Spring 1987

1987 CSLife (Spring)

Benjamin N. Cardozo School of Law

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Finding the "Human Roots" of Our Legal System

Are lawyers trained to resolve conflict, or simply to take sides in an impending fight? Are conflicts brought to litigation destined to become "win-lose" battles, where someone is the victor and someone is the vanquished?

"Legal training is rooted in litigation and in the adversarial process," says CSL Adjunct Professor Lela Love, "this is not always the best process to resolve particular problems." Proponents of Alternative Dispute Resolution (ADR) believe lawyers should be equipped to match individual disputes with optimal resolution processes for that particular dispute. "Parenthetically," says Professor Love, "the use of the word 'alternative' is ironic in describing methods of dispute resolution which include counselling, mediation, negotiation, and settlement (methods which resolve most human conflicts) — it is really litigation that is the alternative."

ADR at CSL

Begun during the 1984-85 academic year, the Mediation Clinic at CSL combines classroom and "real life" education in the 'wave of the future' known as Alternative Dispute Resolution. The course is offered for six credits over two semesters. Students are trained and serve for three hours each week as mediators in the Brooklyn Mediation Center where cases are referred from the criminal summons court. "Most non-arrest citizen's complaints are diverted to the Mediation Center," says Professor Love. About one-third of the cases handled by the Brooklyn Center involve disputes between neighbors, according to an article published this summer in the New York Law Journal, 20 percent involve disputes between tenants and landlords, 5 percent are family conflicts, and the balance consist of consumer complaints, job frictions, and altercations between friends. The Cardozo students handle about 20 percent of the case load of the Center.

The Concept of Mediation

Mediation is the intervention of a neutral third party into a dispute to help the parties reach a binding agreement, resolving their conflict. A skilled "dispute resolver" is able to direct the proceedings towards the parties' underlying interests, spot obstacles to resolution, and propose creative new options. "The neutral mediator cannot impose a solution — it must be voluntary — so it must be optimal," says the Clinic's founder, Lela Love, "instead of splitting the pie, you enlarge it. This approach works more frequently than you would think."

The students participate in classroom education, learning the theory and the skills needed. They then observe mediations at the Center, then serve as co-mediators, and eventually handle a caseload on their own. They also attend more formal arbitrations and court-annexed arbitrations. "Most law students don't get to see trials," says Professor Love, "we offer a preview of the practical applications of their education."

"Mediation Breeds Compassion"

"By repeatedly sitting down and helping people articulate and, hopefully, resolve their differences, I had the opportunity to practice the use of skills in negotiating, persuading, resisting other people's manipulative tactics and even asserting authority and control," says Stephanie R. Cooper, a New York lawyer now with Providence-based Edwards and Angell who graduated from Cardozo last Spring. "I found it enormously confidence-inspiring that I could keep discussions on track, force people to focus on issues, dissuade them from self-pitying fixations, and guide them toward solutions to problems. In other words, mediation breeds compassion."

"The experience at the Brooklyn Mediation Center was a valuable transition from being a law student," says Rose Herschberg, "to becoming a professional, complete with responsibilities to make decisions and to execute them."

"It made me more secure," says Richard Reice, "in being able to think as a problem solver and spotter of issues."
CSL Going to Nat'l Trial Competition Finals This Month

Cardozo School of Law has displaced Syracuse Law School, after many years at the top, as the Eastern Region winners in the National Trial Competition. Twenty-one teams from schools in New York, New Jersey, Connecticut and Washington, D. C. competed in the regional rounds. The results:

First Place: Cardozo: Pam Sherman (also won runner-up for Best Advocate) and Mark Bluver

Second Place: Syracuse Law School

Third Place: Cardozo: Peter Skolnick, Joan Ehrlich-White and Candace Reid tied with Syracuse Law School

All five members of the Cardozo team placed within the top ten overall advocates. The teams will compete in the National Finals in San Antonio, Texas, on March 25th-28th.

Law and the Critical Tradition

This summer, Cardozo School of Law and the Graduate Faculty of the New School for Social Research will once again present an intensive series of seminars for law school faculty, graduate students, law students, and lawyers, examining aspects of law and critical tradition. The series of evening seminars will be held from June 9th to July 23rd in New York City.

Coordinated by CSL Professor Arthur Jacobson, the program course offerings are:

History of American Legal Thought by Professor Morton Horwitz of Harvard Law School; The Failure of the Liberal Theory of Justice by Professor Jacobson; Pro-Seminar: An Introduction to Critical Legal Thought with a series of guest lecturers including Duncan Kennedy, and CSL professors David Carlson, Peter Gabel, Katherine Stone, David Trubek, Richard Weisberg, and Charles Yablon; Sociology of Rights by Professor Andrew (Continued on page 7)

Words of Wisdom

In recognition of Cardozo School of Law's tenth anniversary — and the bicentennial of the United States Constitution — we thought it fitting to seek "words of wisdom" from some of the CSL Board's elder statesmen and women. What were their thoughts on their years of legal practice, the changes they've seen in the legal system's effect on our society, and, of course, their impressions of our first ten years?

Jacob Burns, Cardozo's Chairman of the Board, says "It is the task of our judges and lawyers to assume the responsibility of protecting and preserving the freedoms which we enjoy in this country, while at the same time to champion our rights and point out our obligations. The impact of law on our lives has dramatically heightened in recent years. The importance of appropriate legal education, training, and ethical professionalism for students in law school is paramount in fulfilling the needs of society.

Cardozo is committed to excellence, leadership, and diversity to meet the needs of current social and business practices. Our objective is to inculcate in our graduates the intellect and the character needed to adhere to the highest ethical and moral standards."

Blanche Etra, the Board's secretary, is a partner with Etra & Etra. "As I watch the law in action, I see it touching, changing — at times saving lives. We live in a society, for example, in which real harm can come to children — via the breakdown of families, or the use of drugs. I've just been involved in a case where, if it weren't possible to turn to the courts for intelligent guidance and help, several young lives would have been irreparably damaged. The practice of law is dynamic and it is full of life. You can see its vivacity as you walk the halls of Cardozo. These first ten years have been exhilarating!"

William Shea, partner with Shea, Gould and long-time member of Cardozo's board, sees Cardozo in a very special light . . . "Cardozo is an important part of Yeshiva University and as such brings a unique capacity of adding to the general study of law — the religious values which form the basis of the ethics and morality of our society."

Hans Frank, a new CSL board member and partner with Fried, Frank, Harris, Shriver & Jacobson, says "After having witnessed the collapse of the rule of law in Nazi Germany, I tried throughout my career, as an advocate of private interests, to be the keeper of my clients' conscience. I urge Cardozo's students to avert greed and hunger for power and instead conduct themselves throughout their practice as officers of the Court. While common wisdom has it that it is easy to adhere to standards of professional ethics, if you can afford to do so, it seems equally true that a lawyer can ill afford to ignore principles of morality and intellectual honesty. To honor them ought to enhance the nobility of the profession and the well-being of society."

(Continued on page 7)
ITAP — “The Most Fantastic Learning Experience”

Each year, Cardozo’s Intensive Trial Advocacy Program (ITAP) “affords students an opportunity to develop litigation skills under the close instruction of some of the nation’s leading trial lawyers and judges,” says Barry Scheck, CSL’s Director of Clinical Education. “This year, during the two week intersession program, more than 40 judges and 80 litigators from New York and around the nation participated as volunteer faculty.”

“ITAP was the most fantastic learning experience I’ve ever had,” says Pam Sherman (who has since won first place in the Eastern Region National Trial Advocacy Competition and is on her way to San Antonio for the finals — see story, page 2.) “I’ve really found my niche — ITAP made me aware of how much I can enjoy the practice of law.”

“It was really the chance of a lifetime,” says Eric Hershman, “Under what other conditions could you find the top attorneys in the country turning over their legal experience — just handing it to us — over an intensive two-week period? It was one of the best things I’ve ever done.”

ITAP follows the model employed by the National Institute for Trial Advocacy (NITA), the premiere program teaching trial skills to practicing attorneys. Cardozo is the only school in New York City offering an intensive program to its students, and one of only a half-dozen nationwide. “The NITA method,” says CSL Professor Larry Vogelman, one of the program’s coordinators, “stresses the team in teaching and the individual in learning.” Each day, every student performs assigned exercises before the faculty and has the opportunity to view a videotape of their performance, with faculty members critiquing.

The program encompasses all aspects of trial work: introduction of evidence, direct and cross-examination, opening and closing statements, jury selection, expert testimony, etc. In addition, each student participates in a bench trial at the end of the first week and a jury trial at the end of the program.

The jury trial is done before practicing judges and a volunteer jury. After the trial and prior to the critique by the judge and faculty, the students have the opportunity to view a jury deliberation. “This is one of the more unique and rewarding aspects of the course,” says Vogelman.

Each day, demonstrations are given to compliment the program and prepare the students for the next day. Some of the country’s great courtroom talents show the ITAP students the “right way” to conduct examinations, sum up to the jury, and engage in advocacy only.

The program also includes an Ethics Symposium which focuses on the ethical considerations relating to witness preparation in trial work.

“For the two weeks of ITAP,” says Vogelman, “students work incredible hours, forgo sleep, and dedicate themselves to the program. This is not unlike the rigors of trial work. ITAP provides an intensive learning experience available to few law students in the country.”

“I found the experience of the intensity level of a real trial very important,” says participant Hershman, “We saw what trial practice is really like — judges grilling us on every aspect — the pressure — the thrills. I’d recommend it to everyone.”

First Amendment Focus of Gannett Conference

“The First Amendment: Rediscoveries and Reformulations” was the title of a conference held at CSL on February 26th in celebration of the school’s tenth anniversary and the Constitution’s bicentennial, funded by the Gannett Foundation.


1979
Bonnie Steingart has become a partner at Fried, Frank, Harris. Robert S. Bookman has joined the practice of Jerry H. Goldfeder, forming the law firm of Goldfeder and Bookman in New York City. Robert was formerly director of adjudication and deputy general counsel of the New York City Department of Consumer Affairs. Marc Brick is now associated with the law firm of Frankel and Hershkowitz. Daniel Rosenfeld is set up as a sole-practitioner in Old Bridge, New Jersey.

1980
William A Herbert, a staff attorney with the New York City Commission on Human Rights, testified before the NYC Council’s Committee on Women on the topic of sexual harassment of tenants and presented “Sexual Harassment As A Fair Housing Issue” at a housing discrimination conference sponsored by the U.S. Department of Housing and Urban Development.

1981
Robin Abrams, staff attorney with the Legal Aid Society of New York County, appeared on a panel with Chief Judge Sol Wachtler on Channel 13’s “Metroline,” discussing crime and the courts.

1983
Meryl Lynn Strassner is a law assistant in the Trial Part of the New York State Court System. Jonathan D. Strum announces the formation of Strum, Marx, and Krame in Washington, D.C. Jonathan is specializing in international law, though the firm will handle general civil and corporate law. Ellen Friedland and Adena Berkowitz (CSL ’85) started their own firm this past September. “We’re doing very well in a general practice and are endeavoring to handle more cases concerning women’s issues affecting the Jewish community. Randi Weingarten, formerly at Stroock & Stroock & Lavan is now chief counsel to the United Federation of Teachers, where her responsibilities include counseling the president of the UFT and monitoring state and federal legislation. She is also a legal writing instructor at CSL. Lillian Laserson is now associated with Cowan, Liebowitz, and Latman, where she is doing copyright, trademark, and entertainment work. Ms. Laserson reports that Matt Greenberg (CSL ’86) has joined the firm as a first-year associate and that she finds it “a pleasure” to work for Martin Levin, a “publishing business whiz” and a professor at CSL.

1984
Peninah Petruck is now Assistant Circuit Executive for Public Programs of the 2nd Circuit Bicentennial Project. Esther M. (Micky) Morgenstern is a law assistant to Acting Supreme Court Judge Hon. Herbert Kramer in Kings County, working in the Narcotics and Trial parts of the court. Joan C. Waks has joined the firm of Stern, Steiger, Croland, Tanenbaum & Schiehlke. Susan Halpern has joined the Department of Consumer Affairs, General Counsel’s office.

1985
Darrel Mark Seife, an associate with the firm of Siff, Newman, Rosen & Parker, is specializing in civil defense litigation.

1986
Michele Kunowitz, an associate with Jules Teitelbaum, is specializing in bankruptcy and commercial litigation. Joseph Lamport, who taught debtor-creditor relations at CSL this fall, has joined Cleary, Gottlieb, Steen, and Hamilton.

What’s News?

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I would like to participate in:
☐ Mentor Program  ☐ Mock Interviews  ☐ Speakers Bureau  ☐ Moot Court  ☐ Ambassador Program  ☐ Annual Fund

Send this to: CSLife “Alumni News”, Dean’s Office, Cardozo School of Law, 55 Fifth Avenue, New York, NY 10003
Early Entry Students Diverse

Cardozo's second January Accelerated Entry Plan (AEP) entering class once again attracted a diverse and eclectic student body. Many of these students are choosing law as a second career and include a professional violinist, a flight attendant, a television producer and script writer, a flight instructor, and a pastor. The class includes two new Jacob Burns Scholars:

**Tom Furth**, a graduate of Hunter College (BA) and St. John's University (MBA), served in the Peace Corps from 1968-69. While in Libya, he taught primary school English and classes at the Tripoli School for the Blind. Upon returning to the U.S., he worked as a computer specialist and consultant for AGS Computers, most recently as Director of the Systems Training Group. He has continued working with the blind, having developed and taught a course in entry-level programming for blind computer trainees.

**Susan Goodrad**, a graduate of Yale University, has been working in the real estate field. As Project Coordinator for Providence Capitol Realty, she worked on two major development projects, one of which involved the site of the Old Madison Square Garden. Most recently, Ms. Goodrad was Associate Director of Business Development at Haines Lundberg Waehler, an architecture and engineering firm.

Bet Tzedek Wins State Award

Cardozo Bet Tzedek Legal Services Clinic has received the Governor's Eleanor Roosevelt Community Service Award. Bet Tzedek was chosen as one of eleven winners in the state-wide competition among nearly 500 applicants. At the award ceremony in Albany, Bet Tzedek was lauded as an example of how hard work and compassion are frequently joined to improve the quality of life for the whole community. Shown here receiving the award are Toby Golick, the program's director and Tony Feldmesser, one of Bet Tzedek's current students. With the CSL contingent is Matilda Cuomo (left), who hosted the ceremony and a luncheon at the Executive Mansion and Bishop Joseph Sullivan chairman of the judging panel.

Alumni Association Awards Eight Scholarships

The Coordinating Committee of the Cardozo Alumni Association has announced its first scholarship awards — eight $1,000 grants to second- and third-year Cardozo students.

The scholarships are funded with monies raised by the Alumni Association during the two Phone-a-Thons it held in 1985 and 1986 (1987's is scheduled for April 6, 7, & 8, see box below). They are the first scholarship funds raised exclusively from alumni and awarded to students selected by an alumni committee.

The awards were made on the basis of financial need, community service, educational advancement, academic achievement and publication, handicapped student special needs, law school service and other factors leading to 'disadvantage.'

Forty-eight students applied for scholarships. The members of the Alumni Association's Scholarship Sub-Committee reviewed each application, solicited information from the law school's financial aid office, and chose the following eight awardees:

- **Paula Whitney Best** '88
- **Mollie L. Brown** '88
- **Elyse A. Gunter** '87
- **Edward King** '87
- **Margaret M. Kronenberger** '88
- **Nancy A. Miller** '87
- **Richard Romero-Ostoloza** '87
- **Albert Z. Tahn** '88

The Association is hoping to significantly increase the pool of funds available for Alumni Scholarships through this year's Phone-a-Thon.

Phon-a-Thon

The CSL Annual Alumni Scholarship Phone-a-Thon will be held this year at the law school on April 6th, 7th, and 8th. Alumni are encouraged to participate on the phone, and with their contributions. Please call Nancy Kramer, (212) 790-0310, for further information.

In Memorium

Uriel Bauer, a 1986 magna cum laude graduate of CSL, was killed, along with his wife Caroline, in January's Amtrak crash. "Uri was a very special young man," says Dean Price. "His intelligence, his compassion, his great enthusiasm for life were apparent in everything he did." Bauer, who was articles editor of Cardozo's Law Review, had been working at the law firm of Sherman and Sterling since September. Caroline was an administrative assistant to New York State Senator Roy Goodman.

Harry and Lore Bauer have established an endowment fund at Cardozo in honor of the memory of their son and daughter-in-law. Those wishing to add to the fund may do so by contacting Dean Price.
Faculty Notes

Professor David Carlson just published “Rationality, Accident, and Priority Under Articles of the UCC,” 71 Minnesota Law Review 207 (1986). Another article, in which Carlson whimsically traces the law and economics movement to biblical sources, is called Re-forming the Efficiency Criterion: Comments on Some Recent Suggestions, 8 Cardozo Law Review 39, 1986. A very extensive book review, critical of the law and Economics Review, is appearing in 85 Michigan Law Review (1987.) Professor Carlson continues his tireless activities as faculty advisor to the Cardozo Law Review and has been enormously important in intensifying its intellectual rigor and breadth.

Last summer, Professor Carlson took the unusual step of becoming a student in one of our law school courses, part of the joint Institute on Law and the Critical Tradition offered in conjunction with the Graduate Faculty of the New School, with Professor Drucilla Cornell who was visiting from the University of Pennsylvania.

In the next few months, Carlson is putting together a new course of micro-economics — “we ought to have a course in law and economics and I’d love to have Law Review students take it so they can bring some new perspective to their editing responsibilities.”

Professor William Bratton is taking a sabbatical year to write and think. “I expect to finish a large project on the theory of the firm and start a new project on corporate debt relationships,” he says. “I’m teaching copyright this year for the first time and am enjoying it and expect to write in that area as well.” Bratton will be around New York during most of his year off, taking occasional trips on his motorcycle.

Professor Katherine van Wezel Stone has just published an article entitled “Re-envisioning Labor Law” in the Maryland Law Review. Last summer, Professor Stone, together with Professors Arthur Jacobson, Stephen Diamond, and Charles Yablon, participated in an international conference bringing together more than 35 leading scholars on issues involving sociological perspective in law and jurisprudence.

This summer, Professor Stone will be giving a paper at the Law and Society meetings in Washington. This fall, she gave a talk on labor law and minorities at the Critical Legal Studies Conference in Los Angeles. Professor Stone has been very active in fostering relations with the Graduate Faculty at the New School and serves with Professor Jacobson on the faculty’s coordinating committee.

Prof. David Rudenstine presented “The Pentagon Papers: Rethinking the Government’s Case” at the First Amendment Conference (see story, page 3.)

Dean Monroe Price has been appointed to the Mayor’s Tax Study Commission, which is charged with thinking about the structure of taxation and revenue in New York City. He has also been appointed a member of the Administrative Conference of the United States and the Second Century Committee of the Association of the Bar of the City of New York. As part of that Association’s Centennial Lecture Series, Dean Price will be commenting, together with Floyd Abrams, on a talk on the First Amendment and Technology by Yale University President Benno Schmidt.

Professor Richard Weisberg’s “When Lawyers Write: A Practitioner’s Primer on Legal Writing” will be published this Spring by Little, Brown & Co.


Professor Edward deGrazia has been selected for membership in PEN, the writers’ organization.
"We devote a great deal of one-on-one personal assistance to Cardozo students," says Lynn Wishart, Director of the Chutick Law Library, "we are in every sense teachers outside of the classroom."

Cardozo's library is everything a law library should be — steeped in tradition with an ever-twinkling eye focused on the future and the innovative verve which reflects its youth.

Housed on three floors, the library's holdings total nearly a quarter of a million volumes of books, periodicals, microforms, and audio and visual cassettes. Included are, of course, the essential U.S. federal and state primary materials; annotated codes and statutes; the complete National Reporter System; federal and New York administrative decisions, opinions, and regulations; and records and briefs filed with the United States Court of Appeals for the Second Circuit, and the New York Court of Appeals. Because the library is a selective federal depository of the U.S. government, copies of Congressional publications and executive agency reports and documents are received automatically. Extensive collections of supporting materials, such as citators, digests, encyclopedias, treatises, and periodicals are also available. "All of our catalogued holdings," says Lynn Wishart, "are on the OCLC computer system."

Computer technology is revolutionizing the modern law library, and CSL is in the vanguard. "We create a Computer Learning Center each January," according to Lynn, "where we bring in computer terminals and provide hands-on training in LEXIS to all first-year students. In September, we provide a similar hands-on experience in WESTLAW for any 2L or 3L students who want it." The library uses three other computerized bibliographic and full-text systems, DIALOG, NEXIS, and OCLC, to respond to the information needs of the students and faculty.

The library's staff has found innovative ways of using its video recording equipment — today video recording of students and critique of their performance enhances all of CSL's clinical programs, including family law negotiating, the Moot Court practice rounds, the Intensive Trial Advocacy Program, and others.

A Special Jewish Component

As part of Yeshiva University, Cardozo School of Law prides itself on weaving a rich Jewish legal heritage into its curriculum. The Chutick Law Library boasts an expanding Louis and Ida Shlansky Family Foundation Library of Jewish and Israeli law, currently containing more than 3,000 volumes — basic texts and selected commentaries on Halakhah: Turkish, Islamic, and English Common Law materials that have directly influenced Israeli law; and Israeli primary and secondary legal materials. "Our Shlansky collection continues to grow," says Lynn. "We're building something very special here at Cardozo."

The Future

What does the future hold? "We hope to have personal computers available for our students," beams Lynn, "and are hoping to create a 'technology' endowment for our library — an endowment which will provide a number of larger computers (356K) as well as funding for printers and supplies to keep our library's computers humming."

Outside Our Walls

A part of the charm and challenge of studying at Cardozo is its environs — Greenwich Village, the East Village and Soho, and the resurgent Union Square area.

"Cardozo's environment," says Dean Monroe Price, "is part of what makes the law school great. On Wednesday, May 6th, we are sponsoring a conference — Union Square: A Case Study in Community Change" — celebrating the work of city agencies, the community, and developers in altering materially the Union Square area."

The conference will take place in the shell inside the Park and one of the presenters will be Parks Commissioner Henry Stern. The focus will combine law, history, and urban planning.

For information, contact the Dean's office at CSL.