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Spring 2012

## RWU Law: The Magazine of Roger Williams University School of Law (Issue No. 3) (Spring 2012)

Roger Williams University School of Law

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Roger Williams University School of Law, "RWU Law: The Magazine of Roger Williams University School of Law (Issue No. 3) (Spring 2012)" (2012). *RWU Law*. 2.

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# RWU Law

ISSUE 3 | SPRING 2012

*The Magazine of Roger Williams University School of Law*

MEDICAL-LEGAL PARTNERSHIPS

THE CLERKSHIP PATH

WE THE PEOPLE?



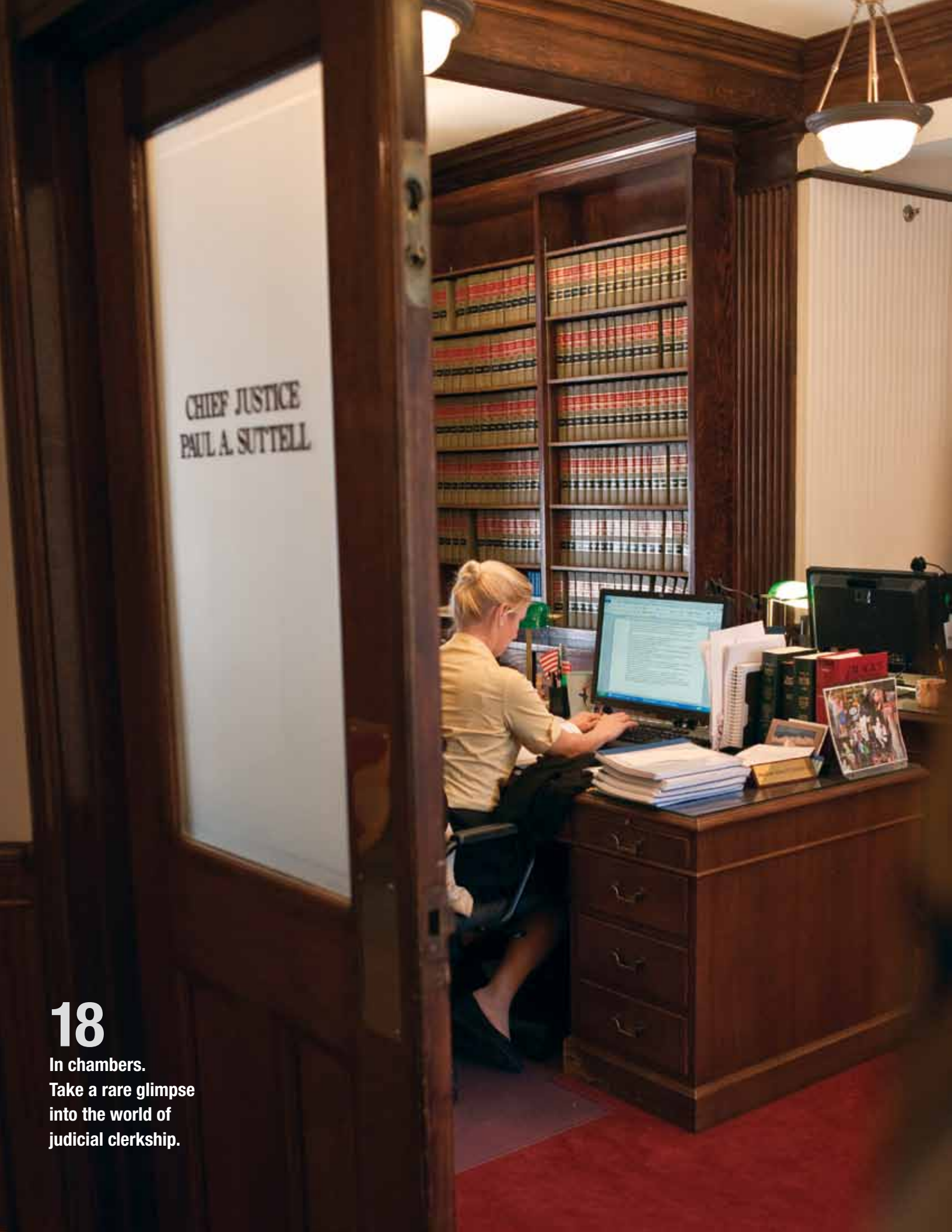
## A VOICE FOR VETS

**Navigating the  
Maze of  
Veterans Law**

**SPECIAL  
FEATURE  
FOLDOUT**

RWU Law's judiciary associations  
**THE CLERKSHIP PATH**  
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CHIEF JUSTICE  
PAUL A. TUTTLE

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In chambers.  
Take a rare glimpse  
into the world of  
judicial clerkship.



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Workhorses, devil's advocates, confidantes and team players – love it or hate it, the institution of the judicial clerkship has become an essential component of the American justice system.

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With the war in Iraq formally over and the war in Afghanistan winding down, tens of thousands of American soldiers are streaming home to a shattered economy and a tough new reality.

### 32 **Preventive Medicine Meets Preventive Law** – *by Michael M. Bowden*

RWU's Medical-Legal Partnership was one of the nation's first. With more than 200 programs operating today, we've literally written the book on how to make it work.

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on marine energy planning





## To the Editor:

Thanks for your article on Judge Jason Mastrangelo in the latest issue of *RWU Law* Magazine ["Ocean State Judge Takes the Long Way Home"]. Jason and I graduated together in 2001, and we both practiced as disability attorneys in Rhode Island.

I was recently appointed chief judge of the Social Security Administration's newly opened Office of Disability Adjudication and Review in Lawrence, Mass. LeeAnn (Araskiewicz) Ryder '01 is also part of our management team. The disability community in Rhode Island has always been small, so it's a pleasure to have three graduates from the same class play such an active role in the field.

Sincerely,

**Judge Tanya (Zorabedian) Garrian '01**  
Lawrence, Mass.

I just received my copy of *RWU Law* with the story on Terrance Haas ["Law on the Tundra"]. I'm glad his adventure is finally being shared.

Sincerely,

**Stephen P. Maguire, Esq. '96**  
Cranston, R.I.

Your *RWU Law* issue with Professor Mary Holper ["An Impossible Dream?"] found its way to us here in London. You guys do a nice job with the magazine and you tell a good story. I also enjoyed your highlights of commencement – great photos!

Sincerely,

**Professor Frank J. Garcia**  
Boston College Law School/Kings College  
London Program

I received the latest *RWU Law* Magazine, in which Dean Logan announced his "Top 10 Commencement Moments." I feel honored to have made the "dean's list!"

I always say I succeeded in law school because I was part of an environment where the majority of the staff made it one of their priorities to see me succeed. At RWU Law, I did not have to fight with administrators for commonsense accommodations – I was free to just learn. It was an experience I'll never forget. Thanks, Dean Logan, for being a great dean to my alma mater!

Sincerely,

**Rod Alcidonis, Esq. '11**  
Philadelphia

I have no idea why I received a copy of your magazine, but I was so happy to read about the efforts RWU Law is making in recruiting students of color ["The New Face of Latino Law"]. While I do not have a connection with RWU, I have a more positive view of the school after reading this issue and thought you should know that you accomplished one of your many missions.

Sincerely,

**Sheila M. Cooley, Esq.**  
East Greenwich, R.I.

*[Thank you for your kind words. We recently expanded our mailing list to include members of the Rhode Island Bar Association and adjacent portions of the Massachusetts Bar Association, and have been gratified by the positive response. – Ed.]*

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Published by the Department of  
Marketing and Communications and  
Roger Williams University School of Law

Issue 3 / Spring 2012

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





# A Chat with the Dean

Our Q&A with Dean David A. Logan

## *Rolling out well-rounded, practice-ready lawyers...*

**RWU Law:** *Roger Williams University President Donald J. Farish recently proposed a vision for the University in which experiential learning is central. How does the law school measure up?*

**Dean Logan:** As Dr. Farish has noted, we've already taken the lead – for example, with our 50-hour pro bono requirement. Most of those opportunities put students out in the field, often interacting with clients. Studies show that real-world experiences like this are more likely to produce well-rounded, fully ready-to-go professionals than book learning alone.

**RWU Law:** *When does experiential learning come into play in the legal curriculum?*

**DL:** True clinical work tends to be primarily a third-year experience, simply because there is too much doctrinal learning to be done in years one and two. But that's practical too. Engaging in a Socratic dialog – analyzing a problem, identifying and supporting arguments, recognizing and responding to contrary arguments – is *the* fundamental legal skill. It's the core of the first-year experience at all law schools, and the broad consensus is that it's a very successful way of preparing laypeople to become lawyers.

The debate is, what do you do after that first year? How much do you augment

that analytical skill set with other skills lawyers need?

**RWU Law:** *What are some solutions?*

**DL:** In addition to co-curricular opportunities with a skills focus – like Moot Court and Trial Teams – we offer an array of simulation courses, where a student presents, say, a mock trial, complete with *voir dire*, opening statement and cross-examination. But the stakes are still purely academic.

To truly experience the thrill – and terror – of being a new lawyer, you look to our clinics. It's not a simulation; it's real. You have the weight of a client's hopes and fears on your shoulders. In our Criminal Defense Clinic, students represent indigent defendants. Our Immigration Clinic offers the distinctive opportunity to represent clients in both state and federal courts. And we're committed to doing even more – other clinics in the curricular pipeline offer a more transactional, business-oriented focus.

**RWU Law:** *Is the economic downturn driving the current emphasis on experiential learning?*

**DL:** It's a factor. In today's economic climate, fewer corporate clients are willing to pay high fees for rookie lawyers, meaning big firms provide less mentoring.

Also, more lawyers are going into small-firm practice, where there's never been the luxury of a lengthy apprenticeship. So law schools have to step up and provide more practical training.

**RWU Law:** *What other strategies are you employing to achieve this?*

**DL:** We've begun weaving skills into our doctrinal classes. For example, Professor Bruce Kogan turns his Wills & Trusts class into a group of law firms, which work on various problems over the semester, building on the substantive law they're learning each week. We also require every upper-level student to take two skills classes, which relatively few law schools do.

In addition to Rhode Island Civil Procedure, we will be offering Massachusetts (taught by a sitting Superior Court judge, incidentally) and New York Civil Procedure, to help students prepare for the specific contexts they'll be practicing in. Then there are our "capstone courses," which strive in the third year to weave together academic themes from the first two years. Judge Will Smith's Federal Practice course [*See p. 6 - Ed.*] is a great example.

The idea is not to remove the doctrinal underpinnings, but to add skills that produce a better-rounded and, yes, more marketable graduate.





## Law & Historic Preservation

### Innovative new joint degree program targets emerging field

With cities and towns placing ever-increasing value on preservation of unique historic buildings and other culturally significant sites, there's a growing need for professionals who can navigate the extensive legal and regulatory mechanisms that govern such efforts.

Enter Roger Williams University, which recently established a joint program combining a juris doctor degree from RWU Law and a master's degree in historic preservation from the School of

Architecture, Art and Historic Preservation. The program will allow highly motivated students to complete both degrees simultaneously, yielding substantial time and financial savings.

"We're uniquely positioned to provide high-quality education and training for individuals looking to enter this emerging interdisciplinary field," says Professor of Law Bruce Kogan, who helped develop the program along with SAAHP Dean Stephen White, Professor Philip Marshall,

coordinator of the school's Historic Preservation Program, and Professor Jeremy Wells, who joined RWU in 2011, having previously served as city planner for Denver.

President Donald J. Farish, Ph.D., J.D., who has made a priority of fostering collaboration between the University's diverse academic programs, conveyed "congratulations and personal thanks to all who helped make this program happen."

## JEOPARDY!

### LAW SCHOOL EDITION

Who says law school is all work and no play? For the past seven years, the most popular fall event for blowing off mid-semester steam has been the Annual Student/Faculty Jeopardy Game, pitting 1L, 2L and 3L teams against law faculty and adjuncts on emphatically non-legal topics, with always unpredictable results (every team has taken the crown at least once. Current champs: the 1Ls). Some questions from past games:

The two Steves  
who founded  
Apple, Inc.

1

State capitals with  
the smallest and  
largest populations,  
respectively.

3

Fictional  
hometown of the  
Griffin family in  
"The Family Guy"

2

There were 24  
varieties of this  
libation in Ancient  
Egypt.

4



# Turning Back the Clock...

*If you had your first year of law school to do over again, what would you do differently? We asked a few 3Ls and alums, and got some insightful and candid advice for those who still have a ways to go...*

- **Basannya Babumba '12** – “I’d have better balanced my personal life with law school. 1Ls should make a study schedule that also includes some personal time – and be sure to stick to it.”
- **James Bagley '12** – “I’d have taken more advantage of our professors’ open-door policy. Building good rapport and meaningful relationships with your teachers is essential.”
- **Nicole Dulude Benjamin '06** – “I would worry less, network more and set aside time to think about the practical implications of the theoretical concepts I was learning.”
- **Jesse Duarte '12** – “I’d stress how essential it is to supplement your legal scholarship with practical experience at every possible opportunity.”
- **Laura L. Frechette '04** – “I’d have spent more time on legal writing and organizing the ideas in my papers. I’d also have taken one full day off each week.”
- **Sally P. McDonald '09** – “I’d have tried harder to remember that professors are doing you a favor when they’re tough on you in class. You’ll realize this when you’re in front of a tough judge!”
- **Joelle C. Sylvia '06** – “I would have trusted my own judgment more. You very quickly realize that what works for someone else won’t necessarily work for you.”



## Sports Law All-Stars



As part of its annual Legal Career Options Day, the Office of Career Services assembled a high-octane Sports Law panel discussion, featuring Dennis Coleman, a prominent sports agent and law partner with Ropes & Gray in Boston (not to mention a former quarterback for Brown); Kathy Sulentic '09, assistant director of enforcement with the NCAA; Ed Weiss, general counsel for New England Sports Ventures, the consortium that owns the Boston Red Sox; Jennifer Flynn, senior VP and assistant general counsel for the Boston Red Sox; and Amanda Eysie, senior manager of legal operations for the Fenway Sports Group.

Both a N.Y.C.-based rock band and what golf is scored on.

5

She played Betty Anne Waters '98 in the 2010 film “Conviction.”

7

A “fishy” hairstyle lampooned by the Beastie Boys.

9

The Persian leader who captured Athens in 480 B.C.E.

6

This territory is Asia’s answer to Las Vegas.

8

This common word for gratuity is short for “to insure promptness.”

10

1. Who are Jobs and Wozniak?
2. What is Quahog, R.I.?
3. What are Montpelier, Vt. and Phoenix, Ariz.?
4. What is wine?
5. What are the Strokes?
6. Who was Xerxes?
7. Who is Hilary Swank?
8. What is Macau?
9. What is a mullet?
10. What is a tip?





## LAW 765

### Federal Practice

#### Instructor:

Judge William Edward Smith  
U.S. District Court  
District of Rhode Island

**Insider Perspective:** Every law school offers a Federal Practice course, but few have a seasoned federal judge as the instructor. Students in Judge Smith's class also gain insight from a host of co-teachers: Pierce Atwood partner Brooks Magratten; Michael Daly '02 and Hinna Upal '07, both associates at Magratten's firm; and Legal Writing Professor Jane Rindsberg provide multidimensional insight on navigating this essential arena for litigation.

**Into the Courtroom:** Judge Smith's students step out of the classroom and into the courtroom, focusing directly on the methods and context of federal practice. They learn firsthand about everything from courtroom technology, to powerful advocacy techniques, to effective interaction with the judge who hears their case.

**Stay Tuned:** Insights include tips for identifying (and eliminating) distracting speech or body habits – and how to avoid becoming one of Judge Smith's pet peeves: "attorneys who just say what they want to say, and don't listen to the judge's questions."

**From Theory to Practice:** The upshot? A 360-degree federal-practice experience. "What this course does is bring it all together," Smith says. "It requires students to implement in courtroom practice what they're learning in classroom theory."



Angela Chan (left) and RWU Law Director of Diversity Deborah Johnson meet with law students during Martin Luther King, Jr. week activities.

## 'Crimmigration' & Civil Rights

"Homelessness is now a crime," asserts Angela Chan, a staff attorney managing the Criminal Justice Reform Program at the Asian Law Caucus in San Francisco. "Unemployment is a crime. Drug addiction, mental illness, illiteracy, poverty – they're all crimes. We're using the criminal justice system to group social ills together under the larger umbrella of crime."

Chan visited Roger Williams Law in January as part of the school's Martin Luther King, Jr., Week celebration, shedding light on discrimination within the U.S. criminal justice system – not only against African-Americans, but against other minorities including Asian-Americans.

"More than 2.3 million people are currently behind bars in the United States," she told a sizeable RWU Law audience. "Over 70 percent of those imprisoned are people of color, which gives a sense of just how drastic things are."

This trend impacts the entire U.S. immigrant population, according to Chan, jeopardizing their civil rights and pushing them into "a profit-driven incarceration industry."

"It's called 'crimmigration' – where criminal and immigration law meet," Chan explained. "The two systems funnel people into the criminal justice system, increase the [prison] population and prolong the detention time of incarcerated people for as long as possible. Race, poverty, drugs – incarceration has become our society's solution to all of those problems."



## *"Braving the Light"*

Be brave.

Take a walk along the rock-strewn beach.

In the rain.

The pebbles will never be as treacherous  
or as beautiful

as when they are wet. ...

disappear into the originality of it all  
carrying with you time itself  
and the satisfaction and contentment  
only courage brings.

*by Kim M. Baker*

## Art and Poetry – in a Law School?

For the past few years, the walls of the second-floor Atrium have been graced by several art exhibits a year, thanks to an arrangement with the Bristol Art Museum. The most recent installment went further, pairing the work of photographer Seth Jacobson with poems by RWU Law's perennially popular writing specialist, Kim Baker.

Based on the concept of "ekphrasis" – a Greek term for literary writing about visual art – the exhibit encompasses a diverse array of subjects and poems that stimulate unexpected discussions. "Students are usually so immersed in the law," Baker explains. "It's wonderful to see them notice and react to this installation. It brings out a whole other side – a passion for literature, art, film – that we rarely get to see."



## 'Lives Worth Living' For Farm Animals

As a 3L juggling classes, Immigration Clinic, an internship and duties on the *Roger Williams Law Review* board of editors, you'd think Lindsay Vick '12 had enough on her plate – but she also managed to research and write a law review article on an area of deep personal interest.

"Confined to a Process," appearing in Spring 2012 edition of Lewis & Clark Law School's *Animal Law Review*, argues that state standards for livestock care are insufficient and deny farm animals "lives worth living." Vick first became interested in the subject while interning with the farm animal department of the Animal Welfare Institute in Washington, D.C., and spent a year completing her research.

Vick says her interest in animal law actually dates back to her pre-law school days, when she discovered a large feral cat population occupying the land around her home, and began volunteering at her local humane society and researching ways to help the neighborhood felines. "At the end of the day, I found that I loved working with animals and dealing with animal-related issues," she says.

While animal lawyers remain a scarce breed, Vick hopes to use her legal training to make a real difference. "One day I hope to own a sanctuary where I can rescue farm animals," she says. "That's my goal."







The Newport Harbor Commission's Hank Kniskern with Kristen Bonjour '12

## A Tale of Two Harbors

### RWU Law Sea Grant fellows help local communities improve waterfront policies

The place where land and water meet has always been special in Rhode Island – from the days when the Narragansetts fished these shores, to today, when working harbors and tourist havens are essential to the state's economy. The Rhode Island Sea Grant Legal Program offers law students a chance to help ensure that these waterfront resources can be used and enjoyed by all.

Sea Grant, a federal initiative fostering coastal research and management, sponsors only four legal programs nationwide, and RWU Law's is the only one in New England.

Kristen Bonjour '12 worked with the Newport Harbor Commission as a Sea Grant Fellow, addressing noise issues along Newport, R.I.'s busy waterfront.

"Generators running all night on yachts, fast boats with big engines idling, even the

whirling sound from wind turbines on masts, all create noise, and that can cause conflicts," says Bonjour.

"We needed to develop a long-term strategy for the harbor," says Hank Kniskern, chairman of the Newport Waterfront Commission. Bonjour prepared a study of ordinances in similar tourist harbors that was "very helpful in figuring out how we might move forward," Kniskern notes. A number of her suggestions were included in a proposal to revise the city ordinance, he adds.

For his Sea Grant Fellowship, Zachary Pendleton '13 worked in the small town of Warren, R.I., with 11 miles of shoreline in the urbanized upper reaches of the Narragansett Bay watershed. The town's Harbor Management Commission needed help identifying rights-of-way for public access for boating and fishing. Commission member Peter Tekippe '04, a Warren lawyer, turned to RWU and Sea Grant for assistance.

"My first task was to identify all the possible sites and visit them," Pendleton says. "Then I went to the Town Clerk's office and found the property records, sometimes dating as far back as the 1830s, and compiled this information to support state approval as an official public-access right-of-way."

"Not only did Zach do a great job researching the sites," notes Tekippe, "he also developed a template for gathering this information that really helped streamline the project. We'll have an easier time going forward thanks to his efforts."



### An RWU Reunion (at the Supreme Court!)

Associate Dean Andrew Horwitz recently found himself facing an unusual adversary before the Rhode Island Supreme Court: former student Megan Maciasz '08, now an assistant city solicitor for Providence. Maciasz is no stranger to the venue, having previously clerked for Chief Justice Paul A. Suttell. Horwitz was aided by Andrew Fischer '13 in representing an indigent client fined \$200 for violating a municipal noise ordinance. Quipped the Chief Justice, "No matter what we decide, Roger Williams wins."





## A Day at the Races

While participating in RWU Law's summer program in London, four RWU Law students – Michael Rekola '13, Kaitlin Sweeney '13, Sarah Oster '12 and Sean Leonard '13 – attended the 300th Anniversary of the Royal Ascot Derby. Founded in 1711 by Queen Anne, the event is England's equivalent to the Kentucky Derby.

"It's this fantastic pageant: amazing carriages, wonderful colors, the best thoroughbred horses flashing past, an opportunity for people to dress up in top hat and tails and lovely hats," says Ascot chief executive Charles Barnett. "To me, it is just the best race meeting in the world." And the Roger Williams contingent was definitely up to muster!

## GETTING TO KNOW...

### Priya Lakhi

*Visiting Associate Professor & Interim Director of the Criminal Defense Clinic*

### Battling 'Fast-Food Justice'

As immigrants from India, Priya Lakhi and her parents faced myriad challenges stemming from the notion that America (and Americans) should look a certain way. But Lakhi soon discovered, in the rule of law, a powerful tool for ensuring the fairness and equality promised by the U.S. Constitution. **Faith in her clients:** In her dozen-plus years as an Atlanta criminal-defense attorney, Lakhi learned to see the human being behind the accusations. "I don't believe in keeping quiet when everyone is pointing fingers," she says. "My clients are better than the worst thing they're accused of having done." **On capital punishment:** A defense attorney in the widely publicized Troy Davis capital punishment case, Lakhi fiercely condemns her client's controversial 2011 execution – and those of the many others who, like him, never got a fair trial. "Our criminal justice system is broken," she asserts. "We deliver fast-food justice. Troy's case dragged on for years, and still the end result was wrong – that's scary." **Experiential learning:** Lakhi loves watching her students transform as they work through real clinical cases. "In literally helping change the life of their client, they realize firsthand the power of a law degree. That's pretty amazing to witness." **Always a performer:** A trained modern dancer who, as a child, dreamed of a career on Broadway, Lakhi confides, "dancing is still a passion of mine. I take classes, attend performances and stay active in the community." Her theatrical skills find plenty of use in the courtroom as well. "Like dancing, trial work is also a kind of performance," she says. Her students are turning in rave reviews.





# We the People?



William Forbath, Univ. of Texas; Jared Goldstein, RWU Law;  
Rebecca Zeitlow, Univ. of Toledo; and Lawrence Solom, Georgetown.

**A stellar gathering of constitutional experts from around the country – and across the political spectrum – convenes at RWU Law to explore the question, “Whose Constitution is it, anyway?”**

The Tea Party. The Occupy movement. The Republican presidential candidates. Across the political spectrum, ordinary citizens and politicians alike are declaring themselves to be “We the People” – and voicing often contradictory views of what the U.S. Constitution means, placing the venerable document at the center of the 2012 elections in a way it has rarely been before.

“In popular and political discourse, the Constitution has become a visceral symbol of civic faith, fundamental values and national character,” explains RWU

Law Professor Jared Goldstein. “Lawyers and judges, on the other hand, generally understand it as a discrete legal document, comprised of technical terms that have been construed over generations to establish a complex set of legal doctrines.”

What to make of the resulting dichotomy between popular and legal readings of the Constitution? Should its meaning be determined solely by the courts? If not, what is the proper role of public opinion? To help explore these questions, Goldstein invited a host of legal luminaries to a thought-

provoking, day-long conference that drew nearly 400 attendees.

Co-sponsored by the U.S. District Court for the District of Rhode Island, “Whose Constitution? Popular Constitutionalism and the 2012 Election” was moderated by Goldstein, and featured keynotes from U.S. Senator Sheldon Whitehouse (D-R.I.) and Yale Law’s Professor Jack Balkin, author of, most recently, “Living Originalism” (2011), and “Constitutional Redemption: Political Faith in an Unjust World” (2011).





"The Tea Party combines a narrow understanding of the Constitution with defining national identity based on embrace of those values, which means that people who disagree with them are not just wrong – they are un-American, and have to be defeated to take back the country."



– Jared Goldstein, RWU Law

"The Tea Party opposes the individual mandate of health-care reform – not because they don't think health care should be widely available, or because they don't have any empathy for people without insurance, and certainly not because they don't like that the President is black. ... [Rather], from the perspective of constitutional originalism, the courts' 'latitude of interpretation' of the Commerce Clause just doesn't pass the basic laugh test."



– Elizabeth Price Foley,  
Florida International University  
College of Law

"The need for a Supreme Court that is both independent and accountable is also present in the executive branch: we need presidents who follow the law, but who also try in an ambitious way to be prudent shapers of the constitutional law that is to come."



– Steven Calabresi,  
Northwestern University School of Law  
[Professor Calabresi will be teaching at  
RWU Law this fall. - Ed.]



Sheldon Whitehouse  
U.S. Senator (D-R.I.)

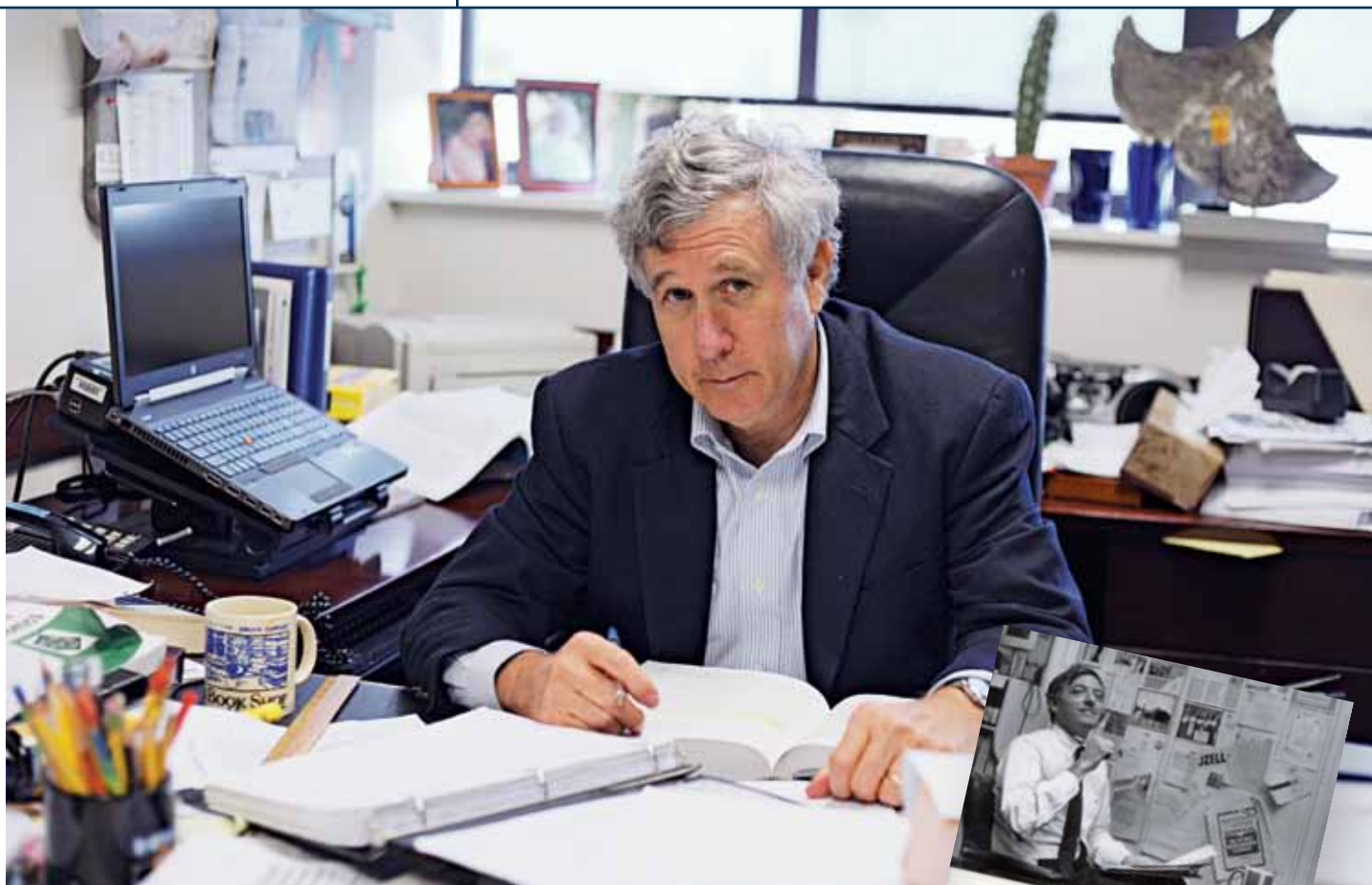


Professor Jack Balkin  
Yale School of Law

"The title of today's conference is 'Whose Constitution?' Unfortunately, the answer has increasingly become: the Big Corporations' Constitution. Through a conservative effort spanning a generation and culminating with the rise of the Roberts Court, we have seen the ascendance of corporate rights and corporate interests over those of ordinary Americans. The conservatives got to five and they ran with it – judicial activism, plain and simple.... As attorneys, legal scholars, law students and concerned citizens, we need to revive the Founding Fathers' instinct to be suspicious of power, rather than the Roberts Court's instinct to be subservient to it – at least when it's corporate. We need to see *Citizens United* next to *Lochner* and *Plessy* on the ashbin of judicial history."

"A preemptive president – examples are Cleveland, Wilson, Nixon and Clinton – is one who is swimming against the tide of the current constitutional regime and the politics of the time. Viewing Obama as a preemptive president explains [much] about his administration. [Although] preemptive presidents routinely compromise and take moderate positions that often disappoint members of their own party, their political opponents become ever more outraged at everything they do. This explains how a president like Barack Obama – widely regarded as a sell-out by many liberals – has nevertheless been viewed by his opponents as a secret Muslim, a crypto-radical and a scheming manipulator who is promoting a 'secular socialist agenda' that will forever destroy liberty in the United States."





## Assessing Buckley

**Professor Carl Bogus explores what today's liberals and conservatives could learn from one of the 20th century's most influential political figures.**

By Mary Grady

Why would Carl Bogus, an RWU Law professor who declares himself a staunch liberal, choose the renowned conservative William F. Buckley Jr. as the subject of his latest book?

"I believe we're entering a new era of ideological re-definition," Bogus explains. "Both liberalism and conservatism are under stress. Both have, to some extent, run out of gas."

Buckley, who founded the conservative magazine *National Review* in 1955 and hosted the popular TV show "Firing Line" from 1966 to 1999, lived in a similar era of redefinition. "He created conservatism as we understand it today," Bogus says.

Back when *National Review* launched, liberalism dominated U.S. politics. Even Ronald Reagan was a liberal Democrat, an ardent supporter of Franklin D. Roosevelt's New Deal policies. "President Reagan gave Buckley and *National Review* a large share of the credit for his conversion into a conservative Republican," Bogus says. "Buckley was a unique individual. He used his personality very effectively to promote ideas." His influence continues to be felt in today's political arena.

### **A Turning Point**

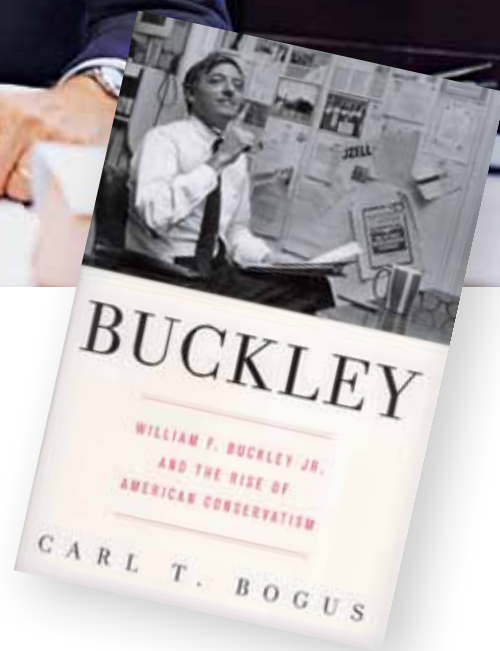
Current conservative ideology, Bogus says, embraces three schools of thought –

libertarianism, religious or social conservatism and neo-conservatism.

"We're used to thinking of conservatism this way now because this is the way Buckley fashioned it," Bogus says. "Before Buckley, conservatism was none of those three things."

Bogus's book, published in November by Bloomsbury Press, explores how those ideas developed over time and gained influence in our society.

Today, however, according to Bogus, Buckley's concept of conservatism is breaking down. "In the 2012 election, we're seeing that three-part coalition under stress," he says. "Conservatives have achieved much





**“It’s important to bear in mind that our fellow citizens are not evil, even when their views differ from our own.”**

**– Professor Carl Bogus**

of their agenda. The West prevailed over Communism, for example, and much of what’s left undone perhaps is not attainable.” As new ideas are forged on both the right and the left, Bogus feels there’s a lesson that both sides could learn from Buckley.

“Buckley was a skilled debater. He could lacerate an opponent and leave him bloody and tattered. And yet, he counted among his friends many ardent liberals.” Buckley engaged with his adversaries’ ideas but could respect the people with whom he disagreed.

“It’s important to bear in mind that our fellow citizens are not evil, even when their views differ from our own,” Bogus says. “We need to hear them and respond. Moreover, a truly wise policy requires some balance. I wish liberals and conservatives recognized that and saw each other not as enemies but as fellow citizens representing different yet often important points of view.”

His own book is an example of how that approach can work. “I took Buckley’s ideas seriously,” Bogus says. “I read and tried to understand them and critiqued them in a respectful but still passionate way.”

The book was widely and positively reviewed – in the *New York Times*, the *Washington Post* and many other periodicals. Bogus also

accepted invitations to talk about it on National Public Radio and C-SPAN’s Book TV.

Yet for all the admiration of Buckley that comes through in his book, Bogus does not believe Buckley’s brand of conservatism ultimately served the country well. “He created a movement

well-suited for political growth, but not as well-suited for governance,” Bogus says.

Buckley died in 2008 at age 82, leaving behind more than 50 books and thousands of newspaper and magazine articles. His influence persists today – but if Bogus’s analysis is correct, the conservative movement he nurtured may be at a turning point. How it will evolve only time will tell, but Bogus hopes that – even if Buckley’s political ideology is destined to fade into history – our national discourse might yet be inspired by his sense of humor and respect for his adversaries.



## Keeping Church and State Separate

Few political debates raise hackles quite like the emotionally freighted tension between religion and government. RWU Law Professor Edward Eberle is an expert in such disputes. His latest book, “Church and State in Western Society,” published in December, compares legal traditions for coping with these conflicts in the U.S., Germany and England.

The issue is, of course, a perennial headline grabber. Last year, a student’s complaint about a prayer banner displayed in a Cranston, R.I., high school escalated into a lawsuit and inspired adamant opposition to taking the banner down. Yet under long-established law, “it’s clear that you shouldn’t display any kind of religious symbol in a public school,” Eberle says. “It’s already been decided,” he said, by a case heard in the Supreme Court in 1992. The Cranston battle ended in February, when a court ruled in the student’s favor and school officials agreed to remove the banner.

Eberle credits Roger Williams, Rhode Island’s founder and the University’s namesake, with inspiring his interest in these issues. “He’s the one who wanted the complete separation of church and state, even though he was a devoutly religious person,” Eberle says. “Religion has to be distinctly separate from an influence on government. I think it’s the best idea for how that should work.”

Eberle’s next book, currently in the works, will focus specifically on Williams. — Mary Grady



## RWU Law's Pair of Mayors

There must have been something in the proverbial water for the Class of 2005 – maybe a certain measure of political charm?

This past November, Daryl Justin Finizio '05 and Will Flanagan '05 were elected as the mayors of two major regional cities bookending the Ocean State: New London, Conn., and Fall River, Mass., respectively. It is, of course, exceedingly unusual for one graduating class to produce a pair of city leaders, especially so early in their careers. But then, Finizio and Flanagan – who was elected to a second term – are not your typical mayors.

### Back To the Future

There has always been a special place for New London in the heart of Daryl Justin Finizio. He grew up just 10 minutes away in Westerly, R.I., and frequently visited the city during throughout his youth. As an adult, his love for New London persisted, and two years ago he decided to move there.

Finizio had been involved in politics on a number of different levels for nearly a decade, from serving on town council to working on campaigns. So when it was announced that New London was switching to a mayoral system for the first time in nearly a century, Finizio's interest was piqued – and frankly, it was a natural fit.

"I saw it as a unique opportunity and I talked it over with my friends and my partner, who encouraged me to go for it," says Finizio. "I saw the shift to a mayoral system as a chance to be part of the progress, to help New London move forward and change."

Finizio won the election this past November by a landslide, earning nearly twice as many votes as his closest competitor. Before assuming office, he was entrenched in private practice and taught urban law and policy at Northeastern University. Morphing into his new role has been quite a transition for Finizio, who immediately faced an array

of pressing challenges.

"For one, we have been working to restore the police department," he says. "It had been the subject of a state criminal investigation for corruption, so we've been tasked with the challenge of working to fix that. Also, the town has faced a big budget crisis. There has been a lot of financial restructuring.

"Then there's the fact we are transitioning to a form of government that hasn't been utilized in nearly a hundred years," Finizio adds. "That has been a significant change to deal with. It's been very challenging, as there's no frame of reference for the town to work from. But we've been working our way through it."

Finizio is also notable as the first openly gay mayor in New London's history. He calls it "an honor and a step forward" to represent the LGBT community in such a prominent position. "This has been a wonderful



*Mayor Daryl Justin Finizio '05 at work in New London City Hall.*



opportunity, as it shows people that members of the LGBT community can serve in all sorts of different roles.”

#### Hometown Hero



Mayor Will Flanagan '05

In 2009, Will Flanagan was elected mayor of his hometown of Fall River at the age of 29. Considering that he previously

worked as a city solicitor and as an assistant DA in Bristol County, one can say that the public wellbeing has always been in Flanagan's blood.

“I’ve always had an interest in serving the people,” says Flanagan, who is the youngest mayor in Fall River’s history. “And being from Fall River, I love having the chance to make a difference in the city.”

It’s no easy task running a city of nearly 90,000. But Flanagan has already made his mark: unemployment has fallen by seven percent; graduation rates are up nearly 20 percent. Police and firemen have been put back to work in order to improve public safety. And million-dollar deficits have been eliminated.

“Fall River is a hardworking city that faces the same issues as other cities, from economics to public safety,” says Flanagan. “It’s been an uplifting experience to help the citizens of this city to engage with and begin to solve these problems.” – *Andrew Clark*

For a fuller account of Flanagan’s journey, see the feature, “A Mandate for Change,” in the Summer 2010 issue of

*Amicus Magazine*, *RWU Law Magazine*’s predecessor publication, available online at

<http://law.rwu.edu/campus-life/rwulawmagazine>



## Of Wetlands, Tourism – and Venus Flytraps

North Carolina’s New Hanover County has an abundance of coastal zones, with 31 miles of Atlantic beaches along its eastern shore, the wide and placid Cape Fear River along its western border, as well as wetlands and islands galore – all of which make it an ideal home for Shawn Ralston ’05.

At RWU Law, Ralston completed a joint degree in law and marine affairs with an eye on a career advocating environmental issues. Today, she’s senior environmental planner for New Hanover County, based in Wilmington, N.C., and working to address the multiple conflicts that arise when municipalities try to develop a strong economy while protecting a fragile environment.

“Everything that I learned in law school has proven useful in my career,” Ralston says. “Even classes that dealt with mediation and negotiation skills, which seemed less important to me at the time, have really paid off.”

In her high-profile position managing long-range plans for the county, Ralston often acts as a facilitator, helping groups with different views to find common ground. “It can be tricky,” she says. “We deal with some polarizing issues. You want to passionately convey your viewpoint, yet you need to continue to have a good relationship with your opponents.”

For example, the county is currently at odds over the future of a proposed cement plant. “The plant would infringe on wetlands that drain to an aquifer that supplies drinking water for the county,” Ralston says. “Yet the area is zoned for heavy industry.” Last year, a new process was put in place that requires the plant to undergo extensive reviews before it can be approved. “It’s very contentious here,” says Ralston, but adds that she’s glad to be in the thick of it.

Ralston is also taking the lead in administering a three-year, \$1.3 million grant to create a plan for sustainable development in the county. “Tourism is the biggest part of the economy here,” she says. “And tourists require pristine beaches and good water quality.”

In her free time, Ralston enjoys the outdoors with her husband, Cary, and their two small children. “We love to go boating, swimming, kayaking and hiking,” she says. New Hanover County was the picturesque setting for the popular TV show “Dawson’s Creek,” as well as the chilling Robert DeNiro film, “Cape Fear.” But Ralston proudly notes that it has another, less famous, but quirkily unique distinction: “We have the world’s largest concentration of Venus flytraps!” – *Mary Grady*

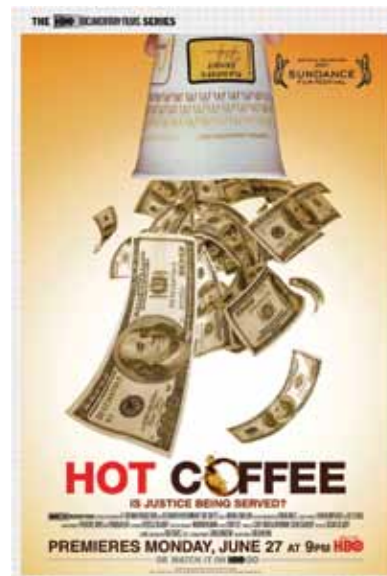


## Hot Coffee

This winter, RWU Law and Rhode Island School of Design co-sponsored a screening and panel discussion of the controversial film, “Hot Coffee” (2011), which takes a skeptical look at the tort-reform movement. Debunking urban legends surrounding the “McDonald’s coffee-spill case,” the documentary focuses on three areas in which big business has aggressively lobbied to constrict the right to a jury trial in civil cases: damage caps, mandatory arbitration and influencing judicial elections.

The screening was followed by a spirited debate on tort reform. Moderated by prominent plaintiff’s lawyer and RWU Law Adjunct Professor Don Migliori, participants included “Hot Coffee” producer and director Susan Saladoff, Presiding Justice of the Rhode Island Superior Court Alice Gibney, leading defense lawyer Kelly Sheridan and RWU Law Professor Carl Bogus, author of “Why Lawsuits Are Good for America.” The event, also co-sponsored by the Rhode Island Association for Justice, drew a large crowd to the RISD auditorium.

We asked two RWU Law students who attended to talk about their conclusions:



### A LIBERAL VIEW Jamie Rhodes '12



The corporate mantra is that “customers bear the burden of tort litigation.” While this may reflect the reality of corporate economic models, it misses the larger point: the discovery and litigation process forces business to account for the failure to protect public health, the design and marketing of unsafe products

and the negligent delivery of services.

Tort reform seeks to tip the scales in favor of profit. Statutory caps on damages and curtailing the ability to file claims allows producers and manufacturers to put a known value on consumer injury. It arms them with the data necessary to balance the known cost of expected injuries with the known cost of mitigation efforts, as well as the veil of secrecy to keep the public from knowing.

The civil justice system acts as both the financial deterrent and the sunlight that forces corporations to think about consumers as people not profit.

### A CONSERVATIVE VIEW Will Wray Jr. '12



Though I am a conservative, I am very much opposed to tort reform. To protect consumers, you either have to be pro-tort or pro-government regulation, and I’m all for the former.

If Congress handled the McDonald’s Hot Coffee case, a new law would forbid coffee over x degrees; a federal Coffee

Temperature-Taking Division of the FDA would be plunked down on taxpayers’ backs; complex judge-made distinctions would arise between “cafés” and “break rooms,” etc.

But since the common-law tort system handled the case, businesses have a crisp choice: We can serve coffee that instantaneously causes third-degree burns, but if so, we must take reasonable precautions. If we do not, we pay for medical bills plus perhaps one day’s profit on coffee sales. The common-law tort system develops rules over years of trial-and-error. Congress, on the other hand, delivers myopic bull served with a side of pork. Pick one.



## Celebrating, Sharing, Participating

“At first, I was tempted to go to Boston, where the bar is more diverse than in Rhode Island,” says Hinna Upal ’07, explaining the need for the Cultural Diversity Committee she recently cofounded with Ladawn Toon ’07, as part of Rhode Island Women’s Bar Association.

“In Boston, it’s not unusual to see people come to an event wearing their traditional cultural clothing, whereas here you tend to stand out so much that you feel a lot of pressure to conform,” says Upal, an associate with Pierce Atwood LLP’s Providence office. Also, “there just aren’t too many women attorneys of color in Rhode Island.”

The committee is an effort to provide a supportive platform for this small but growing segment of the bar. “We can be a resource for celebrating achievements, sharing experiences and strengthening participation in all aspects of law in this state,” says Toon, an attorney with the state AG’s office.

“If you have a network of women who are really pulling for each other, you feel more like you can stay and have a future here,” adds Upal. “That’s really our goal.” — *Megha Chatterjee*



*Upal and Toon*

## GETTING TO KNOW...

### Nagesh Tammara

*Legal Counsel to the Governor, U.S. Virgin Islands*

#### Attorney in Paradise

Lawyering in a tropical paradise carries the expected perks – leisurely sails through crystal-clear waters, for example, are a favorite pastime of Nagesh Tammara ’04 – but also makes for unpredictable and exciting days at the office. **Constant evolution:** The legal system of the U.S. Virgin Islands is relatively young, so there isn’t much precedent – which means constant evolution and creation of new laws. “When I was a judicial clerk here, I published six opinions that involved very novel issues of first impression.” **Always something new:** His current position is similarly full of surprises: “One day I’m advising the governor on something as simple as proclaiming Black History Month; the next, we’re dealing with a \$100 million revenue loss; after that, it could be legislation on gang violence. You never know what to expect!” **Helping the helpless:** Tammara tries to look out for people who’ve fallen through cracks in the system. Recently, for example, he assisted an elderly couple who landed in desperate straits after the husband was injured on the job but denied Social Security benefits. “I had no idea what I was getting into,” he says. “We went through six months of correspondence; an investigation involving the FBI ... but they’re finally getting their benefits, and they’ll be able to live.” **Making it happen:** A participant in the local Make a Wish Foundation, Tammara has granted five wishes so far. Some are easy to coordinate – a shopping trip to Paris, for instance; others require extensive planning, like when a four-year-old boy suffering from leukemia wanted to be a police officer like his dad. “From the swearing-in ceremony, to creating a police car for the boy, to planting a villain for him to arrest – and then getting a medal awarded by Governor himself – it took about a month and a half to plan it all. But we made it a big day for him. We don’t deny a wish.” **Putting RWU Law on the map:** Roger Williams University’s first law graduate to stake a career in the Caribbean, Tammara regularly sends job announcements back to his alma mater. “They’re looking for good, intellectual people, so why not? You’re going to learn a lot; it puts our school on the map; people get jobs – I’m all for it!” — *Megha Chatterjee*







*Law clerks Peter Spencer '11  
and Amanda Argentieri '09  
in chambers with Rhode  
Island Supreme Court Justice  
Gilbert V. Indeglia*



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# THE CLERKSHIP PATH

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Workhorses, devil’s advocates, confidantes and team players – love it or hate it, the institution of judicial clerkship has become an essential component of the American justice system

By Denise Perreault

The judicial clerkship has been lauded as a royal road to the legal profession, and disparaged as a mere “fourth year of law school.” Some celebrate the pairing of a judge’s world-weary experience with a clerk’s youthful enthusiasm as a practice that keeps the judicial process fresh and vital; others question the wisdom of allowing newly minted lawyers to do so much of the thinking and writing more properly left to judges.

In truth, however, the role of law clerks in the judicial process largely remains a mystery to outsiders. Their duties are not spelled out in any statute, nor does any law or regulation enumerate the qualifications required to become a clerk; these details are determined

solely by the judges who hire them. Oaths, manuals and a code of conduct, in isolated instances, can govern the performance of some clerks, but by no means all.

So who are the law clerks and what do they do?

The question is of particularly vital importance in Rhode Island, where – unlike Massachusetts, Connecticut and many other states – there is no intermediary appellate court. “We’re the only game in town,” observes Rhode Island Supreme Court Chief Justice Paul A. Suttell ’11H. Also significant is the fact that Rhode Island is home to only one law school, Roger Williams University School of Law, whose graduates dominate judicial clerkships in the state.



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## DECISION MAKERS

The institution of judicial clerkship as we know it dates back to the Supreme Court of the United States in the early 20th century, when Justices Oliver Wendell Holmes, Jr. and Louis Brandeis became the first to use recent law school graduates as clerks, breaking from the prevailing practice of hiring “stenographer-secretaries.” The new tradition rapidly spread throughout the federal and state judiciaries.

The topic of SCOTUS law clerks – what they do and how much power they yield – was spotlighted in 1984, with the release of papers belonging to the late U.S. Supreme Court Justice Harry Blackmun. Court-watchers – most notably *New York Times* reporter Linda Greenhouse ’08H, in her 2005 book “Becoming Justice Blackmun” – observed that Blackmun often seemed to accept, with little if any editing, draft judicial opinions written by his law clerks – even on such a crucial issue as the death penalty.

Some reacted to this news with great dismay. “Blackmun must now be seen not only as a justice who evolved toward a more compassionate jurisprudence, but as a justice who increasingly ceded far too much of his judicial authority to his clerks,” noted a reviewer in *Legal Affairs* magazine.

Current and former clerks interviewed for this story – all of them RWU Law grads – deny any such Svengali-like influence, giving full and final credit for opinions and rulings to their judges. Rather, they say, clerks are the ones who usually begin the review process – researching a case, discussing various possible legal outcomes with the judge and co-clerks, drafting a “bench memo” to summarize the arguments of counsel and responding to questions from their judges. But ultimately, they say, the judge prevails.

“At the end of the day, it’s really the judge’s decision on everything,” says Michael Daly ’02, an associate in the Providence office of Pierce Atwood LLP, where he is engaged in maritime law and commercial litigation. After a two-year stint with Chief Justice Frank Williams, he concluded that “you have the opportunity to talk about the issues” – and perhaps change a judge’s mind on some aspect of the case.

Nicole Dulude Benjamin ’06, who also served as lead clerk to Chief Justice Williams, stressed how collaborative the relationship is among judge and clerks. Premises can be so tight there is seldom any choice.

“The chief justice always had an open-door policy and our desks were so close to the inner chamber,” she says. “All three [clerks] sat with our desks at arm’s length away from each other. You do hear every phone call that comes in. There was a feeling that we were like a family, and we really were.”

A Cranston native who received her bachelor’s degree in journalism from the University of Rhode Island, Benjamin is currently part of the litigation group of Adler Pollock & Sheehan in Providence and president of the RWU Law Alumni Association. As Williams’ clerk, she worked on the appeal of the controversial lead paint trial, the longest in state history.

Peter Spencer ’11, a Utah native currently clerking for Supreme Court Justice Gilbert V. Indeglia, talks to his judge on an hourly basis and has a desk in a room adjacent to chambers. “He’s very easygoing and very likeable. He doesn’t get his feathers ruffled,” Spencer says of Judge Indeglia. “We [the judge and his clerks] do enjoy looking at all sides of every issue. We feel like we’re a team. We help each other out. We’re constantly passing around our work product to each other.”

Law clerks and judges alike say clerks are encouraged to offer

arguments, particularly when they clash with a judge’s, because such discussions can only enhance the judicial process. “I enjoy the debate,” says Associate Justice Francis X. Flaherty. “I want the clerk to tell me how he or she feels about how a case should come out, and I like to challenge that. I want the clerk to take a position.”

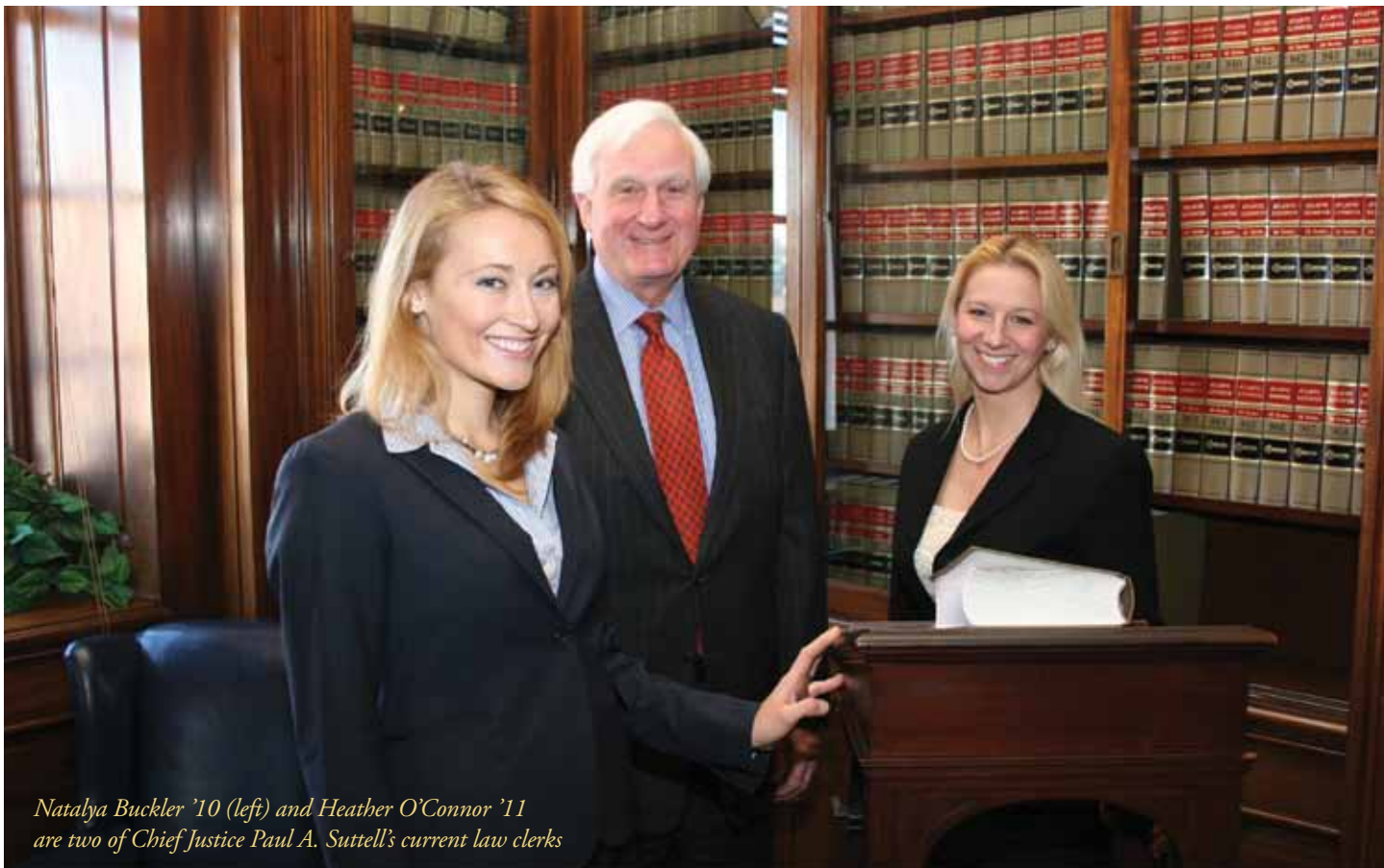
“It helps the end product,” Chief Justice Suttell agrees. “The ultimate opinion will be better if there is spirited debate going on.” Yet, he is quick to add: “Ultimately, it is my call. At least among the clerks and myself, I have the vote that counts.”

Even when the outcome is hardly in doubt, the debate can become heated. “Sometimes it gets really spirited,” Judge William E. Smith of the U.S. District Court, District of Rhode Island, says with a chuckle.

**WE FEEL LIKE WE’RE  
A TEAM. WE HELP  
EACH OTHER OUT.  
WE’RE CONSTANTLY  
PASSING AROUND OUR  
WORK PRODUCT TO  
EACH OTHER.**

– Peter Spencer ’11, Clerk to Justice Gilbert V. Indeglia,  
Rhode Island Supreme Court





Judge Smith recalled a former clerk who harbored “very strong opinions” about the need for a search warrant when law enforcement officials want to monitor a vehicle’s GPS device – an opinion that the U.S. Supreme Court recently agreed with. The clerk was originally from Iran and his parents were professors in Teheran, so “a cultural background of oppressive government very much influenced his thinking. He was passionate about it.” Smith, too, says he encourages debates. “Yes-men and yes-women do you no good,” he says succinctly.

#### **IN-DEPTH KNOWLEDGE**

Clerks see themselves as an important, even integral part of the

judicial process, but one that enhances and supplements it in a way that is decidedly secondary to the judge’s role.

Heather O’Connor ’11, currently clerking with Chief Justice Suttell and slated to be his lead law clerk in the 2012-13 term, offers a novel simile for the clerk’s role. “Basically, we’re like the peanut butter that holds the sandwich together,” she says. “[The judicial process] can happen without us, but we tend to make it a little smoother.”

Adam Ramos ’06, a former clerk for Justice Flaherty now in practice at Hinckley, Allen & Snyder LLP in Providence, for his part compares clerks to gatekeepers. “Judges have to rely on their clerks to sift through that first layer and winnow the arguments down to what





really matters,” Ramos says. That way, a judge can focus on “the meat of the issue.”

Chief Justice Suttell explains how a clerk’s workload differs from that of a judge. “Clerks are invaluable; they are very instrumental in our process, but they’re working primarily on two cases a month and they’ll be working on those in depth,” he says, “whereas I, as well as my colleagues on the court, will have to read 25 cases for that month.”

“We do a lot of grind work. Our job is to know the cases inside and out,” notes Natalya Buckler ’10, a native of Russian Siberia and Chief Justice Suttell’s current lead law clerk. “The judge always has final say. He edits our work very closely. We are aiding him in doing his work. We do our work, he does his work, and then we come together.” The

chief justice, meanwhile, may not have a chance to study the nitty-gritty of each case until later in the review process. In that sense, clerks “get a better sense sooner than perhaps I do,” Suttell says.

### **SCHOOL TIES**

One reason RWU Law has such a consistent record of placing law clerks may be the close ties the school maintains with the court system; ties that allow the students to get to know judges, and vice versa, from day one – literally. The chief justice of the state supreme court traditionally administers the “oath of professionalism” to Roger Williams 1Ls on their first day of school. “That is very significant,” Benjamin says. “It’s a sign of judiciary support for the law school and commitment to the law school’s growth.”



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## WE DO A LOT OF GRIND WORK. OUR JOB IS TO KNOW THE CASES INSIDE AND OUT. WE DO OUR WORK, THE JUDGE DOES HIS WORK AND THEN WE COME TOGETHER.

Natalya Buckler '10, Lead Clerk to Chief Justice Paul A. Suttell, Rhode Island Supreme Court

Sally McDonald '09, a Wisconsin native who clerked for Chief Justice Suttell and is now an associate in the litigation department of Cameron and Mittleman LLP in Providence, believes there is “no other law school that provides so many opportunities to its students to be clerks for the judiciary.” Student interaction with judges can ease the way to future relationships such as clerkships, in Rhode Island or elsewhere.

Noting that the Rhode Island Supreme Court is considered a “hot bench” because its judges are known for asking tough questions and grilling attorneys, McDonald says she found that her student interaction with the courts, no matter how minor it may have seemed at the time, “definitely helps with the intimidation factor.”

Many grads who become clerks had members of the judiciary as adjunct professors at RWU Law; they also took part in court-related programs while in law school – such as the Clark Moot Court Competition (judged every year by the Rhode Island Supreme Court); non-paid court externships similar to clerkships; and the Criminal Defense Clinic, where students represent indigent criminal defendants charged with misdemeanors. “By the time I started clerking,” says Ramos, who also served an externship with Justice Flaherty during his second year of law school, “I already felt I knew what I was doing.”

In the final analysis, it is impossible to say with any certainty whether law clerks wield “undue influence” in the judicial system. Each situation differs greatly, foiling any one-size-fits-all conclusions. Surely, there is nothing wrong when a judge does accept a clerk’s opinion – and judges told us that they can indeed be influenced by the well-reasoned arguments of a clerk.

Judges interviewed for this story also asserted that choosing law clerks is one of the toughest decisions they make each year, often vetting as many as 200 highly-qualified applicants for just a couple of openings. Serious deliberation goes into the selection process,

so only top graduates get the nod. Clerks, too, are among the few legal professionals with whom a judge can fully and ethically discuss the details of a case, and so they necessarily occupy a privileged position that virtually requires them to let their opinions and insights be known.

This much is certain: without law clerks, judicial workloads would rise steeply, legal wheels would turn more slowly, and the thorough, thoughtful, timely administration of justice for all would be in jeopardy. After all, what’s a sandwich without the peanut butter? **RWU LAW**



*Adam Ramos '06 displays a framed opinion presented to him by Justice Francis X. Flaherty at the conclusion of his clerkship. Justice Flaherty presents such plaques to each of his clerks to commemorate significant cases they worked on together.*



# Judging by the Company We Keep...

## JUDGES WHO HAVE HIRED RWU LAW GRADUATES AS CLERKS INCLUDE

Bourcier	Hagopian	Robinson	Votolato
Flaherty	Indeglia	Smith	Weisberger
Flanders	Lagueux	Suttell	Williams
Goldberg	Lisi	Thompson	
	Martin	Torres	

In 2012, 12 RWU Law alumni will clerk at the Rhode Island Supreme Court. In 2013, for the first time, all five justices of the court will simultaneously have at least one RWU Law graduate as a law clerk (and all three of Chief Justice Suttell's clerks during the 2012-2013 term will be Roger Williams alumni).



**Judge  
Bruce M. Selya '02H**

A renowned First Circuit jurist, Judge Selya teaches the popular Lessons of Litigation course at RWU Law, regularly hires our top students as externs, and is an important leader on our Board of Directors.

## JUDGES WHO HAVE TAUGHT AT RWU LAW INCLUDE

E. Clifton	Healy	Raposa
Erickson	Indeglia	Selya
Flaherty	Lipsey	Smith
Flanders	Moore	Vogel
Fortunato	Procaccini	Weisberger
Gibney		Williams



**Judge  
Daniel Procaccini**

Superior Court Judge Procaccini, an in-demand Trial Advocacy instructor at RWU Law, was chosen by students as Adjunct Professor of the Year in both 2010 and 2011.

## JUDGES WHO HAVE SUPERVISED RWU LAW STUDENTS INCLUDE

Almond	Gale	Lederberg	Rubine
Bedrosian	Gallo	Lipsey	Savage
Bourcier	Gibney	Lisi	Selya
Cenerini	Goldberg	Martin	Silverstein
E. Clifton	Hagopian	Montalbano	Smith
W. Clifton	Healy	McConnell	Stern
D'Ambra	Hillman	McGuirl	Stone
Darrigan	Hurst	Nesselbush	Suttell
Dmitri	Indeglia	Nugent	Thompson
Erickson	Ippolito	Ovalles	Torres
Flaherty	LaFazia	Procaccini	Vogel
Flanders	Lagueux	K. Rodgers	Votolato
Fortunato	Lauphear	J. Rodgers	Williams

## JUDGES WHO HAVE SERVED ON RWU BOARDS INCLUDE

Cardona '04	LaFazia	Selya
E. Clifton	Lederberg	Stone
Curran	Lipsey	Thompson
Flaherty	McConnell	Vogel
Healy	Savage	Weisberger

One of the best measures of a law school's quality is its graduates' ability to land judicial clerkships. Historically, an impressive 12 to 17 percent of employed RWU Law graduates become clerks. In 2011, 13 percent entered clerkships; in 2010, 16 percent; in 2009, 14 percent.

In addition to state Supreme Court clerkships, eight members of the Class of 2012 have secured spots in the R.I. Law Clerk Dept., while another two will be clerking at the R.I. Workers' Compensation Court. RWU Law graduates have clerked for the state Superior, District and Family Courts, as well as state and federal courts elsewhere, from Pennsylvania to Michigan, Nevada, the Virgin Islands and beyond.

**RWU Law**



The associations between Rhode Island's only law school and the judiciary have been significant from the beginning, and grow deeper and wider with each passing year.

RWU Law clinical students routinely argue before the Rhode Island Traffic Tribunal, Workers' Compensation Court, District and Superior Courts, Family Court, numerous municipal and probate courts, and the federal Immigration Court in Boston.

#### U.S. SUPREME COURT JUSTICES WHO HAVE ADDRESSED OR MET WITH RWU LAW STUDENTS INCLUDE

Alito  
Breyer  
Ginsburg  
Kagan

Kennedy  
O'Connor  
Roberts  
Scalia



**Chief Justice  
John G. Roberts Jr.**

In 2008, the Chief Justice met for a private session with more than 100 RWU Law students; later in the day, he personally swore in 43 RWU Law graduates to the Federal Bar.

#### JUDGES WHO HAVE SPOKEN AT RWU LAW COMMENCEMENT INCLUDE

Calibresi  
Denton  
Jones

Kennedy  
Pollack  
Suttell  
Torres

Weinstein  
Weisberger  
Williams

Professor Michael Yelnosky, an expert on judicial selection in Rhode Island, organized a major forum on the topic at RWU Law.

#### JUDGES WHO HAVE WRITTEN FOR THE RWU LAW REVIEW INCLUDE

Bertness  
D'Ambra  
Flanders

Fortunato  
Labinger  
Ludwig

Smith  
Stern  
Taveras

Weisberger  
Williams



**Judge  
William E. Smith**

Judge Smith is a passionate advocate for experiential learning, as well as technological innovation in the courtroom. His Federal Practice class at RWU Law (*see p. 6*) effectively combines both.

**Judge  
Maureen McKenna  
Goldberg '12H**

Judge Goldberg, the only woman currently serving on the state Supreme Court, will receive an honorary degree from RWU Law in 2012.

RWU Law clerks have been fixtures at the Rhode Island Supreme Court for years: Chief Justice Suttell has hired 12, Justice Goldberg nine and Justice Flaherty seven. Former Chief Justice Williams employed 10 between 2000 and 2009, at least one every year.

**Chief Justice  
Joseph R. Weisberger '97H  
(Ret.)**

Chief Justice Weisberger led the 1991 feasibility study that recommended establishing RWU Law, has chaired both its Board of Directors and Advisory Board, and is the namesake of its first endowed professorship.

#### JUDGES WHO HAVE PARTICIPATED IN RWU LAW CO-CURRICULAR EVENTS INCLUDE

Flaherty  
Gibney  
Goldberg  
Gonzalez  
Healy

Indeglia  
Lisi  
Lynch  
Marshall  
McConnell  
Robinson

Savage  
Selya  
Smith  
Stern  
Stone

Suttell  
Thompson  
Torres  
Weisberger  
Williams

**Judge O. Rogeriee  
Thompson '10H**

Judge Thompson sat with the U.S. Court of Appeals for the First Circuit when it heard cases at RWU Law. Two of her law clerks – Max Greene '08 and Angie Cooper '08 – are alumni.

#### RWU LAW'S "OWN" JUDGES INCLUDE

Cardona '04  
Professor Elorza

Garrian '01  
Koshulsky '07

Martland '00  
Mastrangelo '01



# Clerks on the Faculty

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Many faculty and staff members at Roger Williams University School of Law were judicial clerks themselves, and they have some great stories to tell:

## DEBORAH JOHNSON Director of Diversity

I was privileged to clerk with Judge Napoleon A. Jones Jr. of the Southern District of California, one of the kindest, most easy-going – yet demanding – individuals I’ve ever met. He immediately gave my co-clerk and me immense responsibility in helping him reach decisions in his cases. I am incredibly grateful for the ways in which he built my confidence as a young lawyer, and for instilling in me the importance of using my lawyering skills to help those in need and to advance the most important causes. I count my federal clerkship as one of the most rewarding experiences of my life. Judge Jones passed away in 2009, but I am forever grateful for the time we shared.

## COLLEEN MURPHY Professor of Law

I clerked with Justice George E. MacKinnon of the U.S. Court of Appeals for the District of Columbia Circuit. He was one of three federal judges on the U.S. Sentencing Commission, charged with promulgating the initial set of sentencing guidelines for imposing the death penalty. My job was researching whether the commission had the power to do so. (Ultimately, the commission concluded it did not.) U.S. Supreme Court Justice Stephen Breyer, then a judge on the First Circuit Court of Appeals, was also on the commission. One of my fond memories is a dinner at Judge MacKinnon’s home, to which Justice Breyer was supposed to bring lobsters from Boston – but he forgot to bring them! Fortunately, Mrs. MacKinnon found some lobsters in the D.C. area and the dinner went off splendidly, with Justice Breyer regaling us with his wonderful sense of humor.

## JOHN CHUNG Associate Professor of Law

I clerked for Senior U.S. District Court Judge Albert Lee Stephens Jr., of the Central District of California, President Kennedy’s first appointment to the federal court. Judge Stephens, through his kindness and his personal interest in his clerks, changed the course of my career, and was the best job I will ever have. Among other things, the judge taught me how to fly fish. This actually was a job requirement. Every year, he and some close friends and former clerks would gather for a week-long fishing trip in the High Sierras. If my influence on my students is a tiny fraction of the influence that Judge Stephens had on me, I will feel that I accomplished a great deal.

## SUSAN B. HEYMAN Associate Professor of Law

I clerked for Justice William H. Walls of the U.S. District Court of New Jersey, and later for Justice Robert E. Cowen of the Third Circuit Court of Appeals. They taught me the ins and outs of litigation, both in the courtroom and behind the closed doors of a judge’s chambers – a perspective nearly impossible for any law professor or law partner to teach. One of my first appeals as a clerk for Judge Cowen was from an opinion rendered by my beloved Judge Walls – highlighting the difficult position appellate judges are often put in when determining whether colleagues and friends “got it right.” Though I’ve enjoyed every phase of my legal career, none has compared to my clerkship experiences. Both judges left an indelible mark on me, not only as a lawyer and a professor, but as a person.

## TANYA MONESTIER Associate Professor of Law

I clerked for Justice Frank Iacobucci at the Supreme Court of Canada, one of the most memorable experiences of my life. Indeed, I recall that I half-jokingly asked him, toward the end of my clerkship, whether I could stay on and make it my permanent career. I fondly recall heated debates with co-clerks in the break room; mastering new areas of law; writing and re-writing bench memos; watching oral argument and witnessing both adept and not-so-adept advocacy; even, on occasion, voicing disagreement with “my” judge! It is surreal to think that, just out of law school, I witnessed firsthand the inner machinations of the highest court of the land and had some part, however small, in shaping the law of Canada.

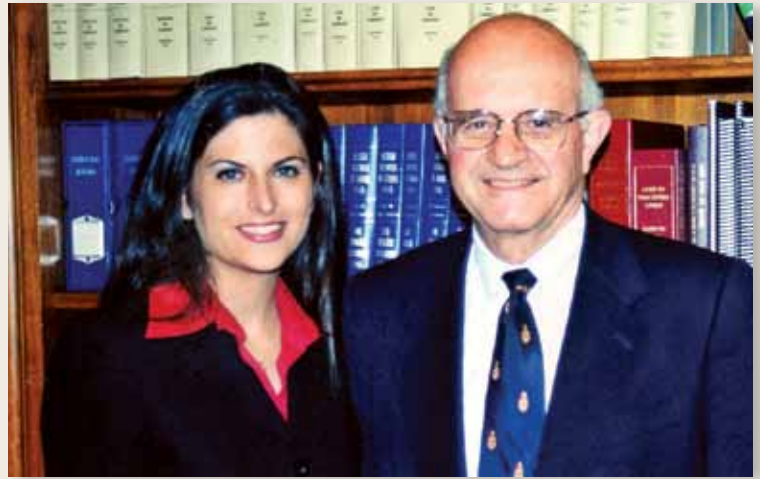
## DAVID A. LOGAN Dean and Professor of Law

I consider my year clerking for federal trial Judge Albert V. Bryan Jr. a highlight of my career. My judge was more conservative than I was, yet he always displayed open-mindedness to the arguments of his clerks, and, most centrally, a dedication to applying the law to the facts presented – even if it led to a “liberal” outcome. His willingness to engage others intellectually, and to respect the power of precedent, was critical to turning a young ideologue with a J.D. (me) into the first draft of a lawyer. I was struck by the remarkable breadth of cases on the docket, and valued the judge’s candid assessment of the styles and abilities of the advocates who appeared in court.





*Judge Napoleon A. Jones Jr. with Deborah Johnson*



*Tanya Monestier with Justice Frank Iacobucci*



*Colleen Murphy (center) with Justice George E. MacKinnon (right) and Mrs. MacKinnon (left)*



*David A. Logan with Judge Albert V. Bryan Jr.*



*Justice Scalia visiting RWU Law in 2008; inset: Professor Kuckes today.*



## NIKI KUCKES Professor of Law

I clerked on the U.S. Court of Appeals for the District of Columbia Circuit for Judge Antonin Scalia, prior to his elevation to the U.S. Supreme Court. The issues before that court often involved administrative law questions that could be fairly dry, but even then Judge Scalia had a reputation as a dedicated conservative. I was therefore deeply impressed to learn, on working with him, that he was always willing to debate with any clerk who had a sound argument to make about the legal issues we were considering, no matter what the clerk's political perspective might be.

That year was an intense and life-changing experience. I still remember many of the stories and, even more often, the colorful Latin phrases Judge Scalia would use during oral arguments. He is one of the smartest people I ever have met, and his quick mind, intellectual confidence and sheer writing skill were deeply inspiring. My clerkship was an experience I always will be grateful for, and one that has opened many doors for me. I often tell my students that they'll never regret taking off a year to clerk for a judge after graduation. It's one of the most exciting and fulfilling jobs that a new law school graduate can have.



A large, light gray silhouette of a soldier in a dress uniform, saluting with his right hand. The silhouette is positioned on the left side of the page, partially overlapping the title and the introductory text.

# A SORT OF HOMECOMING...

**With the war in Iraq over and the war in Afghanistan winding down, tens of thousands of American soldiers – many injured – are streaming home to a shattered economy and a tough new reality. Meet some RWU Law alumni who are stepping up to help.**

By Jill Harrington

**W**hen Nancy Hogan '04 incurred a spinal injury in 1998, her military career was cut short, and her future shifted in an instant – one moment she was a West Point graduate with a bright future in the military; the next, she was a paralyzed veteran.

The ensuing transition from life as a military police officer to life as a civilian was not always smooth, nor easy. A grueling regimen of physical rehabilitation eventually got her back on her feet, albeit with pain and other limitations. But Hogan says the process of procuring disability benefits from the government “hit some snags” along the way. The turning point, she says, was getting in touch with the Paralyzed Veterans of America, who helped her navigate the system’s byzantine bureaucracy.

As a result of the help she received from the PVA during that difficult time – as well as support from veterans she met during her rehab at the VA Hospital; others “who had been there, done that, got the t-shirt,” as Hogan calls these fellow survivors of the disability claims process – she realized she’d found her life’s calling: to serve as an advocate for other veterans. A career dedicated to veterans advocacy and law in effect chose her, Hogan says, not the other way around. “It gave me a reason to get out of bed in the morning,” she says.

Hogan entered RWU Law in 2001 for the express purpose of gaining the legal expertise she needed to help her fellow veterans. She says she focused on employment law, family law and disability







law – pointing out that, pre-9/11, Veterans' Law wasn't a major focus at most law schools.

Since graduation, she's remained true to her goal of veterans' advocacy in an impressive career that includes a stint as associate executive director of the Veterans Benefits Department for the PVA, and two years as counsel to Sen. Daniel Akaka (D-Hawaii), Chairman of the Senate Committee on Veterans Affairs, working on issues related to homelessness, women veterans and housing. Today, she's the director of strategic outreach and legislative affairs for Veterans Employment and Training (VETS) for the U.S. Department of Labor – tasked with educating returning veterans and employers and advocating for their needs in Congress.

## EMPLOYMENT AND SELF-WORTH

With the December 2011 cessation of U.S. military operations in Iraq, and troops in Afghanistan slated to be reduced by a third –

more than 30,000 – in 2012, looming questions remain about how the influx of new veterans will impact the agencies charged with helping them.

Certainly it would seem that more veterans will be seeking the services of Hogan's office as they readjust to civilian life in a time of economic sluggishness. They'll find a sympathetic ear in Hogan, who understands well how veterans may be feeling during their time of transition out of the military and into new lives.

"I went to West Point and spent years as a military police officer," she recalls. "When that ended, I knew I didn't want to be a civilian police officer, but didn't know what I did want. I didn't know how to articulate the skill set – my leadership skills, my analytical skills – that I had from my time in the military. And that's a lot of what we do here – educate veterans about the skills they already have, but may not know they have."

Hogan sees a direct connection between employment and the self-worth of veterans

and says she wants to help them not just get a job, but build a career. The benefits of hiring veterans can go both ways, Hogan notes: "Employers feel good hiring vets, and they should, because these are men and women who have all the core values that you'd want in an employee. These are people who've been willing to sacrifice their life in their job in the military," displaying a level of dedication and loyalty not easily found elsewhere, she adds.

Hogan has been bringing together employers and veterans by partnering with chambers of commerce to hold job fairs and setting up speaking engagements to educate both the general public and veterans about employment resources available to veterans through the Department of Labor. Hogan says this is a challenge in her current role, because most think of veterans' issues as the sole purview of the VA. "I even have to keep telling my family I don't work for the VA," Hogan jokes.



**"You're told that if you go into the military, the government is going to take care of you. That end of the bargain hasn't been held up."**

**– Heath Hixson '09**





## WHEN JOHNNY AND JANE COME MARCHING HOME

Even as Hogan works on employment opportunities and rights for returning soldiers, a looming question is how disability benefits – already notoriously slow and labor-intensive to obtain when Hogan experienced the lag effect back in 1998 – will be affected by the massive drawdown. One thing seems certain: when Johnny and Jane come marching home again, they're likely to face a long wait for any disability benefits owed to them.

At the end of January, the backlog of pending disability benefit claims at the VA stood at more than 850,000, according to the *Washington Post* – a staggering number that would seem to be poised to skyrocket with the military drawdown underway. Will

returning veterans create a sudden tipping point in the VA claims system? Yes and no, say attorneys focused on veterans benefits.

Robert Chisholm – a partner with Chisholm Chisholm & Kirkpatrick in Providence, former president of the National Organization of Veterans Advocates and the first president of the Veterans Attorneys Bar Association – gives a bit of history that has helped shape the field of Veterans' Law today. He notes that, before 1988, a veteran could only appeal a denied disability claim to the Board of Veterans Appeals, an entity within the VA. In 1988, however, Congress passed legislation creating an Article I federal court, the Court of Appeals of Veterans Claims, which gave veterans an additional level of appeals – but perhaps slowed down the process.

Chisholm says the body of law evolved and changed the way the VA handles veterans claims – that judicial review has had a major impact on agency decision making. That said, the VA claims backlog remains a real obstacle.

"It just keeps growing and I don't see that abating anytime soon," he notes, adding that many of the Court of Appeals of Veterans Claims cases his firm takes on have been in the VA system from five to eight years. Chisholm says there's simply not enough manpower to handle the number of claims filed annually at the VA.

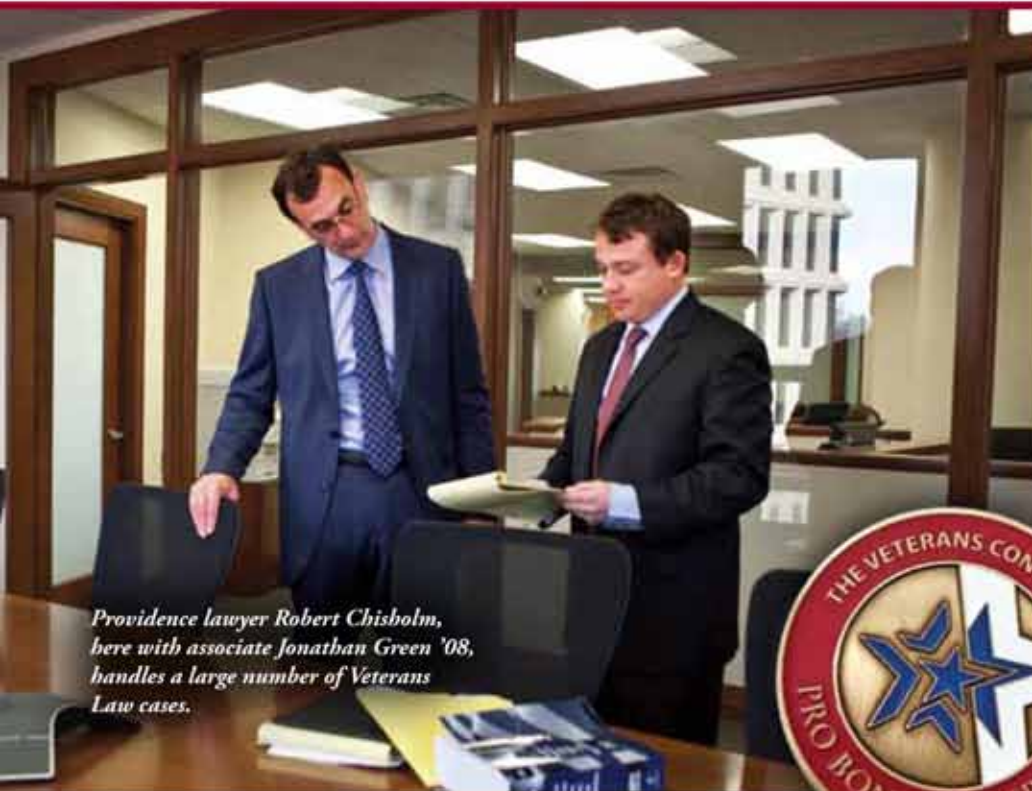
So any additional claims coming in from newly returned veterans will add to an already enormous backlog. But Chisholm and other veterans benefits lawyers still see the vast majority of their cases coming from the Vietnam era.



*Health, housing and employment are among the many challenges facing returning veterans.*







*Providence lawyer Robert Chisholm, here with associate Jonathan Green '08, handles a large number of Veterans Law cases.*



**"Justice delayed really is justice denied – some veterans with disabilities have to find ways to survive for years without compensation."**

**– Jonathan Greene '08**

Heath Hixson '09, who represents veterans at the Board of Veterans Appeals level (and operates a law firm with his wife Sara Sprague '08 in Roanoke, Va.) says, "We are still fighting to get benefits for veterans who fought in Vietnam, the Korean War – even World War II. As these veterans have aged, the number of claims [they generate] has increased and has caused a significant backlog in the VA."

Chisholm concurs, saying that his firm has only seen a handful of claims from veterans of the current conflicts. He notes that many claims related to Agent Orange exposure in Vietnam are making their way through the system only now, supported by new classifications that more generously define what diseases have a tie to Agent Orange exposure. "There's been a huge influx of claims as a result of that," he says.

With that in mind, the impact of the military drawdown on VA disability claims may be felt more acutely years from now, says Chisholm, rather than right away. He

references, for example, the massive oil-burn fires that fouled the air during several Middle East conflicts. "We don't know what the long-term health impacts will be, but one has to think there may be that to contend with in the future." Chisholm points to traumatic brain injury as another big disability claim to come out of Iraq and Afghanistan, in addition to post-traumatic stress disorder.

Chisholm's firm draws heavily on talent from RWU Law, with five alumni currently on its legal team of 10. One is Jonathan Greene '08, who notes that a lot of the work he does with benefits appeals cases involves keeping constant pressure on the VA. "We try to move cases forward as quickly as they can be moved," Greene says. "Justice delayed really is justice denied in these cases – some of these veterans with disabilities have to find ways to survive for years without compensation."

Ultimately Hogan, with her focus on employment for veterans, and Hixson, Greene and Chisholm on the disability benefits front, are all working toward the

same end: to ensure that those who risked their lives in service of the United States have a bright future and receive what is rightfully due to them. "You're told that if you go into the military, we [the government] are going to take care of you," Hixson says. "That end of the bargain hasn't been held up to the level we think it should be."

In his opinion, "first the U.S. Senate needs to approve President Obama's nominees for Court of Appeals of Veterans Claims judgeships, which would help ease the backlog at that level. Second, Congress needs to appropriate enough funds to help fully train VA employees so that they are better able to make initial decisions, which would reduce the backlog at the VA level."

As a new wave of veterans returns home from overseas, "We're going to need a collaborative effort, proactive rather than reactive," Hogan adds. "Government agencies can only do so much – it's going to take an effort on everyone's part to ensure we take care of our veterans." **RWU LAW**



# Alumni in Uniform

## A snapshot of one class in the military...

After a decade of war in the Middle East, it's not surprising to find a lot of RWU Law alumni in military service – but the Class of 2008 has proven to be an exceptionally Armed Forces-minded group.



Take, for instance, Marine Corps Capt. Gregg Curley '08 (*pictured left*), who has accumulated a wealth of professional experience in a few short years. Curley served as a special assistant U.S. attorney for Camp Pendleton near San Diego, where he prosecuted

civilians who broke the law on the base. "Because it's federal land, crimes are prosecuted in federal court," Curley says, noting that he was the only prosecutor for the base, which covers 17 miles of coastline and is home to a population of 120,000 – essentially a city unto itself.

"As a special assistant U.S. attorney, you're the one who makes the decisions," Curley says. "If someone wants to argue about a ticket or plead out, you decide. It was a very rewarding experience."

Curley later became aide de camp for the commanding general of Marine Corps Installations West, overseeing all Marines west of the Mississippi. It was a once-in-a-lifetime educational opportunity that brought him into contact with high-level government officials – including the commander-in-chief himself, President Barack Obama.

Curley's ultimate challenge remains ahead, however, as he prepares to deploy to Helmand Province in Afghanistan later this spring. There he'll be charged with setting up civilian institutions, using rules of engagement to ensure that Afghans have access to justice. "It's a pretty awesome responsibility, and we will be dealing with civilians who can be combatants at same time," Curley says. "It will be the most difficult thing I've done to date."

But he says he welcomes the challenge: "To help set up a legal construct in another country – it's a real 'Founding Fathers' kind of assignment."

Curley's RWU classmate, Capt. Michael Schrama '08, is area defense counsel at Robins Air Force Base in Georgia. Schrama didn't enter RWU Law with the thought of military service – but after he met with Air Force recruiters, he became intrigued. Schrama quickly assumed a significant role, he recalls: "In my second year I became the chief of justice for my office, managing five paralegals, two legal aides and two attorneys, while also managing the court docket for the entire base."

He represents active and reserve airmen who are facing court martial and says he enjoys helping those who may not have anyone else advocate for their rights. "It may sound like a cliché, but being part of the Air Force has allowed me to serve my country and be part of a way of life and a set of values that are bigger than me – and that I feel lucky to be a part of," Schrama says.

Other Class of '08 alumni using their legal skills in the military's Judge Advocate General programs include, in the Marine Corps, 1st Lt. Micah Penn (Trial Counsel, Cherry Point, N.C.) and 1st Lt. Krystal Bubnick (Legal Assistance, Recruit Depot, San Diego); and in the Army, Capt. Laura Corbin.

Corbin, (*pictured right*) was a judge advocate at Schofield Barracks in Hawaii for two years and is now a reserve judge advocate in Boston. She says she's not surprised at the number of her fellow students who entered the Armed Forces from RWU Law. "So many of my classmates were already service-oriented while still law students – that's one of the things I loved about Roger Williams."



– Jill Harrington



Dr. Pat Flanagan at Hasbro  
Children's Hospital with RWU  
Law student Anne Rowan '12



Preventive  
Medicine

**MEETS**

Preventive Law



**RWU's Medical-Legal Partnership – one of the nation's first – celebrates its 10th anniversary this year. With more than 200 similar programs cropping up around the country, we've literally written the book on how to make it work.**

**By Michael M. Bowden**

A worried mother rushes into a community clinic, her child wheezing in the grip of a severe asthma attack. The doctor treats the child, prescribes medications, talks to the mother about managing the ailment and sends them on their way.

A few weeks later, the mother and child are back again, the asthma symptoms as bad as ever. The doctor suspects environmental triggers – mold, rodents and other hallmarks of substandard housing – but the mother is reluctant to discuss it, and the doctor has a backlog of other patients waiting.

And even if the physician were inclined to further investigate, where to begin? How many doctors are conversant in housing code requirements and enforcement? What are the odds that low-income patients will seek out health-related legal remedies against their landlords?

This is precisely the sort of real-life intersection of medicine and the law that the Rhode Island Medical-Legal Partnership for Children was designed to address.

“Not every illness has a biological remedy,” according to the National Center for Medical-Legal Partnership. “A family forced to choose between food and heat in the winter cannot be successfully treated with a prescription or a vaccination. Medical-Legal Partnerships integrate attorneys as a vital component of the healthcare team. Through direct legal assistance, institutional and systemic policy change, MLPs address the non-medical determinants of health, including food

and energy security, housing conditions, education and personal safety.”

“If you can identify those sorts of issues within the health-care context; if you train doctors to ask questions about social context; if you have a lawyer on site – you can then follow through and address the legal problems that impact health,” says Elizabeth Tobin Tyler, director of public service and community partnerships at Roger Williams, who manages the law school's participation in the initiative, based at Hasbro Children's Hospital in Providence. “The program both enhances preventive medicine and enables preventive law.”

### **Breaking Silos**

The principal “lawyer on site” at Hasbro is Jeannine Casselman ’10, lead remediation attorney for the Rhode Island Medical-Legal Partnership for Children. Working out of a small office on the hospital's main floor, she's steadily becoming a familiar face around the building. With brisk efficiency and a wry sense of humor, she's an appealing liaison for the legal profession in a milieu where lawyers are often perceived as a negative force whose principal interaction with doctors is via medical malpractice lawsuits.

“The doctors and lawyers involved in the MLP recognize that we're simply not as effective when we're in our own silos as we are when we work together,” Casselman says. “If doctors can help identify the problems faced by their patients, an attorney can tell them what their rights are.”

When a doctor suspects housing issues are causing repetitive problems – such as exacerbating a child's asthma condition – it's Casselman who does the actual reconnaissance, making a visit to the patient's home. “In developing the client-

attorney relationship, we establish trust,” she says. “Then we can begin to understand the real extent of the housing issue, which can be anything from an extreme mold condition in the bathroom, to the entire house having to be condemned.”

“It's always instructive to make home visits,” agrees Geoffrey Schoos, a Warwick, R.I., attorney and president of the nonprofit Rhode Island Center for Law and Public Policy, which runs the Hasbro legal program (the hospital's liaison to the MLP is Dr. Pat Flanagan). “Sometimes people in dire straits put a gloss on their situation; make it sound much better than it is – when in fact there's sewage coming up; rats, cockroaches, bedbugs; missing doors; one tenant paying all the utility bills; any number of problems.”

Recently, Casselman has also become involved in a growing number of education cases – where a child's underperformance at school is rooted in housing and medical issues. Her office works with parents, teachers and physicians to get the situation “comprehensively in hand.”

In addition, she supervises two RWU Law externs, who each work three days a week helping with intake, research, home visits; virtually any aspect of a case. “They see everything I do, shadowing me in the best possible way,” Casselman says. “It's a really amazing opportunity to see how our cases are handled from beginning to end.”

One of her current externs, Anne Rowan '12, has so far worked on cases involving family law, government benefits, housing issues, temporary guardianship, restraining orders, domestic violence and wrongful termination of food stamps, as well as participating – along with students from the Alpert Medical School at Brown University – in a clinic to ensure utility access for low-income families.





Dr. Pat Flanagan with attorneys Jeannine Casselman '10 and Geoffrey Schoos

“The experience has taken me completely beyond the classroom,” Rowan says. “Instead of just spotting issues and drawing conclusions, I have to determine practical next steps: Okay, we’ve defined the issues; now where do we go from here? How do we keep their lights on? How do they get their kids back?”

## Overcoming Myths

The nation’s first Medical-Legal Partnership was formed in Boston in the early 1990s, with a ground-breaking program at the Boston Medical Center. Tobin Tyler was a law student at Northeastern at the time and worked there as an intern. “I was really taken with the model,” she recalls. So much so that she brought the concept with her to RWU Law in 2002, helping to create the fifth MLP in the country – a program now entering its 10th year.

“We were really there at the beginning of the whole movement,” Tobin Tyler says. “And we were unique in integrating academic institutions at the outset. We wanted to not only provide critical services to families at Hasbro by putting lawyers on site; we also wanted to train law and medical students in this innovative model of collaborative care.” In addition to placing students at Hasbro Children’s Hospital in externships, Tobin Tyler has taught an interdisciplinary medical-legal course since 2003, bringing RWU Law and Brown medical students together in the classroom.

Recent counts indicate that the MLP model has now been adopted in more than 235 health institutions across 38 states, integrating legal assistance and advocacy strategies into healthcare settings. As a pioneer in the field, Tobin Tyler was ideally placed to edit the first – and so far only – textbook on the subject; now in use around the country (*see sidebar*).

The Rhode Island program, for its part, swiftly developed a strong reputation in the local legal community. “I reached out to RWU Law when I first organized the Rhode Island Center for Law and Public Policy four years ago,” Schoos says. “Our visions and philosophy are the same; there’s lots of productive cross-pollination. With the law school’s assistance, we can offer more patients greater access to the legal assistance they need and, at the same time, give students a lot of practical experience on how to become a good lawyer and advocate.”

Even the classroom experience features eye-opening simulations, with medical and law students learning to solve problems by role-playing different viewpoints – the patient’s parent, the doctor or the lawyer. In one such simulation, the medical needs of a child with lead poisoning are weighed against the mother’s fears of retaliatory eviction by her landlord.

Another important challenge is assuring busy physicians that that MLP doesn’t create an additional burden for them, but rather helps them practice medicine more effectively and efficiently. Tobin Tyler explains, “The message is, ‘We’re not asking you to become

a lawyer. We’re asking you to ask the tough questions about patients’ lives outside the medical setting – and when you identify problems that may have a legal remedy, we, as lawyers, are here to help.’ A lot of physicians have found this to be really beneficial for their practice and their patients.”

Along the way, the program may even be helping to alleviate the traditional tension between doctors and lawyers.

“One of our goals is definitely to overcome some of the myths on both sides about our professions,” Tobin Tyler notes. “The fact is, lawyers and doctors both serve very vulnerable populations, and our challenge is to use the skills, talents and expertise of the two professions to collaborate and provide a better practice model for lawyers and doctors who are trying to address these really complex needs.”

## A Model for the Future?

MLPs have received support, endorsements and awards from the American Medical Association, the American Bar Association, the American Academy of Pediatrics, the American Hospital Association and the Accreditation Council of Graduate Medical Education, among others. Now they’re on the radar of the federal government as well.

Last September, Sen. Tom Harkin (D-Iowa), chairman of the Senate Health, Education, Labor and Pensions Committee – joined by senators Patrick Leahy (D-Vt.) and Daniel Inouye (D-Hawaii) – introduced the Medical-Legal Partnerships for Health Act,



**"Okay, we've defined the issues; now where do we go from here? How do we keep their lights on? How do they get their kids back?"**

**- Anne Rowan '12**

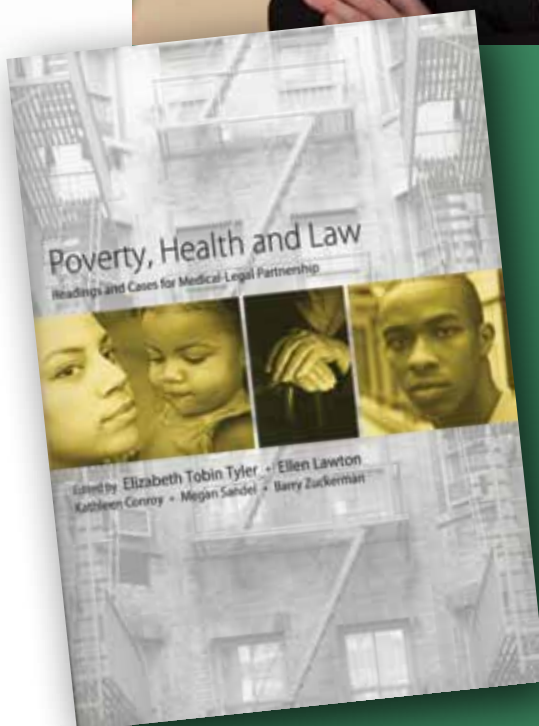
which would help connect legal aid attorneys with patients at hospitals and health clinics. The legislation calls for a federal demonstration project for MLPs, which will create, strengthen and evaluate programs across the country.

"Assistance in navigating our legal system is sometimes all it takes to prevent individuals and their families from making repeated trips to the doctor or hospital," Senator Harkin said, introducing the bill. "A safe and healthy living environment is critically important, but many families living in unsafe or substandard conditions believe they have no recourse to fix these problems. Coordinating preventive health care with preventive law will help ensure that families receive the care and benefits they need and live in conditions that promote their well-being."

It may also point to a new, improved method of delivering health care to at-risk populations. Tobin Tyler explains, "Researchers are now realizing that, if we don't address the social conditions of people's health, it doesn't really matter whether they have access to health care, where they get their health care, or whether or not they have health insurance."

The MLP model fits nicely within several emerging alternative models for health care delivery; within any system, proponents argue, it enhances cost-cutting and efficiency. "Medical-Legal Partnerships do increase efficiency," Tobin Tyler says, "because if you keep the child with asthma out of the hospital because you've addressed the social conditions that are making that child's asthma worse, you are saving money as well as improving lives." RWU LAW

## Writing the Book on MLPs



Health and basic legal rights are inextricably linked. For our country's most vulnerable populations, these connections play out every day in avoidable illnesses, hospitalizations and general poor health.

That's the premise of "Poverty, Health and Law: Readings and Cases for Medical-Legal Partnership" (Carolina Press, 2011), a first-of-its-kind textbook edited by Elizabeth Tobin Tyler, RWU Law's director of public service and community partnerships, who coordinates the school's participation in

the Rhode Island Medical-Legal Partnership at Hasbro Children's Hospital in Providence.

"Our program was at the forefront of academic partners being part of Medical-Legal Partnerships," Tobin Tyler explains. "As MLPs started developing around the country, I kept receiving emails and phone calls saying, 'Can I have your syllabus? I'm interested in teaching this!' The impetus for the book was that we had developed the curriculum for teaching medical-legal partnership in law and medical schools, and it was becoming a growing field. We've gotten a good response."

Good indeed. One Australian reviewer compared the book to "winning the lottery. ... It's an invaluable compendium. ... Those new to the field will scarcely believe their luck that such an impressive resource now exists; an exhaustive treatment of MLP from the foundations up."



# A Naval Lawyer Weighs Anchor in D.C.



## PROFILE **Peter Pascucci '03**

*By Andrew Clark*

Dubai. Bangladesh. Edinburgh. Over the past decade, Peter Pascucci '03 has seen more of the world than most people get to see in a lifetime. And it's been an interesting journey, to say the least.

Currently stationed at the Pentagon, Pascucci is associate deputy general counsel for intelligence, working under the General Counsel to Defense Secretary Leon Panetta. Before taking his current post, he spent nearly eight years serving in various roles with the Navy around the globe.

Surprisingly enough, when he started law school, Pascucci says a stint in the armed forces never even crossed his mind. Once he graduated, however, Pascucci saw military service as the perfect vehicle for putting his degree to good use – and gaining invaluable experience.

"I saw it as an opportunity to both serve and learn," says Pascucci. "It provided me with a lot of unique challenges, particularly early on in my career. I didn't have to wait five years before really getting into things. By my second year as a lawyer, I was already handling murder cases."

Since graduation, Pascucci, now 33, has taken on assignments ranging from aide to the judge advocate general to deputy legal counsel to the vice chief of Naval Operations. Additionally, he spent time as a legal advisor to an admiral during NATO war games in Scotland.

Last summer, the Ossining, N.Y., native took on his current position with the Department of Defense. According to Pascucci, much of his work now deals with cutting-edge issues – often involving activities in cyberspace – meaning that he must cope with the challenge of figuring out problems in areas where the law hasn't yet caught up or is still unclear. As one might guess, his caseload is also highly sensitive as well. "That means when I go home, I can't discuss work with my wife over dinner," says Pascucci.

Though Pascucci didn't consider the Navy until the end of his time in law school, he's always had a keen interest in the sea. He earned his bachelor's degree in marine and coastal policy, along with political science. During his time at Roger Williams, Pascucci took classes in Marine and Coastal Law and studied abroad at the Aegean Sea Institute in Greece.



*"I've had the benefit of practicing law while having this wonderful opportunity to serve my country."*



Currently, Pascucci is based out of Alexandria, Va., where he lives with his wife and infant daughter. Though he's had the chance to visit many countries, Pascucci says it can be challenging to constantly travel around the globe. "I've been able to see all of these beautiful parts of the world, from Scotland to Italy to Japan. It's been a great opportunity. But it's been difficult on my family to have me away so much."

Ultimately, however, Pascucci has relished the opportunity to put his law degree to work on behalf of the entire nation. "It's been incredibly rewarding," he says. "I've had the benefit of practicing law while having this wonderful opportunity to serve my country."

## Class Notes

### 1996

**Whitney A. Curtis** is assistant director of public services at the University of Memphis, Cecil C. Humphreys School of Law in Tennessee.

### 1997

**Stephen M. Bannon**, chief administrative officer of the Rhode Island State Police, was appointed fiscal overseer for the City of East Providence.

**Alyssa Boss** was promoted to senior vice president and general counsel of Care New England Health System in Providence.

**Edward Pare** is a partner with Brown Rudnick in Providence.

### 1998

**Michael Antista** is senior intellectual property counsel at Energizer Personal Care Division.

**Jana Berger** is a partner with the Detroit office of Foley & Mansfield PLLP, a 120-plus-attorney national firm. In 2010, she was named to the Rising Stars list compiled by *Michigan Super Lawyers*.

**Brian Berkowitz** and his wife, Nicole, are pleased to announce the arrival of their third child, Ella Grace, born on January 31, 2012. Ella joins siblings Natalie and Jonah.



**Dennis A. Meyers '98** opened his own law firm in Tampa, Fla. He focuses on insurance defense, business litigation and trademark/patent matters. President of the South Tampa Chamber of

Commerce, Dennis also serves on the Finance and Administration Council of the Workforce Florida Board of Directors. He was recently appointed to the Hillsborough Metropolitan Planning Organization's Citizens Advisory Committee.



**Eric W. Schweibenz** is a partner with Oblon Spivak, a law firm specializing in intellectual property, located in Washington,

D.C. In December, Eric was quoted in *The Economist* regarding the ITC ruling on Android infringement of Apple patents.

### 2000

**Walter J. Manning III** has opened a second office in North Providence, R.I. (his main office is in Warwick). He is licensed to practice law in Rhode Island, Massachusetts, Connecticut and New York.

### 2001

**Kevin O. Hagan** has opened a law office in Newport, R.I.



**Armando E. Batastini '98** was elected to partnership with Nixon Peabody LLP in Boston. An experienced commercial litigator, Armando is deeply committed to pro bono efforts, including representation of veterans and active-duty military through the Rhode Island Bar Association's U.S. Armed Forces Legal Services Project and RWU Law's Pro Bono Collaborative.



# What's New With You?

New Job? Promotion?  
Award Recipient?  
Recently Married? New Child?

Keep your alma mater and  
your fellow alumni in the loop!  
Please send your name, class  
year, address and news to  
lawalumni@rwu.edu.

*Professional and personal photos are  
welcome, but please be sure the image  
is at least 300 dpi at a print size of  
4 x 6 inches or larger.*

**LeeAnn (Araskiewicz) Ryder** was promoted to attorney group supervisor with the Office of Disability Adjudication and Review in Lawrence, Mass. LeeAnn was a practicing disability attorney in Rhode Island before working for the Social Security Administration.

## 2002

**Nancy S. Fazzino-Hunter** is an attorney with Kinney, Secola & Gunning LLC, in New Haven, Conn. She and her husband, Steven, welcomed twin daughters, Dina Grace and Stephanie Rose, on October 25, 2011.

## 2003

**Mary Norton Bobrowki** is employed with the Massachusetts Department of Elementary and Secondary Education, in the Office of Special Education Planning and Policy Development.

**Keri Pluck Ebeck** married Eric W. Ebeck on July 2, 2011. Keri is a bankruptcy associate in the firm of Weltman, Weinberg & Reis, Co. LPA in Pittsburgh.

## 2004

**Kiran Advani** is real estate and contracts counsel at Affirmative Insurance in Burr Ridge, Illinois.

**Lari-Anne Au** is a public services librarian with the University of Hawaii at Hilo.

**Larry White** was quoted in the *Chicago Tribune* as an International Law expert. He teaches at TOBB University of Economics and Technology in Ankara, Turkey.

## 2005

**Wayne M. Helge** was promoted to director at H.C. Park and Associates PLC in Virginia.

**Melissa Moore** is the assistant director of gift planning at College of the Holy Cross in Worcester, Mass.

## 2006

**Bridget Alexander** is executive director of the Southeastern Massachusetts Agricultural Partnership.

**Ryan S. Andrews** is senior district manager at Automatic Data Processing in New Hampshire, and was recently named district manager of the month.

**Alexandra Capachietti** is an associate with Burns & Levinson LLP in Boston, working in the IP litigation department.

**Sean Fitzgibbon** is an Army captain and was awarded the Bronze Star for Exceptionally Meritorious Service while serving as deputy command judge advocate during combat operations in support of Operation Enduring Freedom IX in Afghanistan. Sean's wife, Allison Quill, and their son, Aidan, reside in Massachusetts.

**Christopher J. Pucino** married Suzanne (Dawson) Pucino on October 18, 2011. Christopher left the private practice of law to begin a new career with the federal government.

**Adam M. Ramos** joined the Providence firm of Hinckley, Allen & Snyder LLP as an associate in the litigation law group. His practice focuses on complex civil litigation, including commercial, intellectual property, health care, employment, civil rights, construction and land use.

## 2007

**Suraj N. Batheja** is director of sports and entertainment sales at Madison Square Garden in New York City.

**Albert Brink** and **Kali (Racavich) Brink '07** were married on April 3, 2010 at the Hyatt Regency in Cambridge, Mass. They welcomed their first child, Cameron Joseph, on October 19, 2011. Al practices at Ernst & Young LLP in Boston.

**Ashley Lauren Farnschlader** is an associate with the law firm of Sweeney & Sheehan PC in Philadelphia.

**Kate (Beardsley) Stelmach** is assistant general counsel with New Hanover Regional Medical Center in Wilmington, N.C. She and her husband, Hans, welcomed their first child, Isabel Marie, on February 21, 2011.

## 2008

**Craig Borchers** married Elise Borchers in August 2011.

**Laura Corbin** is a judge advocate with the United States Army Reserve.

**John Dean** works with the criminal division of the Rhode Island Attorney General's office.

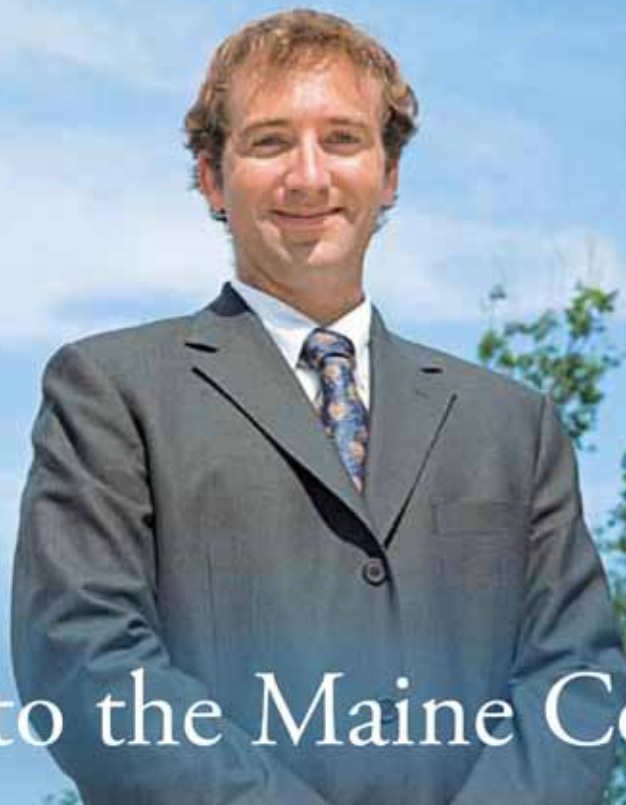
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# From Congress to the Maine Coast

## PROFILE **Nick Battista '08**

*By Megha Chatterjee*

Nick Battista '08 has been making waves from the moment he graduated from RWU Law and stepped into his career in Ocean and Coastal Law.

It began with a prestigious Knauss fellowship in 2009, landing Battista a plum D.C. slot as legislative aide to Rep. Chellie Pingree, D-Maine – a position that soon evolved into a full-time job.

Now he's taken on a new challenge as marine programs director for the Island Institute, a community development organization focusing on the Gulf of Maine, and particularly the 15 year-round island communities off the state's rugged Atlantic coastline.

"Working for Chellie in Congress was an amazing experience that really prepared me for my work at the Island Institute," says Battista. "This is exactly what I dreamed of doing when I went to law school," adds the Pine Tree State native, "It's especially nice to be able to address these issues on the ground in Maine."

Since joining the Institute, Battista has been traveling to coastal communities that rely heavily on fisheries and working waterfronts, but are now grappling with sustainability issues in the face of climate change and steeply declining fish populations. "They're not sure if this natural resource – their traditional fishing-based economy – will still be here when their kids in grade school grow up," Battista says.

The Institute helps facilitate interaction between similarly challenged communities, a process that can engender synergy and fresh thinking. "Most importantly, introducing Maine islanders to islanders from other states' coastal communities – in North Carolina,

for example – and letting them discuss the different ways in which they have addressed similar types of problems is very valuable."

From leasing discounted groundfishing permits to fishermen who embrace environmentally friendly harvesting practices, to facilitating professional business-planning workshops, Battista is committed to helping islanders develop "more sustainable businesses; to be more resilient and less reliant on shifts in the ecosystem."

"Nick brings a very strong commitment to Maine and the coast of Maine," says Heather Deese, vice president of programs at the Island Institute, which is based in Rockland. "He's an excellent listener and very thoughtful in how best to use scarce resources to improve the situation for fishermen and their communities."

Battista believes his "feel" for the job is probably rooted in his experiences working as a marina dock manager for five consecutive summers before coming to Roger Williams and pursuing its joint degree program in law and marine affairs. "That real-world experience – taken together with those I gained at RWU – probably gave me a more pragmatic approach to the work I do," he says.

"Nick came to school with a great skill set and a real passion for marine affairs, and he used what we offer to his full advantage," agrees Susan Farady, director of the Marine Affairs Institute at Roger Williams. "His story is not only a great example for other students; it also says a lot about the type of students we attract, the type of training we give them and the kinds of positions they get when they graduate."





**Kenneth J. Amoriggi II '09** announced his candidacy as an independent candidate in the 2012 race for Rhode Island House of Representatives, District 54 in North

Providence, where he has lived for most of his life and currently practices law. He also served as the first statewide coordinator of the Rhode Island for Community and Justice Initiative, aimed at reducing overrepresentation of minorities in the juvenile justice system.



**Hala V. Furst '10** is a presidential management fellow with the Department of Homeland Security, currently detailed to the U.S. Senate Committee on Homeland Security and Governmental Affairs, for the Majority Staff (Chairman Joseph I. Lieberman, I-Conn.). Hala assists in drafting of legislation and passage of bills in the Senate.

**Alton Evans** has returned to the Law Offices of Betancourt, Van Hemmen, Greco & Kenyon as an associate. The firm specializes in admiralty and maritime law issues in New York, New Jersey, Pennsylvania and Connecticut.

**Michael Faulkner** is senior development engineer for systems architecture at Dell.

## 2009

**Scott Carlson** and **Brian Dumeer** opened their own law firm, Carlson and Dumeer LLC, in Middletown, Conn., servicing Connecticut, Massachusetts and Rhode Island. They were both 2006 undergraduates of Roger Williams University.

**Lauren Michele Engel** is attorney-advisor in the Office of the General Counsel at the Federal Maritime Commission, an independent agency responsible for regulation of ocean-borne transportation in U.S. foreign commerce.

**Tim Mahar** is an associate with the Hellenkamp Law Firm in San Diego, Calif.

## 2010

**Angela Alexander** is attorney of counsel at the Law Office of Derrick G. Hamlin PC in Baltimore, Md.

**Timothy Cook** completed his first year working with the Dekalb County Public Defender in

Georgia. He was promoted to his own courtroom in state court and is defending misdemeanor cases. He and his wife, Chloe, recently purchased their first home.

**Kelly (Biringer) Eleneski** is a deputy attorney general assigned to casino prosecutions with the New Jersey Attorney General's Office.

**Lyndsey (Bannon) Garcia** married James Garcia on October 10, 2010. Lyndsey works in the corporate security department of Fidelity Investments in Smithfield, R.I.

**Julie Moore** announces the birth of her first child, Marin, born on July 1, 2011.



**Denée Page** was appointed assistant director of admissions for Quinnipiac University School of Law in Hamden, Conn.

**Marci C. Pereira** is corporate counsel at Konica Minolta Business Solutions USA, Inc., in New Jersey.

**Jason Pullman** works with the firm of Oshman & Mirisola in New York City.

## 2011

**Rebecca Aitchison** is an assistant public defender at the Rhode Island Public Defender's Office in Providence.

**Zachary Augustine** is a law clerk with the Pennsylvania State Police Chief Counsel office.

**Kristin Giordano** announces her engagement to Jeffrey Fludder. An October wedding is planned.

**Kathryn (Starr) Shaughnessy** is contracting assistant for the Applied Science Associates, Inc., in Kingstown, R.I.

## IN MEMORIAM

**Matt Malloy '96**, 47, passed away on March 9, 2012, at his home in Canton, Mass. He was a general legal practitioner, specializing in personal injury litigation. He held a bachelor's degree in business management from Stonehill College. He will be missed by his RWU Law professors, friends and colleagues.





*"Supporting the present,  
ensuring the future..."*

When you make a gift to RWU Law's Annual Fund, you are giving thanks to our alma mater, supporting a new generation of students and building the future of a law school in which we believe.

– Nicole J. Dulude Benjamin '06,  
President, Law Alumni Association



Visit <http://law.rwu.edu/give> to make a secure online gift and learn how your generosity helps support all aspects of educating a law student. If you prefer, please mail your gift, made payable to RWU Law, to: Office of Annual Giving, Roger Williams University School of Law, Ten Metacom Ave. Bristol, RI 02809.

## The Professor Anthony J. Santoro Business Law Lecture Series



The first lecture in this important series is slated for Fall 2012. Keep an eye on RWU Law's online Events Calendar for details.



Please give to the Santoro Lectures Series Endowment at <http://law.rwu.edu/give/santoro-lecture-series-endowment>

## Introducing... The RWU Law Alumni Online Community



The Law Alumni Association presents the RWU Law Alumni Online Community, with a range of dynamic features to help you stay in touch with fellow alumni – professionally and personally – while keeping up with all the latest alumni opportunities and events.

In the coming weeks you will receive a unique ID number in the mail. You will need this ID number to register for the online community.

If you would like assistance in the registration process, or if you have other questions, please contact the Office of Alumni, Programs & Events at [lawevents@rwu.edu](mailto:lawevents@rwu.edu)



# Closing Argument







# State Planning in Federal Waters

Rhode Island's innovative approach to planning offshore wind farms gets it right – by pushing beyond state lines and staking a regulatory claim to federal waters

By Michael Burger,  
Associate Professor of Law

With the White House actively promoting a “clean energy economy” and a new federal permitting scheme in place, state and federal agencies – as well as private developers – are increasingly attempting to site, permit and build industrial-scale offshore wind farms and other marine renewable energy facilities.

Of course, hurdles remain – technical, political, environmental and legal. One of the most vexing legal obstacles involves the challenge posed by the traditional boundaries of offshore federalism: How are we to balance federal, state and local interests in siting offshore renewable energy facilities?

I believe Rhode Island's innovative approach to this dilemma offers an excellent model that other states should be encouraged to adopt. In an effort to site two offshore wind projects, the Ocean State engaged in a “marine spatial planning” process that resulted in a plan covering not just the state's territorial sea – waters within three miles of our shoreline – but extending beyond that imaginary line into waters under federal jurisdiction.

## Pushing the Boundaries

Rhode Island used marine spatial planning (MSP) to create what is called the Rhode Island Ocean Special Area Management

Plan (SAMP), a tool for identifying appropriate areas for wind farms and proactively planning for other future uses of coastal waters.

MSP is a process in which multiple decision-makers and stakeholders – including energy, industry, government, conservation and recreational interests – collaborate to identify where and how an ocean area is being used, determine what natural resources and habitats exist, and make informed and coordinated decisions about how best to use and allocate marine resources in a sustainable manner.

I believe that ecosystem-based ocean management is an achievable and desirable goal and that MSP is an appropriate means to reach it. What's more, the SAMP process offers a smart way to make MSP even more effective. The federal Coastal Zone Management Act authorizes states to create SAMPs to achieve specific policy goals within a particular geographic area. In the past, SAMPs have been used for improving water quality, protecting habitat in watersheds and estuaries, and coordinating waterfront development and revitalization plans in coastal communities.

Rhode Island's Ocean SAMP, however, is innovative in at least two respects. First, it utilizes MSP and the SAMP process together to coordinate the development



“Rhode Island’s approach is an excellent model for proactive ocean planning – and gives the state a strong voice in the development of offshore wind in federal waters.”

– Professor Michael Burger



of offshore wind within existing uses and management regimes. Second, it pushes beyond the three-mile line that marks the boundary between state and federal waters; that is, it stakes a regulatory claim to federal waters.

Scholars and policy analysts involved in offshore renewables tend to focus on federal decision making, or how information and power move from the federal government to the states. Rhode Island’s SAMP innovations present an entirely alternative model – in which information and power flow from the states to the federal government.

### A Proactive Model

In July 2010, President Obama established the National Ocean Council to oversee the creation of regional “coastal and marine spatial plans.” The council explicitly recognized two key principles: (1) the value of MSP in integrating ecosystem-based management into ocean governance; and (2) the benefits of scaling up to ocean governance on a regional level.

This is undoubtedly a sound beginning, but there are drawbacks. As currently constituted, the council is an intergovernmental entity with an uncertain

funding base, designed merely to serve a coordinating function. Its regional plans will have little, if any, legal import. This arrangement leaves ecosystem-based management and MSP toothless in the face of very real conflicts over how to use ocean space.

State-based MSP in federal waters, on the other hand – as exemplified by the Rhode Island model – offers a stronger model for proactive ocean planning in federal waters. This is true for both practical and theoretical reasons.

On a practical level, the Coastal Zone Management Act bridges the regulatory divide between state and federal waters by granting states the authority to review projects in federal waters for consistency with state coastal management plans. This authority is limited in two important ways: First, the federal government must approve the state plans. Second, the feds have the final word on federal permits. Given these constraints, states should be empowered to study, map, plan and possibly even zone future uses in proximate federal waters.

On a theoretical level, there are also significant advantages to regulatory diversity in the evolving fields of offshore wind and other offshore renewables. Diversity can

lead to increased citizen participation, tailoring decisions to local conditions and preferences, and technical and regulatory experimentation. The advantages of a more centralized approach, by contrast, are already captured by the Coastal Zone Management Act and the permitting scheme currently in place.

Rhode Island’s SAMP model is precisely the kind of experiment in regulatory adaptation and intergovernmental coordination that cooperative federalism seeks to achieve. Recognizing this, in September 2011 the National Oceanic and Atmospheric Administration agreed to changes in Rhode Island’s coastal management plan that incorporate the Ocean SAMP, making it legally enforceable and giving the state a strong voice in the development of offshore wind in federal waters.

At the end of the day, the Coastal Zone Management Act provides states and federal agencies a place to negotiate inter-jurisdictional MSP arrangements that have immediate legal force. The National Ocean Council’s aspiration toward regional planning offers the possibility that these arrangements might eventually trickle up into even more coordinated governance. [RWU LAW](#)



# Tee Up!



## Join us for the 13th Annual Law Alumni Association Scholarship Golf Tournament

.....

**Saturday, August 18, 2012**

12:00 p.m. Registration & Lunch  
1:30 p.m. Shotgun Start

**Where:** Cranston Country Club  
Cranston, R.I.

**Registration:** \$125 per player; \$500 per foursome

**Register Early:** \$480 per foursome for registration  
paid by June 30.

Join us for a fun day of  
golf, friends, networking –  
and delicious food!

Tournament play immediately followed by dinner, raffle, silent auction and prizes.  
All proceeds benefit the RWU Law Alumni Association Scholarship Fund, which annually awards  
two scholarships to rising second-year RWU Law students.

*Tournament Co-Chairs: Anthony Leone '97 and Sally McDonald '09*

## UPCOMING EVENTS

**June 14 Law Alumni Association Breakfast**  
Held in conjunction with the Rhode Island  
Bar Association Annual Meeting;  
Rhode Island Convention Center, Providence

**July 27 Rhode Island Attorney General's Open Government Summit**  
Co-Sponsored by the Law Alumni Association;  
RWU Law, Bristol, R.I.

For details on these and many other  
exciting upcoming events visit:

**[law.rwu.edu/calendar](http://law.rwu.edu/calendar)**





More than 425 students, alumni, faculty, staff and friends filled the Providence Biltmore's elegant rooftop Grand Ballroom for RWU Law's annual Public Interest Auction. The event raised over \$36,000 to fund the school's Summer Stipend Program, which enables law students to work in unpaid summer legal internships serving underrepresented populations. Congressman David Cicilline served as auctioneer, and guests including Senator Sheldon Whitehouse, Chief Justice Paul Suttell, Providence Solicitor Jeff Padwa and Michael Evora, Executive Director of the R.I. Commission for Human Rights, enjoyed the great food and festive atmosphere while supporting a most worthy cause.



Our auctioneer for the evening,  
Congressman David Cicilline



Senator Sheldon Whitehouse and  
Tolulope "Kevin" Olanoye '12



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.



R.I. Chief Justice Paul Suttell, RWU Law BOD Chair  
Mark Mandell and wife Yvette Boisclair Esq., Feinstein  
Director Laurie Barron and Professor Cecilia Banks