooms,” he says. “The walls were filled with things that reflected the school’s history – at the time I went, they were still empty. What a humbling moment, to be a candidate for statewide office and to debate in the same place I sat when I took Criminal Procedure.

“Our alumni are reaching the point where they’re taking leading roles in a very public way,” Wallin adds. “The debate was a great way to highlight the school’s emergence as the center of Rhode Island’s legal community.” – BEC



Along with her legal texts and notes, Misty Delgado '11 carries a Best Mom Award made by her daughter.

Grace Under Pressure: Misty Delgado '11 Beats the Odds

Nearly a decade ago, Assistant U.S. Attorney Richard Rose was delivering an anti-gang presentation at Hope High School in Providence. Though he's shared the program with more than 25,000 inner-city kids over the years, none had quite the spark he saw that day in Misty Delgado '11.

Then 16, Delgado had a quick mind and engaging personality that impressed Rose – until she was called away to change her baby's diaper. "I thought, 'She has a *baby*? She's a baby herself!'"

Not quite: with a father in prison for murder and a drug-addicted mother unable to care for her, Delgado had been trundled between foster and group homes since the age of four. After running away and surviving homelessness and abuse, she became pregnant at 15. She fought hard to keep her baby, won emancipated minor status, and has lived on her own with her daughter, now 10, ever since.

As Rose left Hope High, Delgado caught up and asked if he could advise her on becoming a lawyer. "She struck so many chords in me," recalls Rose, who had survived a tough and impoverished childhood himself. "I knew that whatever the chaos spinning around her, she could make it – or just as easily, not make it."

So he gave Delgado his card, and a few days later they met. She walked away with a clerical position at the U.S. Attorney's Office in Providence that she held for several years. After finishing high school, she settled in at RWU, earning a B.S. in criminal justice in 2008. In addition to her law degree, she will also receive a master's in criminal justice at this year's Commencement.

"A lot was taken from me in my life; a lot was done to me," Delgado says. "But I'm still here, and I don't regret my experiences. They made me who I am."

A member of the Multi-Cultural Law Student Association and president of the Black Law Students Association, she has represented clients in the Criminal Defense Clinic and interned with the R.I. Public Defender's Office. She still counsels adolescent girls in state care and juvenile offenders and hopes to practice Criminal Law and advocacy for children.

Amid the intense emotions and demands of law school, Delgado radiates a noticeably cool and relaxed demeanor. "I don't get caught up in all the drama," she explains. "I look at myself in the mirror and say, 'Hey, you've got a college degree. You're getting a law degree. You'll be okay.'"

Along the way, Rose – her "mentor, guide and saving grace" – has continually pushed, cajoled and encouraged her to fulfill her potential. "There are some people who start so far behind the starting line that everyday worries become just petty," he comments. "All I can say is, God help the adversaries who have to stand against Misty. Nothing is going to faze her." – *Michael M. Bowden*

A Night to Remember...

The 2011 Public Interest Auction achieved new levels of excitement, visibility and success, netting nearly \$20,000 to help support law students who spend their summers providing public interest legal work.

Co-sponsored by RWU Law's chapter of the Association for Public Interest Law and the Student Bar Association, the auction sold out in advance, with 300 guests attending, according to 3L Julie Tran, who co-chaired the event.

Congressman David Cicilline (D-R.I.) served as hard-bargaining auctioneer for a number of items, as did several faculty members. Attorney General Peter Kilmartin '98 and Providence Mayor Angel Tavares were spotted among the crowd of students, alumni, faculty and bench-and-bar luminaries. Even *Rhode Island Monthly* turned up, snapping candid photos for its popular "Out Takes" feature.

Auctions included such quirky offerings as tennis and lunch with two judges (\$650), a surfing lesson with a law professor (\$60), and the perennial favorite – a month's exclusive use of Dean Logan's private parking space (\$500). – *Michael M. Bowden*



GETTING TO KNOW...

Elizabeth Tobin Tyler

Director of Public Service/Community Partnerships

A leader in public interest law tackles lead poisoning

If there's ever a class on remaining humble amid a growing résumé of awards and meaningful advocacy work, Liz Tobin Tyler ought to teach it. **Family defender:** Tyler recently received a "Beyond the Call of Duty" Award from the Childhood Lead Action Project – but her engagement with the issue goes back a decade. "In 2001, one in five children in Providence had been lead poisoned by the time they entered kindergarten. I was investigating the legal barriers low-income tenants face in protecting their children's right to safe housing." **Keeping them honest:** Tyler lobbied to get language addressing retaliatory eviction into the state's 2002 Lead Hazard Mitigation Act. She now focuses on compliance. "It can be difficult work to do – two steps forward, one step back," Tyler admits. "But you have to keep pressing people to do what is right, and over time you can make a difference." **Leader in the field:** The daughter of a minister and a schoolteacher, Tyler has contributed her expertise to the R.I. Coalition Against Domestic Violence, the Street Law program and the Liberian Truth & Reconciliation Commission. In 2006, she received the Legal Services Corporation Award for Pro Bono Service, honoring her leadership in creating the R.I. Medical-Legal Partnership for Children. And that barely scratches the surface. "Over the past 10 years, Liz has become a leader in the law school pro bono movement, both locally and nationally," notes Laurie Barron, executive director of the Feinstein Institute. "That is really hard to pull off."



Ellison '12 Wins Top National Public Service Law Award

On a hot afternoon in Memphis, Tenn., David Ellison '12 stood outside the Lorraine Motel – home to the National Civil Rights Museum – and contemplated the white and red wreath marking the spot where Dr. Martin Luther King, Jr., was shot and killed in April 1968.

Ellison had driven more than 1,200 miles from Rhode Island en route to Greenville, Miss., where he externed as a clerk in the Washington County Public Defender's Office, part of the Southern Public Defender's Training Program. By summer's end, he would surpass nearly 700 contenders to receive an Equal Justice Works Summer Corps Standout award – a prestigious educational voucher given to the top ten law students working

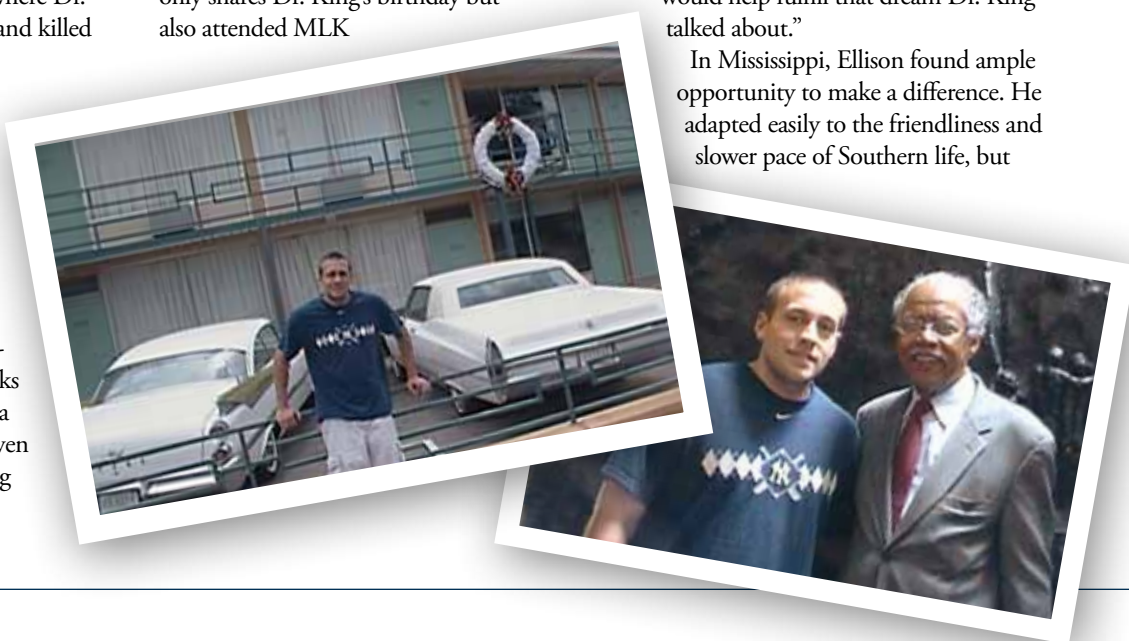
in innovative community service projects around the country.

"I grew up with the sense that Dr. King's dream was reality," says Ellison, who not only shares Dr. King's birthday but also attended MLK

Elementary School in his native Providence.

"But over time I realized there was a different world outside of Providence. It made me want to pursue something that would help fulfill that dream Dr. King talked about."

In Mississippi, Ellison found ample opportunity to make a difference. He adapted easily to the friendliness and slower pace of Southern life, but



God's Work – From the Courtroom to the Pulpit, a Passion for Public Service

Talk about a double life: in addition to managing a busy law practice in Boston, Darryl Malden '00 is pastor of the Bethel African Methodist Episcopal Church in Fall River, Mass. The gap between his two vocations, however, is not as wide as you might expect.

"I take a lot of indigent, court-appointed work," Malden explains, "and many of the legal issues I encounter are rooted in the same problems one finds when ministering in urban areas – poverty, drug abuse, failure to complete high school, unemployment. So I sometimes find myself not only acting as a client's legal advocate, but also trying to help them better their lives as a whole.

"I can relate to these folks, having been trained as an urban minister," Malden says. "I'm in touch, I guess; I've seen people at their best and at their worst, and I've developed an ability to meet them where they're at." – *Michael M. Bowden*



was increasingly troubled by inequalities in the justice system, such as the high rate of African-American incarcerations – and an understaffed P.D.’s office where “only two public defenders collectively represented over 700 people,” he marvels. “That isn’t justice!”

Fueled by his experiences, Ellison resolved to forge a career for himself in public defense. Laurie Barron, executive director of the Feinstein Institute, says such “a-ha!” moments are precisely the goal of these summer externships. “David is a die-hard public interest person,” Barron says. “He had an amazing, life-changing summer and is at the forefront of his work. He found his passion.”

“Dr. King said injustice anywhere is a threat to justice everywhere,” adds Ellison, who plans to continue his journey this summer in the Kenai, Alaska, P.D.’s office. “There is still so much to be done.”

– Amanda Becker



Defending the ‘WikiLeaker’

“Each night, Brig guards force PFC Manning to relinquish all of his clothing. He then lies in a cold jail cell naked until the following morning, when he is required to [stand] naked at attention for the morning roll call... There is no justification for treating a detainee in this degrading and humiliating manner.”

– Attorney David Coombs,

March 5, 2011, Blog on the WikiLeaks Suspect

“It was clear from the start that this was going to be a big case,” says Adjunct Professor David Coombs of his most famous client, Pfc. Bradley Manning – the young soldier accused of “aiding and giving intelligence to the enemy” by allegedly leaking thousands of U.S. government documents to the controversial WikiLeaks organization.

Specializing in Army court-martial defense, Coombs – a lieutenant colonel in the Army Reserve with more than 12 years of active-duty experience and a former prosecutor – was a natural choice for Manning. He has defended hundreds of soldiers on charges including murder, rape, drug use and robbery.

Still, he concedes, the WikiLeaks case is “unlike any other, given the classified nature of the evidence and the amount of attention it has received.” Since last August, news media from CNN to Al Jazeera have covered the story, and Coombs has been cited in countless print and online news outlets, from the *New York Times* to the *Los Angeles Times*, from Reuters to the Associated Press.

To avoid being misquoted or having his comments taken out of context, Coombs prefers directing inquirers to a blog he maintains on the case (www.armycourt martialdefense.info). It has received more than 350,000 hits since it first went live last fall.

“We’re not interested in trying this case in the press,” Coombs explains. “We’re just providing accurate information to counter any statements made or actions taken against my client’s interests.” – Michael M. Bowden



SEA change

From global trade to climate change, Marine Law is moving to center stage – and RWU Law is leading efforts to meet the challenge

By Elaine McArdle



When the Deepwater Horizon oil rig exploded in the Gulf of Mexico in April 2010, spewing more than 200 million gallons of oil and natural gas into the fragile marine ecosystem, the catastrophic ecological and economic consequences were immediately apparent – from the spectacle of dying marine mammals and birds covered in crude to the tragic stories of fishing and tourism communities facing financial ruin.



Dean David A. Logan brings his abundant experience in multi-jurisdictional litigation to the Gulf Oil Spill discussion.

The legal ramifications of the spill took a little longer to surface. But today they are a major focus of national and international attention. And RWU Law has found itself front and center.

Over the past year, Dean David A. Logan appeared in the *New York Times*, the *Washington Post*, Reuters, the *Financial Times* of London, the BBC and other major news outlets, discussing legal strategies for plaintiffs seeking compensation for damages suffered in the spill – from BP's \$20 billion victim compensation fund and beyond. Susan Farady, director of the school's Marine Affairs Institute and of the Rhode Island Sea Grant Legal Program, was quoted in *USA Today* on the dangers of offshore drilling, noting that, over the past nine years, more than 55 people have died in over 800 offshore explosions and fires in the Gulf, including the 11 who perished in the Deepwater disaster. When President Obama mentioned a salmon fisheries issue in his 2011 State of the Union address, *Slate* called Farady again to explain the reference.

Government officials, environmental activists and others are also increasingly eager for guidance on legal issues surrounding the spill. As part of its ongoing response, the MAI hosted a major conference in April for the first anniversary of the oil spill: "Blowout: Legal Legacy of the Deepwater Horizon Catastrophe" convened national leaders, elected officials and legal experts to examine a wide range of issues including tort liability, natural resource damages and changes to laws and regulations under consideration by Congress.



Meeting the Challenge

From offshore wind energy to fisheries management, from admiralty law to piracy and international trade, formerly esoteric Marine Law issues are appearing more and more frequently in the public debate – in national and international political circles, among corporate and industry leaders; even around office water coolers. As the conversation evolves, lawyers, policymakers and the public are seeking a deeper understanding of these vital areas, and RWU Law is – as *Providence Business News* observed last summer –

emerging as a "national leader" in the field.

The focus could not be more important or timely. As populations soar and food and energy resources dwindle, the world's oceans are fast becoming the stage upon which today's most pressing economic, political and environmental challenges play out – from disputes over commercial shipping and military dominion of the seas to climate change and species extinction. And the need for related legal expertise and skilled lawyers will only continue to grow.

"The oceans really are the resource where all the countries in the world have an interest in their proper management," says Professor Jonathan Gutoff, one of the nation's top experts in maritime issues, including piracy, and a faculty member at the Marine Affairs Institute. "They are the highway on which much of the world's wealth travels, and they are becoming an increasing source of the demand for food and energy, in terms of extractable mineral forms of energy like oil and now in terms of renewable forms like wind energy and tidal power."

These issues, and other equally critical matters such as global trade and international security and peace, raise complex legal challenges, often with an international law component. "The oceans are the last frontier," Farady says. "When a frontier is wide open, there's not much role for the legal system to organize human behavior. But as human beings start to use up the resources and carve up the assets and 'rights' to that frontier, the legal system must respond."

Logan agrees. "For a range of reasons – from the food supply to national security to renewable energy to pollution, there is enormous concern about the oceans, which make up 75 percent of the earth's surface," he says. "We actually know a lot less about the oceans than we know about land, and as a result, the law involving oceans is not as well developed as terrestrial law concepts."



Breadth of Opportunity

That's where RWU Law steps in. A few other law schools, including Tulane and the Universities of Maine and Oregon, also have a marine focus but tend to concentrate



As populations soar and food and energy resources dwindle, the world's oceans are fast becoming the stage upon which today's most pressing economic, political and environmental challenges play out.

either in admiralty or marine resources. By contrast, Roger Williams “offers students diversity in our curriculum, so they can get their feet into as many areas of this type of law as they want,” Farady explains.

That’s been the plan from the beginning, says Kristen Fletcher, Farady’s predecessor at the Marine Affairs Institute and now executive director of the Coastal States Organization in Washington, D.C. “When Roger Williams was a young, entrepreneurial law school, the decision was made early on to have this as a focus area,” she recalls. “And given its location, it was a great decision. It has a lot of elements right there on that little peninsula that a lot of other law schools don’t have.”

Students take advantage of the expertise on campus. One popular course, dramatic in its implications for national security, is the Law of the Sea, taught by adjunct professor Peter A. Dutton, a retired Navy JAG officer (*see sidebar, p. 25*). The school’s many other Marine Law courses (15 or so are offered each semester, from Admiralty Law to Marine Pollution to Ocean Law & Policy) also draw a lot of interest.

Even students not pursuing a Marine Law focus often sign up for courses in the field, due in large part to the material’s inherent interest and increasing importance. For example, Marine Salvage addresses legal issues related to rescuing property at sea; in other words, sunken treasure. “It’s something that’s only been really prominent within the last 30 years as a topic, as the deepwater technology to recover things has made a lot of these sunken treasure cases possible,” says Gutoff. More booty is always being discovered, so investors are sinking money into expeditions, and legal questions arise as to who has rights to the property.

Then there’s Gutoff’s course on Piracy, a topic which has grabbed the public’s imagination in the wake of recent incidents off the coast of Africa and elsewhere –

thrusting Gutoff into the spotlight, with appearances in the *National Law Journal* and on a United Nations panel discussing growing international concerns about the practice.

Gutoff’s students study the history of piracy and the economic and political reasons that help it flourish – for example in Somalia, a poor and politically unstable nation in which the populace, after 20 years of civil war, is heavily armed and inured to violence. The high cost of policing the oceans to prevent piracy and of prosecuting pirates is a key part of the discussion: which nations should bear those costs? What laws apply?

“That course attracts many people who had not taken lot of standard maritime courses,” Gutoff says – and along the way it introduces them to complex concepts of international law and policy.



In the Field

Michael Daly ’02, an associate with Pierce Atwood in Providence, is past chair of the American Bar Association’s Admiralty and Maritime Law Committee of the Trial and Insurance Practice Section, which has about 500 lawyers, mostly concentrated in coastal states such as Louisiana, Texas, Florida and California. A fisheries major at the University of Rhode Island who worked for the Environmental Protection Agency after college, he chose RWU Law for its Marine Law offerings – specifically its joint J.D./master of marine affairs degree program with U.R.I.

Daly, who today teaches federal practice and commercial litigation as an adjunct at Roger Williams Law, also handles Marine Law cases in his private practice, representing marinas and recreational boat builders. “A person falling off a ladder is boring,” he says.



Professor Jonathan Gutoff is a Marine Law specialist with a rare expertise in Piracy Law.

“A person falling off the gangway of a ship automatically gets more interesting.”

Daly believes that the law school’s emerging position as a Marine Law clearinghouse is invaluable to lawyers and policymakers, especially in New England. It’s also a boon to alumni, he adds. “I certainly feel a great connection to the school since I’ve left, and that’s largely due to the maritime focus,” he says.

Many other alumni are following in Daly’s footsteps. Over the past five years, RWU Law has had an unprecedented five graduates chosen for prestigious Dean John A. Knauss Marine Policy Fellowships, which match highly qualified graduate students with “hosts” in the legislative and executive branches of government in the Washington, D.C., area, for a paid fellowship.

Marine Affairs Institute Director Susan Farady (left) and staff attorney Julia Wyman oversee and coordinate RWU Law's Marine Law efforts.



"To even have one law student named a Knauss is fantastic; most law schools don't have any," Gutoff notes. "The quality of the students we've been getting has been fantastic."

The school's latest Knauss Fellows are Kathleen Haber '10 and Christina Hoefsmit '10, both in the joint degree program with U.R.I. Hoefsmit is a Seattle native with a degree in fisheries and aquatic sciences; she's working with the maritime transportation division of the U.S. Coast Guard in D.C.

Haber is a devoted sailor who plans a career in shaping national ocean policy. "Honestly, the only law school I applied to was Roger Williams," she says. "If they didn't accept me, I was going to go sailing!" Haber is fulfilling her Knauss Fellowship at the Coastal and Marine Spatial Planning office within the National Oceanic and Atmospheric Administration, a prestigious and sought-after position for young maritime lawyers.

"Roger Williams had more environmental and admiralty and maritime courses than I could possibly fit into my schedule, and the caliber of the faculty was very high,"

says Haber, who as a Sea Grant Law Fellow at the school worked on two fisheries projects and two offshore wind projects. "The law school is very young, but that's an advantage – because they really want you to succeed."



Into the Future

As RWU Law continues its evolution into a national clearinghouse on Marine Law issues, the MAI will remain central to the effort. In addition to administering the Sea Grant Law Fellows program, which matches students with projects, it also hosts numerous conferences and meetings. Last December, for example, it hosted a conference on proposals for a large wind farm in the federal waters spanning Rhode Island and Massachusetts. It's just the kind of event that can provide critical support to leaders in New England grappling with tough issues, Farady says.

"We are increasingly becoming a player in the complex regulatory issues that come up with big wind turbines on the ocean floor,"

Logan adds. "It's essentially a new field, so we're staking a claim to a leadership role in this important new area," which raises many interesting legal issues, including the effects on fish and other wildlife.

The school also recently hosted a major symposium on fisheries law, which addressed a number of issues that "weren't even on the radar 20 years ago," says Farady, including the effect of oil spills and other disasters on fishing stocks (*see sidebar, p. 26*).

As the legal and other repercussions from the Deepwater Horizon spill continue to develop, Farady expects national interest to grow. With so much happening so quickly – both in the oceans themselves, and within RWU Law's Marine Law program – "some days it feels like you're drinking out of a fire hose," Farady says. "And it's been like that for the last year!" But she adds that it's a very exciting time for the school in helping national and international experts address some of the most pressing issues of our time and training new young lawyers to preserve and support the world's oceans. **RWU LAW**

CHINA AND THE LAW OF THE SEA



China wants the South China Sea. And the Yellow Sea. Indeed, the People's Republic of China covets all the East Asian Seas. And that's a problem for the rest of us.

"China has designated the 21st century as the century of the oceans. They *know*," says adjunct professor Peter A. Dutton, an expert on the Law of the Sea and a retired Navy JAG officer who also teaches at the Naval Justice School in Newport, R.I.

In a sharp repudiation of international law – which holds that the world's oceans are open to all for navigational purposes – China insists key East Asian waterways are its to control. And that presents extremely serious challenges to the rest of the international community, Dutton explains. Global trade, as well as the ability to intercede in arms trade and international terrorism, relies on open waterways; so China's assertion of dominion is of serious and growing concern. "What we face, really, is a collision course of security values," he adds.

"Our economic well-being and national security are based on our ability to maintain stability throughout the global commons, including the maritime commons," notes Dutton, who recently returned from a conference at the Diplomatic Academy of Vietnam, a graduate school for international relations, where he presented on the topic of the South China Sea.

Dutton, who frequently briefs U.S. military leaders as well as officials in the U.S. Departments of State and Justice on topics related to the international Law of the Sea, teaches a course on the topic at RWU Law. This area of the law, he says, "matters to our national well-being – be it economic, environmental, maintaining sustainable resources of the sea, national security, or the security of a global system that supports regional and international peace."

The oceans are critical – not just to the U.S.'s future, but to the entire planet, Dutton says. China's increasingly aggressive assertion of dominion can't be ignored. If nations aren't free to move through the oceans and to protect their interests, weapons trade, human smuggling, international terrorism and piracy will blossom, he warns.

"We need educated people who can support, advance, defend and educate others about our national interests," Dutton says. "And the Marine Affairs Institute at Roger Williams supports all of these interests."

– EM



FISHERIES MANAGEMENT

An extraordinary meeting of minds occurred at the Marine Affairs Institute's 8th Marine Law Symposium titled "Taking Stock: The Magnuson-Stevens Act Revisited," held at RWU Law.

The Magnuson-Stevens Act is the primary law governing marine fisheries management in the U.S. – and despite the field's burgeoning importance, most attorneys are still unfamiliar with it. The legislation represents an ongoing effort to balance vital conservation efforts with the bottom-line realities of the fishing industry – a goal that, unfortunately, causes no little contention among legislators, policymakers and stakeholders.

To encourage a more productive way forward, Susan Farady – director of RWU Law's Marine Affairs Institute and the Rhode Island Sea Grant Legal Program – brought in some of the country's leading

fishery law experts for two days of fruitful and thought-provoking discussion. The keynote speakers were Senator Sheldon Whitehouse (D-RI) and Eric Schwaab, assistant administrator for fisheries at the National Oceanic and Atmospheric Administration. More than 100 other scholars and practitioners in the field – hailing from Alaska and Hawaii to Nova Scotia – were in attendance to explore questions about the law's implementation.

Panelists and audience members discussed the Act's intersection with other laws, its relationship with natural resource management schemes, and its future application in the complex world of catch shares, renewable energy and marine spatial planning. – MB

Presentations, resource documents and video of the proceedings are available online at <http://law.rwu.edu/academics/institutes-programs/marine-affairs-institute/symposia>



"Today, our oceans are under unprecedented pressure. We want to do more and more with ocean resources... to support our desire for energy, transportation, recreational access and food. At the heart of these efforts are critical questions about how well established fishery management law is working and how it will need to function in the future to respond to changing uses and conditions."

– Susan Farady, Director of RWU Law's Marine Affairs Institute and the Rhode Island Sea Grant Legal Program



"Law is about life – in this case life in the ocean. Our work here is going to put back into the ocean what has been ruined by human recklessness."

– Ronald O. Champagne, Ph.D., Interim President of Roger Williams University



“ Fisheries management presents an underlying theme of tension – between perfect science and best-available science; between the promise of long-term rebuilding [of fish stocks] and the current economic realities that many fishermen face; between efficiency and equity; and between the [needs] of individual fisheries and broader ecosystems and socio-economic systems. ”

– Eric C. Schwaab, Assistant Administrator for Fisheries, NOAA



“ We don’t know what happens when the floor falls out of the food chain – but it’s not good, and we’re getting close. ”

– Senator Sheldon Whitehouse (D-RI)



“ The chance to learn from and network with our nation’s experts in fisheries law, right here in our own hallways and classrooms, was fantastic. It was an invaluable experience that brought classroom doctrine to life. ”

– Sarah Parker '12



*Professor Peter Margulies with
a stack of his recent publications.*

LAW'S DETOUR

**Professor Peter Margulies
dissects the Bush II Administration's
uneasy relationship with the law**

By Andrew Clark

In the wake of the September 11 terrorist attacks, President George W. Bush – famously or infamously, depending on your political perspective – introduced a host of changes to U.S. law, designed to add muscle to law enforcement powers in the newly declared War on Terror.

These changes sparked an outcry among many civil libertarians, who accused the Bush administration of cynically manipulating the law to serve its own interests. Tactics ranging from waterboarding to the firing of nine U.S. attorneys gave rise to alarm that the administration was bending the rules of traditional legal procedure and morality to achieve political ends.

RWU Law Professor Peter Margulies, who spent more than two years writing a book on the phenomenon, “Law’s Detour: Justice Displaced in the Bush Administration” (NYU Press, 2010), asserts that such “legal detours” were “the signature strategy of the administration.”

Margulies says he wrote the book to illuminate what he saw as the unsavory legal practices of the Bush White House, and the cavalier attitudes of those involved in enabling its multiple detours around U.S. legal norms. “I was very concerned with the temperament of the administration,” he says.

When facing legal impediments that prevented them from achieving a desired goal, Margulies explained, the Bush administration sought ways around them, often by procuring custom-designed legal opinions that interpreted the law in their favor. These practices, he added, were particularly egregious in light of the U.S.’s perceived position as one of the most moral and responsible nations in the world.

“For many other countries, this is the standard way of doing business,” Margulies says. “But the United States is supposed to be an exception. The Bush administration seemed to forget this.”

The construction of legal detours was typically achieved through five methods, Margulies argues:

- framing of legal opinions to attribute maximum power to the U.S. executive branch;
- narrow construction of international laws limiting U.S. executive authority;
- broad construction of other laws to increase the reach of the U.S. commander in chief;
- utilizing these newfound powers to suit their needs; for example, to push through legislation such as the Patriot Act;
- and using “terrorism” as a political issue to help force desired results.

Exceptions Become Rules

While the administration’s methods outraged many, they did not mark the first attempt by a U.S. executive to circumvent the nation’s long-standing system of checks and balances to attain predetermined goals. From early examples, such as Abraham Lincoln’s suspension of writs of habeas corpus during the Civil War, to Harry Truman’s attempt to seize the steel mills during the Korean War and Richard Nixon’s depredations during Watergate, this kind of executive overstepping has challenged the nation’s commitment to constitutionalism.

What made the Bush approach different was its creation of detours not just as one-time expedients, but as a standard approach to doing business; a pattern of continued behavior. “There are long established legal precedents and traditions in this country, and exceptions were only used when absolutely necessary,” Margulies says. “However, with the Bush administration, devising such exceptions became a virtue in its own right.”

There were many figures involved in the creation of legal detours within the administration, and one of the most instrumental was the relatively unknown John Yoo, an attorney with the Office of Legal Counsel (OLC) and law professor at the University of California, Berkeley. Yoo was part of the so-called War Council that created strategies for dealing with detainees following 9/11. In an effort to push the boundaries of what methods were permissible during interrogation, Yoo drafted memos propounding narrow interpretations of existing statutes. For example, in an opinion known as the “Bybee Memo” – named after then-OLC head Jay Bybee (now a federal judge) – Yoo paved the way for practices such as waterboarding that the Obama administration has since (rightly, according to Margulies) rejected.

“Yoo justified his advice with analogies that defied common sense,” Margulies writes. In a clear perversion of the statute defining torture as the infliction of severe pain, Yoo argued that pain becomes “severe” only when “associated with serious physical injury so severe that death, organ failure or permanent damage resulting in a loss of significant body functions will likely result.”

These sorts of opinions were used to permit such tactics as waterboarding, which involves strapping a person down, putting a cloth over his head and pouring water onto his face to create the sensation of drowning.

The Bybee Memo – which was withdrawn by Bybee’s successor at OLC, Jack Goldsmith – was just one of the many distortions of the law posited by Yoo, Margulies says. The Berkeley professor also opined that the U.S. president has the power to authorize torture. In one opinion, he stated that “actions clearly otherwise illegal under federal



law, including maiming someone by cutting off an ear or throwing acid in someone’s eyes, would be legal if the president says so,” according to Margulies.

Trouble at the DOJ

Yoo was just one of a group of people who manipulated the legal system for the administration’s benefit, according to Margulies. Another case in point is former Attorney General Alberto Gonzales, a key figure in the politically motivated firing of nine U.S. attorneys.

Margulies cites the example of New Mexico attorney David Iglesias as one of the most egregious of these episodes.

Iglesias was asked to file a series of indictments accusing Democratic lawmakers of political corruption, and to do so before the November 2006 elections. Iglesias refused, saying the cases could not be prepared in time. A few weeks later he was fired. Following his dismissal, Margulies asserts, the Bush administration tried to further

←
**“The tactics used
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– Professor Peter Margulies

tarnish Iglesias's reputation even though he had a record of positive performance evaluations.

"In short, the White House and Justice decided to fire Iglesias for political reasons and needlessly stained Iglesias's reputation in scrambling to justify their decision," Margulies says.

For Margulies, one of the most alarming figures associated with the creation of detours within the DOJ was Monica Goodling, a young lawyer who enjoyed a meteoric rise through the Justice Department. In 1999, Goodling graduated from Regent University School of Law – an explicitly conservative institution founded by televangelist Pat Robertson in 1986. Despite her lack of legal experience, Goodling was hired as senior counsel in 2005 by Bush's first attorney general, John Ashcroft, who placed her in charge of hiring for the Justice Department.

Historically, DOJ hiring for staff positions was a solely merit-based enterprise. Under Goodling's leadership, however, the process became highly politicized, Margulies says. During interviews, she asked applicants to identify their favorite public officials and to expound upon their political ideology. This shift from merit-based to politically based hiring was profound. Margulies notes that "Goodling even succeeded in blocking an appointment to a career position on grounds that the candidate had not yet 'proved himself' to the Republican Party."

In the meantime, other "detours" became the norm in virtually every area of the Bush administration – for example, in the awarding of no-bid contracts to the administration's corporate friends, most notoriously Halliburton and Blackwater, which "allowed the administration freedom to act without accountability," says Margulies. That these companies egregiously abused their power

in Iraq, he says, is illustrated by such incidents as a 2007 firefight in which Blackwater employees killed 17 innocent Iraqis. Normally, a company would be held accountable for such a massive violation, but not so Blackwater. According to Margulies, "Blackwater employees are technically civilians, and the Supreme Court has held that American civilians cannot be subject to military trial." Once again, the Bush White House commandeered this holding as excuse for skirting accountability, he says.

Though the nation is now more than two years removed from George W. Bush's presidency, Margulies argues, the aftereffects of its legal manipulations are still tangible. "The tactics used by the U.S. during the Bush years made it more difficult for the country to take the high ground in the future," Margulies says.

And though Margulies sees the current administration as an immeasurable improvement in regard to its legal practices, he warns that the job is far from complete.

"The Obama administration is much better," Margulies says. "They want to be open and accountable, but there is still work to be done, left from the previous administration. The detention facility at Guantánamo Bay, for example, is like Humpty Dumpty in reverse: easy to put together, hard to take apart. There are detainees that cannot just be sent back willy-nilly to their home country because they pose a danger, but at least now the courts will act as a check."

Overall, Margulies observes, Guantánamo is an apt metaphor for the Bush legacy: "We will be working through its legacy for years to come, so we should understand how we got here." **RWU LAW**

RWU Law's Watchdog on Human Rights

As an expert in National Security Law, Professor Peter Margulies focuses on the delicate balance between liberty, equality and security in issues involving law, terrorism, immigration policy and other areas of central relevance in today's volatile political climate. He frequently appears in such prominent media outlets as the *New York Times*, *Time*, CBS, Fox and others.

For example, when the Supreme Court heard *Holder v. Humanitarian Law Project* last year (on what it means to provide "prohibited material in support of terrorism"), Margulies appeared on a Georgetown Law School panel discussing the case, was featured in a podcast for SCOTUS-blog, and was interviewed by the *National Law Journal* about his amicus brief in the case.

Margulies has written more than a dozen articles discussing the War on Terror and has worked with RWU Law Professor Jared Goldstein – as well as litigators from the law firm Edwards Angell Palmer & Dodge – representing two Afghan detainees at Guantánamo Bay. He led a national conference held at RWU titled, "Legal Dilemmas in a Dangerous World: Law, Terrorism and National Security." His analysis of Senator Lindsey Graham's (R-S.C.) new bill on habeas corpus and detention was recently featured on the influential Lawfare national security blog.

Margulies' interest in international human rights law began when

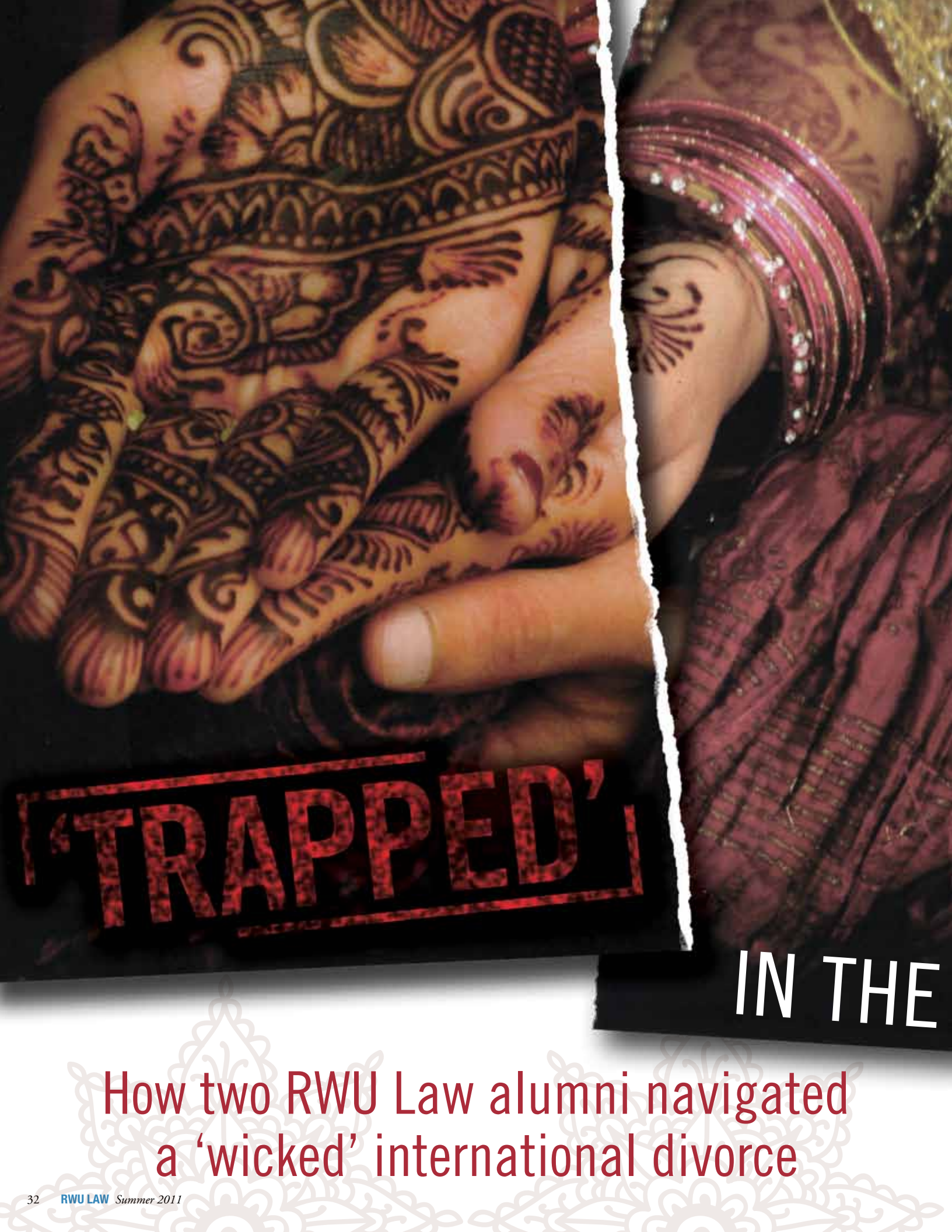
he was still a law student at Columbia University – and, as the son of two refugees himself, it was personal.

"It was because of my parents' experiences that I got involved in human rights law," he says. His mother survived the Holocaust in Poland by hiding under a chicken coop for eight months. His father was an Austrian Jew who left for France after witnessing a Hitler rally firsthand. France deported him, however, and he ended up living in Shanghai for 10 years, because quotas for Jewish refugees had been filled elsewhere.

While teaching law at St. Thomas University School of Law in Miami (where he was recruited by current RWU Law Professor Larry J. Ritchie), Margulies founded and directed that school's Immigration Law Clinic, which was then focused on representing Haitian refugees.

"The common thread in the reactions of outsiders to refugee narratives is disbelief," he says. "After World War II, inmates of Dachau were told 'you're making it up.' And the Haitians were facing a similar situation – 'reports of abuses are exaggerated.' We often assess and interpret refugee narratives based on whether we perceive them as our friends or our enemies."





How two RWU Law alumni navigated a 'wicked' international divorce



Last spring, Laura Frechette '04 found herself embroiled in a labyrinthine divorce action that stretched all the way from New Delhi to Narragansett Bay.

It began when Preeti Gupta, an Indian national, walked into Frechette's Providence office toting a stack of Indian court documents and a restraining order issued against her by the Rhode Island Family Court. Her estranged husband, Vivek Bhatnagar, a Rhode Island resident, was trying to prevent her from leaving the U.S. with their then two-year-old son, Tanush.

"After reviewing the documents with Preeti, I realized, 'This is going to be something big!'" Frechette recalls.

USA?

BY MICHAEL M. BOWDEN

WITH REPORTING BY
MICHELLE BATES DEAKIN

On its face, the case presented a routine, if ugly, domestic dispute. But internationally, Preeti's plight was generating headlines. For example, the *Times of India* – that country's largest English-language daily, with a circulation of over 3 million – breathlessly recounted efforts to “rescue a Delhi woman trapped in the United States” by a “fraudulent” offer of marital reconciliation. The paper reported:

Vivek called his wife back to the U.S., forwarding air tickets for her travel... But when Preeti reached the U.S., she found the house locked and [discovered that] her husband had [petitioned] the family court [in Rhode Island] for custody of the child. After he told the court [in India] that he was willing to live with his wife again, he obtained an ex-parte order that restrained her from taking her son out of the U.S. The order, according to Preeti's lawyer [in India], amounted to trapping her in the U.S., as her son was with her.

“I told Preeti we could help her get back to India with her son by contesting the jurisdiction of the Rhode Island court over her and the child,” Frechette says. “She retained our firm and gave us permission to speak and share documents with her counsel in India.”

Frechette soon found herself drawn deeply into the intricacies of Indian family law. The Bhatnagar matter marked the first time a 2005 domestic violence law had been invoked by an Indian court to protect a woman and child not actually within the territory of India at the time of the order. “We carved out new case law in India that helps women and children,” Frechette says.

HE SAID, SHE SAID

Preeti and Vivek married in New Delhi in 2003. It was an arranged marriage. Vivek, a skilled chemist, was offered a job in Rhode Island, and in 2005 the couple moved to West Greenwich, where they rented a condominium. Two years later they had a son who, having been born

in Rhode Island, was a U.S. citizen.

In 2008, the Bhatnagars traveled to India to attend a wedding. Vivek returned to the U.S. shortly thereafter, but Preeti stayed behind with the baby. The couple's stories, as presented by their lawyers, differ as to exactly what happened next, but it's clear the marriage was not going well. According to Frechette, Preeti went to live with her husband's family, as is customary in India. The family, however, began to “withhold necessities” from her and her son, and she eventually moved back in with her own parents.

Don Moyer '96, who represented Vivek, says the story is a bit more complicated than that. Preeti, he says, was

agreed to return to the U.S. soon and talk about salvaging their marriage.

Then the facts grow hazy again. When Preeti arrived at Boston's Logan Airport, Vivek was not there to meet her. Moyer says he wasn't even aware she was en route. Preeti said she notified Vivek of her flight date and even sent several emails updating him or her ETA, which kept changing due to volcanic activity in Iceland, which was then wreaking havoc with flights routed over Europe.

So Preeti ended up staying in Massachusetts with a friend, with whom she left her son while she traveled to Rhode Island to meet Vivek. When she arrived at their condo, however, Vivek

“THE AGGRIEVED WIFE'S SITUATION IS PAINFUL AND UNFORTUNATE. SHE SEEMS TO HAVE BEEN WICKEDLY CAGED.”

- JUDGE VEENA RANI, INDIAN MAGISTRATE

unhappy living in a home that wasn't up to the standards of her wealthy family of origin. She didn't like living in the U.S. without the domestic help she'd grown up with, and she didn't like living in India with her husband's less affluent parents.

Eventually, Preeti retained a lawyer in New Delhi and sought relief under India's 2005 Protection of Women From Domestic Violence Act (colloquially, the “DV Act”), which extends legal protection to women experiencing abuse or threat of abuse of a physical, emotional, sexual, verbal or economic nature.

Under the terms of the DV Act, Moyer asserts, Vivek's parents were arrested. Preeti obtained an order compelling them to let her live in their house and not “withhold necessities” from her. Vivek met with Preeti to reconcile and urge her to drop the case against his parents. She

wasn't there, and the locks had been changed. She went to the business office to request entry and was met by a constable, who served her with divorce papers and the restraining order stating that she could not remove their son from Rhode Island.

‘WICKEDLY CAGED’

Frechette, an associate in the Providence law office of Timothy J. Conlon, worked closely with Preeti's New Delhi lawyer, Mamta Mehra, via teleconferences and email. “India is nine and a half hours ahead of us, but we all communicated regularly, working to ‘free’ Preeti,” Frechette recalls.

On the day the parties were scheduled to meet in Rhode Island Family Court, an Indian magistrate issued an order in Preeti's favor. Viewed in light of the

couple's signed and witnessed "agreement of understanding," under which Preeti had consented to return with their son to the U.S., Vivek's actions made Judge Veena Rani cry foul:

The fraud upon this Court in India is apparent from the fact that the husband duly signed the agreement of understanding, but later instituted the proceedings in the U.S. against his wife. Not only that, the husband – after obtaining the ex parte restraining order against his wife – instructed his lawyer in India to give the statement that the wife would be greeted in the U.S. The said conduct on part of the husband is disdainful and contemptuous. The present situation [into] which the aggrieved [wife] has been [led] is painful and unfortunate. She seems to have been wickedly caged.

The court awarded temporary custody of the child to Preeti and referred the matter to the Ministry of External Affairs, India's equivalent of the State Department. It directed the Indian Embassy in Washington, D.C., to assist Preeti as needed and inform the Rhode Island Family Court "about the fraud played upon the said court by the husband." It also directed Vivek to appear in India to face formal charges of fraud.

Later that day, Frechette, Conlon and Preeti entered the Kent County Family Court in Warwick, R.I., with a copy of the Indian order in hand. Because the child was not physically in Rhode Island and had not been since November 2008, Judge Stephen J. Capineri ruled that "Rhode Island is not the home state of the child, for jurisdictional purposes," vacated the restraining order against Preeti and "specifically authorized [her] to return to India with the minor child."

"It was a great feeling to send an email to Advocate Mehra, saying: 'Preeti and Tanush are coming home!'" Frechette says. "And it was a complete surprise the next morning to find her reply – with an attached newspaper article reporting our win in the Indian press! I thought, 'Wow!



"WE CARVED
OUT NEW CASE
LAW IN INDIA
THAT HELPS
WOMEN AND
CHILDREN."

— LAURA FRECHETTE '04

We did it! I love my job!"

Eventually Preeti and Vivek were granted a divorce. Other issues related to the case, including custody, are still under litigation in India.

'A DIFFICULT GAME OF CHESS'

Moyer maintains that Vivek's cause was harmed by the "sensationalism" that Preeti and her family injected into the case. His client, he says, simply wanted to see his son and get the case against his parents dismissed. Preeti's actions, by contrast, were intentionally designed to embarrass Vivek and his family, Moyer asserts, dismissing her invocation of the DV Act as "spin." And that spin, he says, turned what should have been a straightforward divorce case into "a difficult game of chess."

Moyer adds that wherever the setting, "it's a divorce anywhere when one or both parties decide to go to war. If you said 'Massachusetts' instead of 'India,' everything would have been the same – the same jurisdictional issues and the same arguments. It was just a divorce."

Mamta Mehra, Preeti's attorney in India, begs to differ. She says the case marks an important new development in Indian law.

Neither the husband nor the wife was "residing within the territory of India at the time of the passing of the order," Mehra explained in an email interview. "The Indian court extended the

applicability of the Domestic Violence Act by granting protection to a woman who was trapped in the United States, with a restraint order against her from an American court, and also granting her the custody of her minor child, who was an American citizen."

RWU Law Professor Emily Sack, an expert in domestic violence law, agrees: "The invocation of India's DV Act makes this case more interesting than many international divorce cases. The case also demonstrates how effective and creative lawyering can make a critical difference in the lives of our clients. Laura's understanding of the dynamics of these cases, together with her willingness to dive into the complexities of international family law jurisdiction and her tenacity, all made her an excellent advocate here."

"It can be an emotionally draining area to practice in," admits Frechette, who – having competed in eight marathons and many shorter road races for charity – does not tire easily. With a joint degree in law and criminal justice from RWU, she has volunteered with the Women's Resource Center of Newport, R.I., and written on lawyer civility.

For her, Preeti's was "the most amazing case I have had to date. It was worth all the sleepless nights and long hours! It was also an honor to work with Mamta Mehra. She is an amazing attorney who is making great strides for women in India." As divorce and custody cases go, she says this one really "grabbed my heart." **RWU LAW**



Following her heart – all the way to the NCAA

PROFILE Katherine Sulentic '09

By Megha Chatterjee

RWU Law caught up with Katherine Sulentic '09 in what is fast becoming her natural habitat – on the road, between one assignment and the next.

"I've covered three states in the last seven days," says Sulentic, who last fall went to work for the National Collegiate Athletic Association (NCAA) in Indianapolis as assistant director of enforcement in the organization's major enforcement division.

One of her latest jaunts took her to Hallandale, Fla., where she watched high-school football standouts vie for slots on an elite seven-on-seven travel team – a relatively new development that raises prickly questions about acceptable college recruiting practices. Soon afterward, a *Sports Illustrated* column noted her (and, by extension, the NCAA's) presence:

As more than 180 other players tried out Saturday at Hallandale High, Katherine Sulentic watched from the sidelines ... to see the phenomenon for herself. She wasn't investigating anyone in particular. She wanted to gather information... that

she could take back to Indianapolis and share with the rest of the [NCAA's] enforcement staff so that college sports' governing body can try to keep football recruiting – which is shady enough as it is – from reaching basketball's level.

Sulentic shrugs off the high-profile media mention. "I'm a member of a group who's out in the field looking at the recruiting environment in college football," she says. "The stop in Hallandale was a part of that mission. Basically I'm an investigator into NCAA bylaw violations, looking into some of the misdeeds in college athletics."

Not a bad gig for an attorney less than two years out of law school – but Sulentic has grown accustomed to confounding conventional expectations. Straight out of law school, she snagged a coveted associateship in the Boston office of international megafirm Greenberg Traurig, only to trade it in a year later for the NCAA post.

"I was incredibly lucky to work for a law firm that is just amazing," she says of her time at GT. "I was sad to leave

Class Notes

them and they were sad to let me go – but athletics is where my heart is. This is what I was born to do!”

Indeed, before Sulentic started law school, she was working on the receiving end of NCAA rules, providing academic counseling for college athletes, first at the University of Nebraska and later at the University of Colorado. She turned to RWU Law when she realized her career path had hit a wall. “I noticed that the senior athletic directors all had law degrees. So I knew that was the next step for me.”

Sulentic’s practical experience, combined with her stellar legal background, made her an ideal candidate for the NCAA job – and the travel it entails suits her personality as well. “I get to meet people from all over the U.S. – coaches, administrators, athletes,” she says, adding that the students are a particular source of inspiration. “I admire their persistence; that strength to never give up no matter what the obstacles. If I am going to serve these people, then I’d better be sure to have that attitude myself!”

“It’s the big time and getting bigger for our Ms. Sulentic,” notes Assistant Dean of Career Services Anthony L. Bastone II, who met Sulentic when they both worked at the University of Colorado and later urged her to consider studying law at Roger Williams.

“We’re all incredibly proud of Kathy,” agrees Dean David A. Logan. “She has a bunch of devoted fans back here in New England.”



1996

Jay C. Bianco is an attorney with Martinous Law Associates Ltd, in Providence.

Jeffrey L. Eger is an attorney with All Your Legal Needs in Warwick, R.I.

Joseph T. Healey is an attorney with O’Malley, Harris, Durkin & Perry PC in Scranton, Penn.

Richard Lord is an attorney and analyst with Vermont Mutual Insurance Group in Montpelier, Vt.

Kevin P. McManimon opened his own firm, McManimon & Scotland LLC, in Newark, N.J. His firm focuses on land use/zoning issues, bonds and government finance, and government municipalities.

1997

Mark W. Gemma is an attorney with Gemma Law Associates in Providence. He was recognized as a 2010 “Super Lawyer,” the top rating bestowed by *Super Lawyers* magazine (see box for “Rising Star” honorees).

Genevieve M. Allaire Johnson is an attorney with Decof & Decof PC in Providence.

Anthony R. Leone II was appointed Secretary/Treasurer for the R.I. Association for Justice for the 2010-2011 year. He practices in Warwick, R.I.

1998

Jana M. (Lemanski) Berger is an attorney with Foley & Mansfield PLLP in Ferndale, Mich.

Stephen G. Bernardo is a senior vice president at Bank of America’s middle-market commercial banking group in Providence. His role is structuring and managing credit facilities for clients and prospects.

“Rising Stars”

Super Lawyers magazine annually names “Rising Star” attorneys for each state, based on ratings by their peers and independent research. It reaches more than 13 million readers. RWU Law’s 2010 honorees include:

Joseph T. Healey ’96
 Kevin P. McManimon ’96
 Anthony R. Leone II ’97
 Jana M. (Lemanski) Berger ’98
 Andrew D. Henneous ’98
 Brian A. Roemersma ’98
 Thomas M. Robinson ’99
 Denise M. Shear ’99
 Joshua L. Celeste ’00
 Mark E. Tetreault ’00
 Rui P. Alves ’01
 Joseph P. Accetturo ’01
 Susan Rossi Cook ’01
 Christiana E. Mann ’01
 James K. Sullivan ’01
 Dena M. Castricone ’02
 Susan Kiernan ’02
 Stanley Francis Pupecki ’02
 Seth L. Laver ’04
 Carolyn P. Medina ’04
 Kyle M. Zambarano ’04
 Amanda K. (Gormely) DiChello ’05
 Thomas J. Enright ’05
 Joseph J. Joyce III ’05
 Dmitry Lev ’05
 Katherine J. McAllister ’05
 David J. Pellegrino ’05
 Alicia (Byrd) Samolis ’05
 Rachel (Carter) Cushing ’06
 Katherine E. (Johnston) Godin ’08



Debra Lord '98 is an attorney and director of programs and resources with the Augmentative Learning and Movement Center International, LLC, in South Burlington, Vt. Since graduating from RWU Law she has been an advocate for individuals with special needs.

"This past summer, Debra presented to a United Nations conference in Moscow, and she's currently working in Beirut, Lebanon," says her husband, Richard Lord '96. "We're currently planning an expedition to Mount Kilimanjaro, where we hope to summit with several autistic students. She makes me proud!"

Michele Cinquergrano is the regulatory director of external affairs at Verizon.

Brenda L. Ferry established her own law firm in North Providence.

Andrew D. Henneous is an attorney with Brennan, Recupero, Cascione, Scungio & McAllister LLP in Providence, where he practices education law.

Dennis A. Meyers is a partner with Barr, Murman & Tonelli PA in Tampa, Fla. He focuses on insurance defense for general liability and workers compensation matters. He was recently elected chair for the board of directors of the Tampa Bay Workforce Alliance, and will serve a two-year term. He is also president-elect of the South Tampa Chamber of Commerce.

Brian A. Roemersma has his own firm, Winegar Wilhelm Glynn & Roemersma, in Phillipsburg, N.J. He is a member of the N.J. Board on Workers Compensation.

1999

Jennifer (Brooks) Hutchinson is senior counsel with National Grid.

Neal Pandozzi is an associate at Nixon Peabody LLP in Boston.

Thomas M. Robinson practices civil litigation defense, business litigation, and personal injury defense for Morrison Mahoney LLP in Providence.

Denise M. Shear practices with the Ostrander Law Office in Northampton, Mass., where she primarily works on cases involving bankruptcy and creditor/debtor law.

2000

Joshua L. Celeste was named as one of the *Providence Business News*' 2010 "40 Under Forty" winners. He is a partner with Duffy & Sweeney Ltd, in Providence.

Sarah Heaslip Hunter was promoted to senior vice president at Citizens Bank in Providence.

Carly (Beauvais) Iafrate and her husband welcomed their fourth child, Cara Jane, on Sept. 18, 2010. She joins her three older sisters.

Mark E. Tetreault works for Barlow, Josephs & Holmes Ltd. in Providence. He primarily practices in intellectual property law.

2001

Rui P. Alves opened his own firm in Cranston, R.I. He is currently president of the Board of Directors for the Samaritans of R.I.

Joseph P. Accetturo is a partner in the Warwick, R.I., law firm of Merolla & Accetturo.

Daniel Connors, former Senate Majority Leader for the R.I. General Assembly, will serve as director of policy and research for the public affairs and lobbying shop Advocacy Solutions.

Susan Rossi Cook is a sole practitioner in the areas of family and probate law. She is a former law clerk to the Justices of the Mass. Probate and Family Court. She is a registered pharmacist and an adjunct professor of pharmacy at the University of Rhode Island.

Christiana E. Mann is an associate at Peter L. Thompson & Associates in Portland, Maine.



Robert A. Reynolds is working for Greenspoon Marder PA, in Fort Lauderdale, Fla., as a public insurance adjuster.

LeeAnn (Araskiewicz) Ryder is an attorney advisor for the Social Security Administration Office of Disability Adjudication and Review in Providence.

Heather M. Spellman is a member of the editorial board for the *Rhode Island Bar Association Journal*.

James K. Sullivan works for Chestney Law Firm in Atlanta, where he practices criminal defense law.

2002

Dena M. Castricone, an attorney with Murtha Cullina LLP in Hartford, Conn., was honored at the Seventh Annual Dorothy Awards, presented by the New Haven Pride Center. The Dorothy Awards honor members of the LGBT community who have made a significant contribution to the local LGBT life.

Matthew A. Durfee is an associate at Marasco & Nesselbush LLP where he focuses on social security and medical malpractice law.

Matthew Forrest opened his own firm in Wethersfield, Conn.

Susan Kiernan is employed with Edwards Angell Palmer & Dodge in Providence. She focuses on bonds and government finance law.

Ellyn Meadors is managing partner of a media advisory consulting firm in Dallas.



Lucy Holmes Plovnick and her husband, Robert, are pleased to announce the arrival of their second child, Rosemary Hallie-Ann Plovnick, who was born on July 29, 2010. Lucy is a partner at Mitchell Silberberg & Knupp LLP's Washington, D.C., office, where she focuses on copyright law and litigation.

Stanley Francis Pupecki is an attorney with Rice, Dolan & Krenshaw in Providence.

2003

Keri P. Claeys was named an associate at Weltman, Weinberg & Reis Co. in Pittsburgh. She will be focusing on bankruptcy in the consumer group.

2004



Jared Alfin is an associate with Pullman Comley LLC in Bridgeport, Conn. He focuses on commercial litigation, business disputes and criminal defense.

Cailin Brennan is a court attorney for the Third Judicial Department in the N.Y. State Appellate Division.

Stephanie Burton is a duty counsel at Legal Aid Ontario in Ottawa.

James D. DiPasquale and his wife manage their own law firm, Gifford DiPasquale LLP, in Gloversville, N.Y.

Chad Edgar is with the U.S. Department of Justice, Tax Division and Criminal Enforcement Section in Washington, D.C.

Amanda Bertrand Foster is an assistant professor of law at Nova Southeastern University in Fort Lauderdale, Fla.

Kristy J. Garside was named to the board of directors of Visiting Nurse Services of Newport & Bristol Counties. An attorney with the Law Offices of Jeremy W. Howe Ltd in Newport, R.I., she is also a member and secretary of the Community Advocacy and Resources for Elders and Seniors.

Seth L. Laver practices professional liability, employment/labor law and business litigation law for Margolis Edelstein in Philadelphia.

Terri-Lynn McLaughlin is a partner at Jenkins & Jenkins in Fort Saskatchewan, Alberta. She focuses on criminal law and general litigation.



Catch a Rising Star

PROFILE

Stephanie Federico '03

By Megha Chatterjee

"I was completely shocked and humbled! I didn't see it coming!"

Stephanie Federico '03 seems genuinely blown away by the fact that three different organizations have seen fit to honor her recently – last summer, *Providence Business News* listed her as one of Rhode Island's "forty top movers and shakers under the age of 40." Soon afterward, the YWCA bestowed a 2010 Women of Achievement Award; this January, *Providence Monthly* named her to its annual "10 to Watch" list of the city's rising stars.

What makes Federico so special? As *Providence Monthly* phrased it: "She is that archetype so rare as to almost make us question its existence: the tireless public servant."

"At the end of the day, for me, it's about working for the citizens of Providence," Federico affirms. "It's about serving my constituency."

In Federico's present position, as chief of staff for the Providence Public School District, that constituency is the capital city's youth. "What I am doing has an impact on the kids," Federico explains. "To make sure that their textbooks are developed; that they are running with up-to-date technology; and that their teachers are receiving the professional development that helps drive initiatives developed by the [Obama] administration."

While Federico's is not a traditional law practice, her legal training comes into play constantly. "Every day I'm working with outside vendors – food services, maintenance services – making amendments to contracts; making sure that they're abiding by the letter. Plus, there are seven different labor unions to deal with! Not a day goes by when I don't have to think like a lawyer."

For Federico, the biggest professional leap was "from the practice of law to implementation of law" – a shift that first occurred in June 2006, when she joined Mayor David N. Cicilline's administration as his deputy chief of staff and director of educational policy. In 2008 she was recruited to her current position by Providence Schools Superintendent Tom Brady. Along the way, Federico says, her legal education has proved invaluable.

"Don't underestimate the power of RWU Law to provide a great foundation to build on," she says, also advising law students to "figure out what your passion is; otherwise you won't be able to give it your best shot."

Class Notes

Carolyn P. Medina is an associate with Partridge Snow & Hahn LLP in Providence. She practices in general litigation, land use and zoning, and real estate law.

Brian Terlinsky is assistant vice president in the commercial assets recovery division of BBVA Compass in Houston, the U.S. banking arm of the Spanish-owned conglomerate.

Kyle M. Zambarano practices business, employment law at Adler Pollock & Sheehan PC in Providence.

2005

Amanda Browning is a prosecutor with the Holmes County State Attorney's Office in Bonifay, Fla. Amanda enjoys coaching and playing softball, being outdoors and traveling.

Amanda K. (Gormely) DiChello is an associate with Peter L. Klenk & Associates in Philadelphia, where she primarily practices in estate and trust litigation law.

Thomas J. Enright practices with the law firm of Partridge Snow & Hahn LLP in Providence. He primarily practices in bankruptcy and creditor/debtor law.

Joseph J. Joyce III practices general litigation law in Scranton, Pa., for Elliot Greenleaf & Dean.

Dmitry Lev established his own practice in Boston, where he focuses on criminal defense and bankruptcy.

Katherine J. McAllister is a partner at the law firm of Brennan, Recupero, Cascione, Scungio & McAllister in Providence. She primarily focuses on employment and labor, and government municipalities law.

Melissa A. Moore opened her own law office in Holden, Mass. She specializes in family, probate, guardianship and mental health law.

Stefanie A. Murphy is an associate with Richard S. Humphrey Law Offices in Tiverton, R.I. She specializes in DUI law.

David J. Pellegrino is an associate at Partridge Snow & Hahn LLP in Providence. He primarily practices in bankruptcy and creditor/debtor law.



Amanda Mertens Campbell '05 was named vice president of government relations for GE Hitachi Nuclear Energy. She will conduct advocacy strategy for the U.S.-based global nuclear energy alliance company and help with overseas government relations initiatives. Previously, she was general counsel for the House Energy and Commerce Committee in the U.S. House of Representatives.

Alicia (Byrd) Samolis was named as one of *Providence Business News'* 2010 "40 Under Forty" winners. She is an associate at Partridge Snow & Hahn LLP in Providence.

Mary-Joy Spencer-Howes is an associate at Goodman, Shapiro & Lombardi in Providence. She specializes in alternative dispute resolution and prison monitoring law.

2006

Brian Ali is vice president of Global Equity at Deutsche Bank in New York. He was previously vice president of international equity at Credit Suisse.

Nicole (Dulude) Benjamin and Keith Benjamin were married on Oct. 16, 2010, at the Hotel Viking in Newport, R.I. Nicole is an associate at Adler Pollock & Sheehan PC in Providence. The couple resides in Barrington, R.I.

Rachel (Carter) Cushing practices civil litigation, government municipalities and general litigation at Graham Curtin, a professional association in Morristown, N.J.

Jim Coughlan is the comptroller for Dutchess County, N.Y., making him the chief accounting and auditing officer for the county.

Esme Devault is an attorney with the Appellate Screening Unit at the R.I. Supreme Court.

Joseph A. Farside, Jr. is an associate at Edwards Angell Palmer & Dodge in Providence. He practices in the areas of antitrust, environmental and general commercial litigation. He also advises clients on fisheries laws.

Stephen R. Muschiano is an associate with Higgins, Cavanagh & Cooney LLP in Providence.

Shelley Rhoads Perry joined the Naples, Fla., office of Huntington National Bank as a vice president and senior trust administrator in the private financial group.

Allyson Roklan is an associate general counselor at MIB Group Inc., in Braintree, Mass.

Jennifer L. Sylvia is a member of the editorial board for the *Rhode Island Bar Association Journal*.

Erin Van Dorn is associate director of Admissions at Temple University Beasley School of Law in Philadelphia.

2007

Jennifer L. Belanger is an associate at Marasco & Nesselbush LLP in Providence, where she practices social security and medical malpractice law.

Ashley Lauren Farnschlader is an associate with Nelson Levine deLuca & Horst in Cherry Hill, N.J.

Julia A. Gage is working for the U.S. Naval War College in Newport, R.I., as the inaugural director of the Alumni Affairs Program. She is also an associate professor at the school, teaching negotiation, meditation and conflict resolution skills.

Dipesh Gandhi received his LL.M. in health law from Loyola University Chicago School of Law and married his college sweetheart in July 2009. He is a risk management and performance improvement specialist at Streamwood Behavioral Health Care near Chicago.

Naomi Hills is a staff attorney at The Legal Aid Society in New York.

Melissa Malloy is an associate at Pierce, Davis & Perritano LLP in Boston. She previously clerked for Chief Justice Rhys S. Hodge of the Supreme Court of the Virgin Islands.

Nicole (Eldredge) Mogard joined the U.S. Army JAG Corps.

Sean O'Brien completed his LL.M in tax law at New York Law School. He is an associate with Middlebrooks, Shapiro & Nachbar PC in Union, N.J., working in bankruptcy and foreclosure mediations.

Kevin Rolando is an associate at Gunning & LaFazia Inc. in Warwick, R.I.



Hinna Upal '07 joined Pierce Atwood LLP as an associate in the firm's litigation practice group. Upal will work in the firm's Providence and Boston offices. She recently completed a clerkship with Judge William E. Smith of the U.S. District Court for the District of R.I., during which she assisted Smith in teaching Federal Practice and Procedure at RWU Law. Previously, she was an associate with Wilson, Elser, Moskowitz, Edelman and Dicker LLP in Boston.

Margreta Vellucci is an attorney with Pond North LLP in Hingham, Mass.

2008

Alexandria E. Baez is a construction litigation associate with the Boston office of Robinson & Cole LLP. Baez recently authored several articles addressing the legal implications of Building Information Modeling (BIM) in public and private construction, as well as the new Mass. Prompt Pay Act. She was also recently appointed to serve as the social co-chair for the New Lawyers section of the Boston Bar Association.

Candance Brown Casey married Matthew Casey '11 on Aug. 7, 2010. She is employed at Green and Greenberg in Providence.

Deb Conry is an associate with Little Medeiros Kinder Bulman & Whitney in Providence.

Robert D. Coulter is an associate with Edwards Angell Palmer & Dodge LLP in Providence. He practices litigation management and is involved in the firm's pro bono program, specifically in the area of constitutional rights.

Paul Michael DiMaio is practicing law in Philadelphia.

Matthew L. Fabisch opened a solo practice in Newport, R.I.

Bill Farias started his own firm in Fall River, Mass.

Teresa Giusti is an associate with Oliverio & Marcaccio in Providence. She married last year, and she and her husband welcomed a baby boy on June 2, 2010.

Katherine E. (Johnston) Godin established her own firm in Providence, focusing primarily on criminal defense and appellate law.

Jonathan W. Greene is an associate with Chisholm Chisholm & Kilpatrick LLP in Providence.

Denton C. Hill is an associate with Wiseman, Blackburn & Futrell in Savannah, Ga. He earned his LL.M. in banking and finance from Boston University.

Ana Lee Mojtahedi and **Craig Andrew Hoenie '09** were married on Sept. 11, 2010, in Stroudsburg, Pa. Ana is a juvenile public defender in Wilkes-Barre and Craig is an attorney with North Penn Legal Services in Scranton, Pa.

Chad E. Nelson is an associate with the law firm Correia & Iacono LLP in Swansea, Mass. He focuses on estate planning and real estate law.

Adam Noska is an associate with the law firm of Rob Levine and Associates in Providence.

Majessire Smith opened her own practice in Richmond, Va. She focuses on family law and estate planning.

Sarah Sprague and **Heath Hixson** are partners at their own firm, Sprague & Hixson, in Roanoke, Va. They focus on social security disability law.

Meredith Strokes was appointed as a vice president at Citizens Bank. She is a risk manager in the Corporate Regulatory Department.

2009

Kimberly Ahern is a special assistant attorney general in the R.I. Attorney General's Office in Providence.

Rod Alcidonis opened his own law practice in Philadelphia.

Christine Boeckel is state tax law editor for the Bureau of National Affairs Inc. in Arlington, Va.



Scott Carlson (who earned his J.D. at Roger Williams in '09 and his undergrad degree here in '06) is engaged to **Emily Quintin** (who earned her B.F.A. at Roger Williams in

'05 and her M.A. here in '09). Their wedding is scheduled for Aug. 27, 2011. Scott is an attorney with Doherty, Ciechanowski, Dugan, and Cannon in Franklin, Mass. Emily is a teacher in Somerset, Mass.

Jeannine Casselman is volunteer program coordinator for the R.I. Center for Law and Public Policy.

Class Notes

Allisha Clark and her husband, Josh, welcomed a son, Dylan Jacob Clark, on Jan. 10, 2011.

H. Brian Dumeer was named an associate at the law firm Cloutier & Cassella in Old Saybrook, Conn.

Brian Eisenhower is an associate at Hill Rivkins LLP in New York City.

Jennifer Manning is an attorney with the Law Office of Bunmi Awoniyi in Sacramento, Calif., practicing immigration and naturalization law.

Erin B. McKenna is an attorney with Richard S. Humphrey Law Offices in Tiverton, R.I. She practices in the area of DUI law.

Samuel Jacob Parris is employed with Pilgrim Title Insurance Company in Providence.

Erica L. Pereira joined the personal injury department of Keches Law Group, P.C.

Kathryn H. Petit is a member of the editorial board for the *Rhode Island Bar Association Journal*.



Matthew Jerzyk '08 is the new director of government relations and senior counsel to Providence Mayor Angel Taveras. Jerzyk, a law associate with DeLuca and Weizenbaum Ltd. in Providence, is credited with constructing the strategy that allowed Taveras to win a four-way Democratic primary before cruising to victory in the general election last fall. Jerzyk's involvement in city politics dates back to 2002, when he campaigned for Providence Mayor David Cicilline. He is also founder of the popular progressive political blog, Rhode Island's Future (rifuture.org).

Derek G. Poirier is an associate with Gale & Kowalyszyn LLC in Hartford, Conn.

Adam J. Resmini and **R. Jason Resmini** joined the Law Offices of Ronald J. Resmini Ltd. Adam is a partner in the civil litigation division. Jason is a partner concentrating in civil litigation and entertainment law. He is currently representing the producers for a musical titled "The Family," which will premiere this summer and be pitched for a run on Broadway thereafter.

Amy Stewart is a staff attorney with the R.I. Ethics Commission.



Alex Straus is an associate with Motley Rice LLC's South Carolina office, specializing in complex litigation on the firm's asbestos team.

Maureen M. (McCrann) Sturtevant is an associate with Lambert Coffin in Portland, Maine.

Ben Susman is an associate at the law firm of McCarthy & Holthus in San Diego, Calif. He practices in the civil litigation department.

Scott J. Vernon is a member of the editorial board for the *Rhode Island Bar Association Journal*.

2010

Kirby Aarsheim is an associate with Clinton & Muzyka PC in Boston.

Timothy Cook is an assistant public defender in the Stone Mountain Judicial Circuit, Decatur, Ga. He married Chloe T. Cook in Oct. 2010.



Kelly Noble '10 was married on Sept. 25, 2010 to Steve Guarino, with the Hon. Judith C. Savage, associate justice of the R.I. Superior Court, presiding. Kelly completed a judicial externship with Judge Savage in 2009. A number of her RWU Law classmates attended the ceremony. *Back row (l-r): Dana Treb Merkel '10; Kathryn S. Howery '10; Brandy N. Hughes '10; Hala V. Furst '10; Kelly Noble Guarino '10; Steve Guarino; Judge Savage; Regina A. Curran '10; Sara M. Gould '10. Front row (l-r): Derek Cournoyer '10; Matthew Watson '10; Glenn Merkel.* Absent from the photo is **Jessica L. Grimes '10**.

In Memoriam

Frank M. Tricomi '06 passed away on May 16 in Clermont, Fla., after a long illness. He is survived by his wife, Stephanie, and his parents, Frank and Barbara of St. Louis. His family suggests, in lieu of flowers, memorials to Cornerstone Hospice or the Greater Clermont Cancer Foundation. Frank will be greatly missed and fondly remembered by the RWU Law community as a valued classmate, student, alumnus and friend.

The Tea Party's Constitution

By Jared A. Goldstein,
Professor of Law

Since its rather sudden emergence in March 2009, the Tea Party movement has garnered considerable attention as a rowdy group of anti-tax, anti-health reform, anti-stimulus, anti-bailout, anti-Obama activists.

What has received somewhat less attention is that Tea Party supporters characterize the movement's central goal as reclaiming the Constitution and returning the government to constitutional principles. Tea Party groups express devotion to the Founding Fathers, declaring their commitment to "stand up for what our Founding Fathers believed in" and to "revive the spirit of the Founders." At their rallies, Tea Party supporters pass out pocket copies of the Constitution, dress in colonial costumes, and demand the restoration of foundational constitutional principles. The name "Tea Party" itself seeks to cast the movement as a modern-day incarnation of the nation's founders.

The sudden prominence and power of the Tea Party calls for an examination of its constitutional vision. In a very short time, the Tea Party movement has succeeded in nominating and electing many of its preferred candidates to Congress and to state offices, and it now exercises considerable – by some accounts dominant – influence within the Republican Party. Its power to implement



The use of constitutional rhetoric to divide ‘true Americans’ from ‘anti-Americans’ is a troublesome development and a danger to a healthy democracy.

its constitutional agenda is growing rapidly.

Although the Tea Party movement loudly proclaims its goal of restoring the government to constitutional principles, commentators have struggled to describe the movement’s understanding of the Constitution. That difficulty is not surprising, because the Tea Party movement is comprised of hundreds of local groups with no coordinated leadership or official platforms. Moreover, Tea Party supporters usually invoke the Constitution in rather vague terms, without providing what lawyers would recognize as legal arguments.

‘Ancient Principles’

Perhaps the best sources for exploring the Tea Party’s vision of the Constitution are two books written in the 1980s by W. Cleon Skousen, who has been called “the constitutional guru of the Tea Party movement.” The first is “The Five Thousand Year Leap,” frequently characterized as the Tea Party movement’s “bible.” Originally published in 1981, the book remained virtually unknown until conservative commentator Glenn Beck began touting it as offering “answers to the questions plaguing America.” The other is “The Making of America: The Substance and Meaning of the Constitution,” published in 1985, which purports to explain the Constitution clause-by-clause.

These books are decidedly strange sources to inspire a contemporary political movement. They are products of the paranoid edges of the radical right wing of the Cold War era. Their main thrust is that Founding Fathers were devout Christians who discovered certain ancient principles of government that provide the only hope to save the United States from international communism. These foundational principles, Skousen insists, made the United States the most free and prosperous nation in history; however, “international socialists” and “wealthy bankers” duped the United States into abandoning them.

Today, in Skousen’s view, nearly everything the federal government does is

unconstitutional – including the issuance of paper money, the establishment of administrative agencies, the adoption of federal welfare programs like Social Security, the creation of national parks and the enactment of environmental and labor laws. Skousen argues for a restoration of the Founders’ “true vision” of the Constitution – including the centrality of natural law (understood to mean “God’s laws”); the necessity for limited government (one which may not undertake welfare programs, redistribute wealth or interfere with private property); and the embrace of manifest destiny at home and isolationism in foreign policy.

With the end of the Cold War, one might have expected Skousen’s books to lose whatever appeal they once had, but the emergence of the Tea Party movement has given them a much larger and more enthusiastic audience. Skousen’s influence has now spread beyond Tea Party activists, and several prominent Republican leaders – Texas Governor Rick Perry, former Massachusetts Governor Mitt Romney, Senator Mike Lee, and Senator Orrin Hatch, among others – have openly endorsed Skousen’s views.

Fundamentalist Vision

Skousen’s books find widespread support among Tea Party supporters because they share what can best be characterized as a fundamentalist vision of the Constitution.

Like religious fundamentalist movements, the Tea Party movement arises out of opposition to modern developments. Its supporters reach back to a mythic past to find what they believe to be the nation’s fundamental, founding principles, as embodied in the Constitution. Uncompromising adherence to these principles serves to divide true believers in the constitutional faith from “anti-Americans” like President Obama and his supporters, who seek to undermine them.

The principles advanced by the Tea Party also bear examination as an example

of “popular constitutionalism” – the theory that ultimate authority over the meaning of the Constitution should be understood to reside in the people themselves. Scholars advocating this theory claim that it once was the norm and have lamented what they believe to be its death at the hands of judicial supremacy. While these academics sometimes question positions taken by Tea Party supporters, they welcome the movement to the national dialogue because they believe public engagement on the meaning of the Constitution strengthens constitutional democracy.

However, the Tea Party movement poses a challenge to popular constitutionalism. There is nothing inherently good about public discussion about the Constitution – any more than public discussion of race or other charged issues is always good. Although some people may discuss racial issues in ways that advance understanding, others may employ racial rhetoric to incite hatred, misunderstanding and violence.

Similarly, the Tea Party’s fundamentalist vision of the Constitution shows that invocations of the Constitution in popular politics can serve as a means of channeling nationalist and authoritarian impulses, just as equally as it can promote popular democracy and human rights. As Harvard Law Professor Sanford Levinson has argued, because the Constitution is a potent symbol of national values – the “sacred text” of our “civil religion” – invocations of the Constitution in popular democracy may emphasize shared values but just as easily may sow division and animosity.

Because Tea Party supporters project onto the Constitution the values they hold most sacred, they believe that those who do not fully support these values are not simply wrong but are un-American or even anti-American. The use of constitutional rhetoric to divide “true Americans” from “anti-Americans” is not a trend to be welcomed, but a troublesome development that should be condemned as a danger to a healthy democracy. **RWU LAW**

RWU LAW *Annual Fund Appeal*

As President of RWU Law's Alumni Association, I hope I can count on fellow graduates to join me in support of our alma mater. Whether we run our own practice, are partners in firms, serve as judges or politicians or follow a different path, our careers are a testament to the caliber of our legal education. We are the foundation of the institution and the stewards of its successful future.

Established just 18 years ago, RWU Law lacks the endowment funds available to many of its older peer institutions and must rely on gifts made to the Annual Fund to meet its operating expenses. That's why our alumni participation rate – the percentage of alumni who make an annual gift to RWU Law – is so critical to our alma mater's success, prominence and sustainability. While I hope that each of you give generously, what matters most is not the size of your gift, but the positive message you send by making a gift each year.

Please make a gift today and be counted among your fellow graduates who believe in the long-term success of RWU Law. Visit our secure online giving site at <http://law.rwu.edu/support-rwu-law>.

I hope we can count you in!



– Nicole (Dulude) Benjamin '06



MARK YOUR CALENDAR!

**12TH ANNUAL
LAW ALUMNI ASSOCIATION
SCHOLARSHIP GOLF TOURNAMENT
Sunday, August 21, 2011 • Noon**

"A great day of fun for a great cause"

– co-chair Sally McDonald '09

"Being chosen for this scholarship helped confirm that I have chosen the correct career path for myself"

– Jesse Passmore '12,
2010 LAA Scholarship recipient

"The scholarship helped me to pursue an unpaid summer internship in the office of U.S. Senator Sheldon Whitehouse"

– Jacqueline Roller '11, 2009 recipient



ALSO UPCOMING:

For details on these and many other exciting upcoming events visit:
law.rwu.edu/calendar

☐ "After Hours" Alumni
Networking Reception

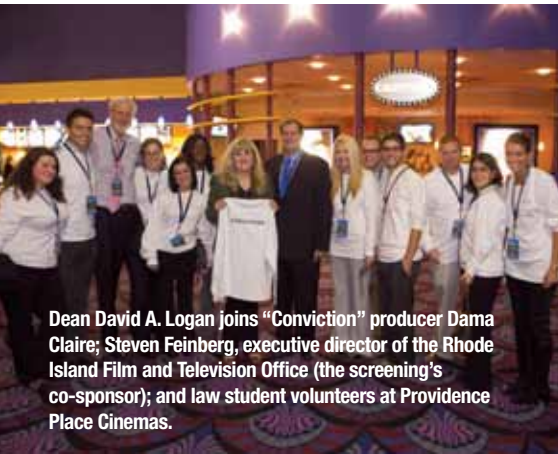
July 14, 2011
Washington, D.C.

☐ 13th Annual Open
Government Summit

August 5, 2011
Bristol, R.I.

☐ Orientation

August 14, 2011
Bristol, R.I.



Dean David A. Logan joins "Conviction" producer Dama Claire; Steven Feinberg, executive director of the Rhode Island Film and Television Office (the screening's co-sponsor); and law student volunteers at Providence Place Cinemas.

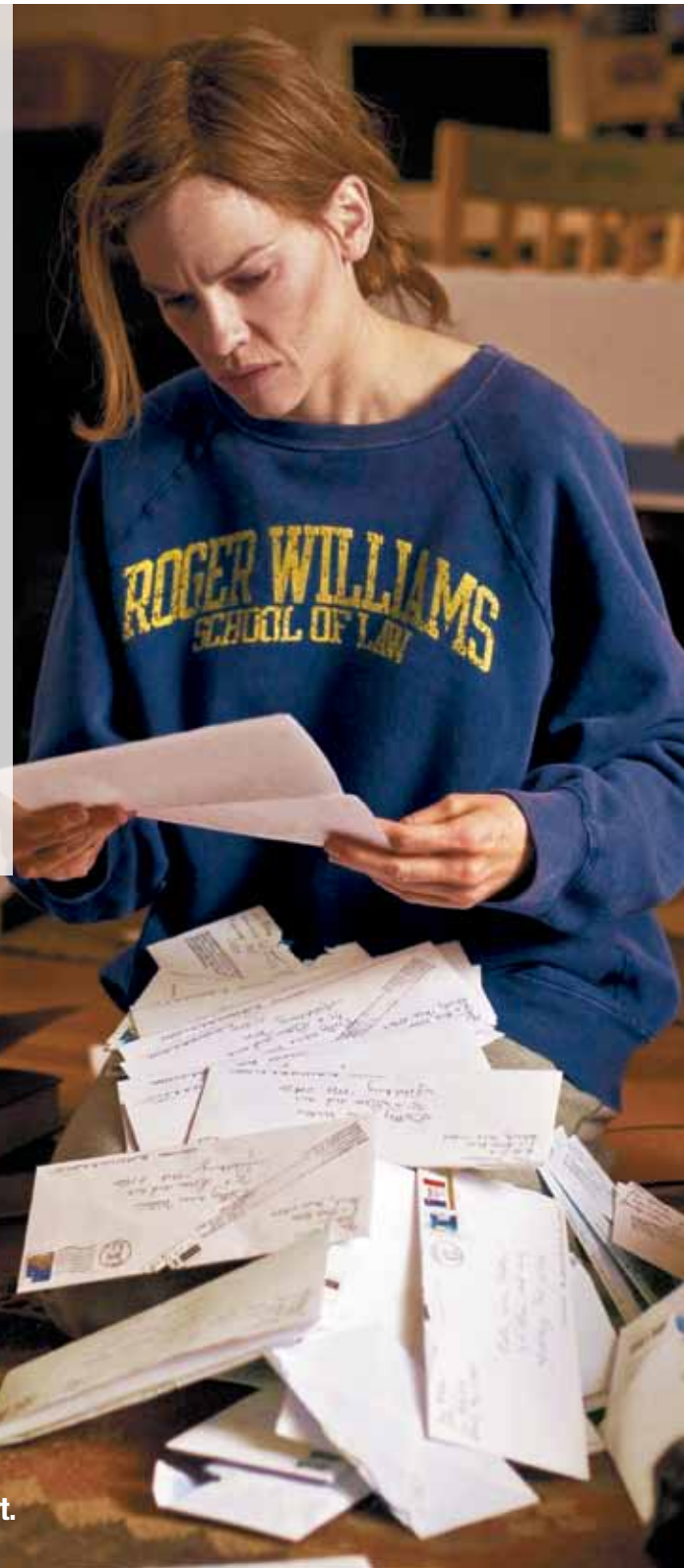


The real-life Betty Anne and Abra reunited for a Q&A session following the screening.

As part of our ongoing commitment to sustainability, Roger Williams University prints *RWU Law Magazine* entirely on paper certified by the Forest Stewardship Council. By using FSC-certified paper, we're sure that the raw materials used to produce this magazine come from forests that are managed according to FSC's strict social and environmental standards.



RWU Law hosted a special advance screening of the Fox Searchlight motion picture "Conviction," which tells the incredible true story of alumna Betty Anne Waters '98 (Hilary Swank) and her efforts – along with classmate Abra Rice '98 (Minnie Driver) – to free her wrongfully convicted brother from prison. A fundraiser preceding the event raised more than \$5,000 for the Innocence Project.



Hilary Swank rocks a Roger Williams sweatshirt.