

Wake
Forest

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Jurist

The Magazine of Wake Forest University School of Law



Larceny of love

The law and alienation of affections

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Dean's Column

A COUPLE OF YEARS AGO, our law school community, including the faculty, the Law Alumni Council, and Law Board of Visitors, drafted a mission statement for the Wake Forest University School of Law. Since that time, this column has featured particular portions of our mission statement. One aspect of the mission not singled out before states:

"We believe that the faculty must be committed to teaching and to legal scholarship. We regard these functions as synergistic aspects of a single vocation. Excellent teaching is central to the educational process; legal scholarship informs that process and contributes to the improvement of the law."

In its mission statement, Wake Forest University subscribes to "the teacher-scholar ideal." The Wake Forest law faculty certainly shares in this ideal. In the last several years, law faculty scholarship has exploded, while the faculty continues its high focus on classroom teaching and personal interaction with its students.

Periodically, the Chicago-Kent Law Review does an article on law faculty scholarship, ranking law school faculties by citation frequency and output. The most recent such issue ranked our law faculty well within the top quarter of all faculties of ABA-accredited law schools in articles and pages published per faculty member in the ten leading law reviews of the nation, in the twenty leading law reviews of the nation, and in all law reviews.

This ranking takes into account only law review articles. Our ranking would be far higher if writing books was also included. In the last few years, our faculty has published nationally distributed books in the areas of commer-



**'The members of
our law faculty
have become
teachers of law
teachers.'**

cial law, constitutional law, health law, income taxation, corporate law, land use regulation, criminal procedure, and library science. In addition, faculty members have published books on the North Carolina law of torts, family law, and trial advocacy.

These scholarly achievements have been achieved without taking away from the importance of teaching at Wake Forest. We do pervasive student teacher evaluations in every course each semester. Student evaluations of our faculty's teaching remain extremely high. Moreover, in a national survey done by the Princeton Review, our law faculty ranked well within the top 15 percent of law schools surveyed in student satisfaction with their classroom experiences.

A telling symbol of the synergistic relationship between teaching and scholarship is the high percentage of our faculty who are authors or coauthors of national casebooks. In the last semester alone, our faculty has published three new casebooks and received a contract for a fourth. These casebooks now often come with an online version and an extensive teacher's manual. As authors of these national casebooks, the members of our law faculty have become teachers of law teachers.

Professor Tom Steele, director of our library, has said, "We are very close to the proper balance. We really are striving for, and I think have done an effective job of accomplishing, the goals of Wake Forest and in reaching for that teacher-scholar ideal." I agree. ■

Robert K. Walsh
DEAN

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Crimes (and Torts) of the Heart

by Suzanne Reynolds

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Good practice?

Researchers weigh merits of mediation in malpractice cases

ANYONE WHO'S EVER BEEN to the doctor or who is a doctor or who knows one — and anyone who's ever seen "ER" or one of the legal shows on TV — knows something about medical malpractice. You know it's something you don't want to happen to you, no matter which side of the exam table you're on. And you know that for people to whom it does happen, it's a long, expensive, emotional road.

Two Wake Forest faculty members are on the last leg of a three-year project to find out whether that painful process could be helped by mediation instead of litigation. Ralph Peeples, associate dean for academic affairs at the School of Law, and Catherine Harris, professor of sociology, are asking a question no one has ever had an evidence-based answer for: Can mediation improve the process in these expensive cases that drain the court system, taxpayers' money and the lives of the parties involved? Their preliminary answer: Sort of.

In their first paper on the project, to be published in the journal *Law and Contemporary Problems*, they report that mediation

was successful in just over 44 percent of the cases studied. Why focus on a process that works in less than half of cases? There are a couple of reasons, Peeples says. One, because mediation is perceived to be useful, especially by attorneys. About 73 percent of the 72 attorneys surveyed in the study said all malpractice cases should routinely be referred to mediation. Two, because nothing else is working.

"Everybody's dissatisfied with the way medical malpractice is handled," Peeples said. "Trying these cases is very expensive, and usually they take two to three years to resolve. There's got to be a better way."

Medical malpractice cases are high-stakes cases in which the patient feels betrayed and the doctor feels angry that his or her integrity and skill is being questioned, Peeples said. Both sides worry about what the jury will do. Most juries find for the doctor—patients win only about 20 percent of the time—but when they do find for the patient, there are no legal standards that limit how much money they can award. With so much at stake, it's easy to see why attorneys welcome alternatives to jury trials.

Mediation involves a neutral third party who helps in the settlement discussions. In 1991, North Carolina became one of the first states to adopt court-ordered mediation for civil cases involving claims of \$10,000 or more. Based on initial anecdotal reports of

success in the pilot phase that provided the cases for this study, all judicial districts began using the program in 1996. "At its best, mediation can offer a new understanding between doctor and patient," Peeples said. "Attorneys seem to think mediation results in a better resolution. Both sides get to speak their minds and possibly reach a resolution in a less hostile environment. These trials tend to be nasty."

Besides being nasty, it's tremendously expensive for both sides. Expert

witnesses cost several thousand dollars per day, and the longer the trial drags on, the more money taxpayers lose to court overhead. "If you can help resolve these cases to both parties' satisfaction, it frees time for cases that must be tried," Peeples said.

Harris lent a perspective much different from a lawyer's, Peeples said. "We wanted to see if there were patterns followed in the mediations, if there was any sort of script. We wanted to see who spoke and what techniques seemed to work," he said. "Catherine noticed things like the fact that the lawyers did most of the talking even though mediation is supposed to allow the parties to speak. I never would have seen

Besides being nasty, it's tremendously expensive for both sides.

that because I'm used to lawyers talking all the time."

Harris said she observed recurring patterns in the mediations and could even identify rituals taking place that could be tied back to sociological literature. "There are certain ways that people demonstrate they have the upper hand, and I could see that happening," she said. "I found these cases fascinating."

The depth of the research is important, Harris said, because finding out not only if mediation works but also how could have tremendous policy implications for health-care delivery. "Right now the health-care system doesn't have a good answer for the management of malpractice," she said. "Information like this could impact the future of the entire system."

The insight from this study could help everyone, Peeples said. "It helps attorneys give better advice, it helps mediators know what to do, it helps the court determine when mediation works, it helps the insurance company determine when to push for mediation. For the doctor, it's a private resolution instead of a public trial. For the plaintiff, it's a chance to be heard." ■



CATHERINE HARRIS AND RALPH PEEPLES: 'THERE'S GOT TO BE A BETTER WAY.'

Competition renamed

THE 1L MOOT COURT Competition was renamed the George K. Walker Moot Court Competition this spring in honor of the law school professor who began Wake Forest's Moot Court program fifteen years ago. Walker is currently the coach of the Jessup International Law Moot Court Team.

Two employment law problems were argued in the first annual George K. Walker Moot Court Competition in April. Joshua Taylor and Tiffany Bennett tied to win the first problem, judged by Sidney S. Eagles Jr., Clarence E. Horton Jr., and Ralph A. Walker from the North Carolina Court of Appeals. In the second problem, Gregory Higgins defeated Laura Gendy. The judges were Joseph R. John, Sr. and James A. Wynn, Jr. of the North Carolina Court of Appeals and Henry E. Frye of the North Carolina Supreme Court.



Dean Walsh, left, and Professor of Law David Shores are among the business law symposium audience.

Business law symposium

THE WAKE FOREST Law Review 1998 Business Law Symposium was held at the Graylyn Conference Center in April. This year's symposium was entitled "Entering a New Era in Telecommunications Law." Speakers included Jeffery S. Lanning, Special Counsel to the Federal Communications Commission; Jim Chen, associate professor

of law at the University of Minnesota; and Wade H. Hargrove, a partner of Brooks, Pierce McLendon, Humphrey & Leonard. The moderator was Professor Ronald F. Wright.

Trial team takes first

THE ATLA TRIAL TEAM placed first at the regional competition in Florida this spring and advanced to the national competition in Washington, D.C. Members of the ATLA trial team were Leslie Long, Steve Main, Tom Schuetpeltz, Dee Dee Paragus, Patti West, Gary Edwards, and Ed Morton.

Hooding speaker

CHIEF JUDGE Frank W. Bullock, Jr. was the speaker at the Hooding Ceremony in May. Bullock, Chief Judge of the United States District Court for the Middle District of North Carolina, is a graduate of Duke University and the University of North Carolina at Chapel Hill School of Law. He was appointed to the federal bench by President Ronald Reagan in 1982.

Constitutional law lecture

NEW YORK UNIVERSITY School of Law Research Scholar Roger K. Newman presented the Constitutional Law Lecture in February. Newman, who is the author of *Hugh Black: A Biography*, spoke on the topic "Should a Judge Carry his Crosskey in a Saddlebag? Chapters in the Modern History of Original Intent."

Law Review lecture

LAW SCHOOL Professor Rhoda Billings and John Medlin, the Chairman Emeritus, Board of Directors of Wachovia Corporation, delivered the Law Review lecture on "The Future of the Courts in North Carolina" in February.

Zeliff Trial Competition

RUSS BRINSON defeated Tommy Simpson to win the Zeliff Trial Competition in April. The final round, which was attended by the Zeliff family, was decided by Judge William Osteen of the Middle District of North Carolina.

Chinese delegation visits

DEAN ROBERT WALSH and the law school faculty hosted a group of educators and government officials from China in March. The Chinese, who attended a luncheon and a series of faculty presentations, were studying the American law school accreditation process.

Advocacy clinic

WAKE FOREST law school hosted the North Carolina Academy of Trial Lawyers' Trial Advocacy Clinic in March. This four-day program included both lectures and workshops aimed at polishing the advocacy skills of practicing trial attorneys.

Free-speech lecture

PROFESSOR OF LAW David Rabban of the University of Texas in Austin presented a lecture on "Free Speech in American History" in March. Rabban is the author of the book *Free Speech in Its Forgotten Years*.

Elementary school day

THE PUBLIC INTEREST Law Organization (PILO) held their third annual Elementary School Law Day in April. Members of the Wake Forest law school community went into elementary school classrooms in the Winston-Salem area to present a brief skit and mock trial on the theme of *The State of Nottingham v. Robin Hood, Prince of Thieves*.

Faculty Notes

Carol Anderson has completed a supplement and update to *North Carolina Trial Practice*, published by the Michie Company. She is also serving as the Chair of the Academic Liaison Committee of the Association of Trial Lawyers of America.

Don Castleman is serving this year as the President of the Southeastern Association of American Law Schools.

Michael Curtis presented a paper at a symposium sponsored by George Washington University on "Textualism and the Constitution" in February and contributed a chapter to *Slavery and Law*, published by Madison House.

Mark Hall taught Health Law as a visiting professor at the University of Pennsylvania Law School this spring. The new edition of his casebook, *Health Care Law and Ethics*, was published by Aspen Law and Business.

David Logan gave a talk on newsgathering techniques at the University of Kansas School of Law in April.

Kate Mewhinney co-authored an article entitled "Variables Predicting the Completion of an Advance Directive by Older Adults" in the March 1998 issue of *Annals of Long-Term Care*.

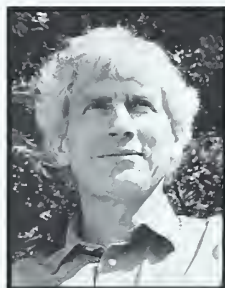
Joel Newman's new casebook, *Federal Income Taxation: Cases, Problems & Materials*, has been published by West Publishing Company.

Alan Palmiter's new book, *Securities Regulation: Examples & Explanations*, has been published by Aspen Law & Business. Professor Palmiter has recently returned from a semester as a visiting professor at the University of Michigan Law School, where he taught corporate finance.

Debbie Parker has been elected to the Board of Directors of the Legal Writing Institute, the National Organization of Legal Writing Professionals.

Wilson Parker's article, "Must Constitutional Rights Be Specified?" was recently published in Volume XXXII of *The Irish Jurist*.

Michael Perry delivered the 15th Annual Church/State Lecture at DePaul University in April. He has published a new book, *The Idea of Human Rights: Four Inquiries* (Oxford, 1998). His article, "Are Human Rights Universal?" recently appeared in *Human Rights Quarterly*.



Tom Roberts' book on land use regulation, *Land Use Planning and Control Law*, will be published by West Publishing Company this summer.

Simone Rose presented a paper entitled "Resolving Ethical Conflicts in Patent Prosecution" at the 1998 annual meeting of the ABA's Intellectual Property Section, Young Lawyers' Division. Professor Rose was also a panelist at the annual meeting of the North Carolina Bar Association's Intellectual Property Section.

Dick Schneider presented a paper on Edgar Allan Poe and Legal Interpretation at the 1998 meeting of the Working Group on Law, Culture & the Humanities held in Washington, D.C. in March.

David Shores contributed a chapter entitled "Tax Aspects of Real Estate and Real Estate Sales" to *Powell on Real Property*. He also published "Section 304 and the Limits of Statutory Law" in Volume 16 of the *Virginia Tax Review*.

Thomas Steele spoke on "Funding Technology for Law Schools" at the 1998 Annual Meeting of the Association of American Law Schools in San Francisco and on "Mandatory PC Ownership" at the AALL meeting in Baltimore. He also wrote an article in the *Stetson Law Review* on "Howard Oleck as an Adviser" and coordinated the funding for technology at the meeting of the Association of American Law School Deans.

The Moot Court Board has named its first year moot court competition after Professor **George Walker**, in recognition of his twenty-five years of service to moot court activities at Wake Forest. Professor Walker also was the first faculty member elected to the law school's new Order of the Coif Chapter at its inaugural meeting this spring.

Robert Walsh is currently serving as the Chairperson of the Annual Meeting Program Committee of the ABA's Section of Legal Education. He is also a member of the Budget and Long Range Planning Committees of the Section.



Ron Wright's new casebook, *Criminal Procedures: Cases, Statutes and Executive Materials*, has been published by Aspen Law and Business. Professor Wright received the Jurist Excellence in

Teaching Award for 1997-98. In addition to giving faculty presentations at UNC, Duke, and Minnesota on state criminal procedure, Professor Wright published "Managing Prison Growth in North Carolina Through Structured Sentencing" for the National Institute of Justice. ■

A stronger team

Sports law specialist joins faculty

TIMOTHY DAVIS, a well-respected scholar and teacher in the areas of sports law and contracts, will join the Wake Forest law faculty this fall.

Davis, who comes to the School of Law from Southern Methodist University, received his undergraduate degree in politics from Stanford University and his J.D. from the Boalt Hall School of Law at the University of California at Berkeley. Following his graduation from law school in 1979, he spent a year working as a law clerk at the United States District Court of Colorado.

In 1980, Davis entered private practice in Denver, Colorado. He spent nine years working in the areas of bankruptcy, antitrust, construction law, and commercial and products litigation for Holland & Hart, Manville Corporation, and Holt & Gebow. He left his position as a partner in the firm of Holt & Gebow to join the faculty of Southern Methodist University in Dallas, Texas, as an assistant professor in 1989. In 1994, he became a tenured member of the SMU faculty, and in 1997, he was promoted to full professor.

A noted author, Davis has published more than fifteen law review articles and papers, including "Student-Athlete Violence Against Women: Defining the Limits of Institutional Responsibility" (*Washington and Lee Law Review*, 1998); "Balancing Freedom of Contract and Competing Values in Sports" (*South Texas Law Review*, 1997), and "College Athletics: Testing the Boundaries of Contract and Tort" (*UC Davis Law Review*, 1996).

Davis is also an active lecturer. In addition to spending a semester as a visiting assistant professor of law at the University of Colorado in 1991, he has made frequent appearances at continuing legal education presentations and panel discussions. His recent panel appearances include "Proposition 62 and Student-Athlete Compensation" at the Association of American Law Schools Annual Meeting in January 1998 and "Sports Law as a Reflection of Society's Laws and Values" at the



TIMOTHY DAVIS EARNED TOP GRADES AS A TEACHER AT SMU.

His recent presentations included student-athlete compensation and sports law as a reflection of society's laws and values.

South Texas University College of Law in February 1997.

Davis brings to Wake Forest a strong commitment to classroom teaching and community service. He was awarded the SMU Alumni Association's Distinguished Service Award in 1997, the SMU Golden Mustang Award for excellence in teaching and curriculum development in 1994, and the SMU Don Smart Award for Directed Research in 1991. He was also named the Law School's Teacher of the Year in 1996.

Dean Robert Walsh said that Davis brings with him a reputation for excellence. "Everyone we talked to at SMU, including the academic associate dean of the law school and the president of the university, said what an outstanding faculty member Tim was at SMU."

Additionally, Davis volunteers in the local school system and participates in mentoring programs sponsored by

the local bar association and SMU. Davis and his wife, Ida, who provides academic support services at SMU, have a two-year old daughter, Adia.

Davis' research interests are currently focused on the legal and social aspects of professional and collegiate athletics. He has co-authored two books on this subject, *An Anthology of Sport and the Law*, which will be published this August, and *Perspectives on Race in the Law: A Multicultural Approach*, which is forthcoming in August 1999.

Dean Robert Walsh believes that Davis will make an excellent addition to Wake Forest. "We are very excited about having Tim Davis join our law school faculty," he said. "In the Wake Forest tradition of strong classroom teaching, Tim won the Teacher of the Year Award voted by law students at SMU. He is also a renowned scholar in sports law. We are certainly fortunate to have Tim join our community."

Davis says he is looking forward to coming to Wake Forest. "I was impressed by several [of its] attributes, including the quality of the faculty, the warmth that the faculty exhibited to me and my family, the high caliber of the student body, and the sense of community that seems to exist at Wake Forest and in Winston-Salem," he remarked.

Davis will teach contracts, sales, and sports law during the upcoming academic year. In the future, he may also offer courses in remedies and construction law. ■



MARIA BRUNON

Crimes [and Torts] of the Heart

A controversial case in North Carolina generates impassioned debate over how far the law should go toward protecting marriages.

BY SUZANNE REYNOLDS

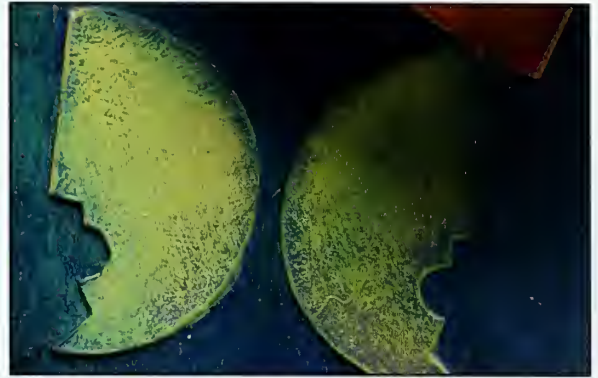
In the late summer of 1997,

there was relatively little competition for news of love and lust. We had not yet heard of Monica or Kathleen or Miss Arkansas. In that lull between stories about more prominent figures, a story broke about a broken heart in Gibsonville, North Carolina, and a jury that awarded one million dollars to help heal it.

The broken heart belonged to Dorothy Hutelmyer, who claimed that Margie Cox stole the affections of Dorothy's husband, Joe. Dorothy's lawyer, Wake Forest alumnus James Walker of Graham, North Carolina, filed the suit and alleged that Margie had committed the torts of alienation of affections and criminal conversation, legal claims that belong only to married people and are almost extinct outside North Carolina. This article addresses the response to the Hutelmyer case, describes the elements of these tort actions and their treatment in other states, and concludes with some observations about the role of the law in protecting the family.

The reaction to the Hutelmyer verdict

The wire services picked up the jury verdict in a North Carolina hamlet, and the news/talk shows had a field day. Before the hype died down, the story had aired on the Today Show, Dateline NBC, ABC OnAir, Rivera Live, CNN Crossfire, and others.



Commentators lined up to praise or ridicule the verdict. Hugh Downs, Barbara Walters, and Geraldo Rivera debated the case along with political commentators Pat Buchanan, Geraldine Ferraro, and ACLU President Nadine Strossen.

While the media publicized the case, the story stayed alive because of the intense reactions it generated. Many divorce survivors, convinced that “the other woman” or “the other man” had destroyed their marriages, hailed the verdict and wondered whether they could have pursued similar claims when their own marriages disintegrated. A number of mental health professionals, on the other hand, ridiculed the verdict as an example of how the law tries to pinpoint cause and effect in marriage breakdown when the problems are much too complex for single answers. Feminists took different positions. Some cheered the verdict, reasoning that because men leave women for the other woman more often than women leave men, the torts give women some much-needed financial leverage at divorce. Other feminists, however, bemoaned the verdict, concluding that the law should view the married couple as two independent people and that putting a price tag on a spouse’s affections conflicted with the partnership ideal of marriage.

Between the lines of the commentary and the debates on the talk shows,

one message reverberated: mainstream America cherishes the institution of marriage and wants the law to protect it. Sociologists have been documenting this sentiment for decades, insisting that divorce rates do not reflect a societal disregard for marriage. To the contrary, the studies suggest that contemporary society places such a high value on marriage that being in the right marriage is more important than ever. The studies have also helped coin the phrase “companionate marriage” to reflect that we depend on our spouses not for financial stability, as we once did, but for emotional stability. Sociologists also document that many of us feel tossed about by lives we seldom have under control and that we count on our marriages as our one sure port in the storm. Certainly, politicians are wise to these findings. Indeed, if campaign rhetoric is a valid indicator of anything, it suggests that the key to winning elections lies in convincing the public that the party seeking the vote is the one most dedicated to protecting the family.

Against this backdrop, the interest in a broken heart in Graham, North Carolina, begins to make some sense. If the sociological data is correct, we value our marriages and believe that the law should help protect them. Do alienation of affections and criminal conversation protect the marriage?

Elements of the torts

Dorothy Hutelmyer pursued Margie Cox for both torts—alienation of affections and criminal conversation. Her case for the second, criminal conversation, required only that she prove that she and Joe were still married when Margie Cox had sexual intercourse with him. As my colleague, Wake Forest professor Buddy Herring, is fond of explaining to his family law class, criminal conversation is a misleading phrase because it does not refer to a crime and it certainly does not refer to a conversation. Rather, criminal conversation is a kind of strict liability tort imposing civil responsibility when a plaintiff/spouse proves that the defendant/third party had sexual intercourse with the plaintiff’s spouse. The plaintiff has established this civil action for adultery even if the act occurred after the spouses were separated and even if the defendant was unaware that the partner was married. The plaintiff need not establish that the defendant had any malice toward the plaintiff nor that the adultery had any effect on the marriage. Even if the plaintiff’s spouse lured the defendant into the act, the plaintiff can make out the elements. The plaintiff’s marriage may have been over in every way except by entry of a divorce judgment, but if the act occurred before divorce, the plaintiff has established the

[Do alienation of affections and criminal conversation protect the marriage?]

elements. (As family law lawyers will tell you, though, these "even if's" are most relevant to damages and may make the action not worth the plaintiff's time nor attorneys' fees.)

Dorothy's case for the other tort, alienation of affections, was more complicated. For that tort, she had to establish (1) that there was a marriage with love and affection; (2) that the love and affection was alienated and destroyed; and (3) that Margie Cox, with malice, caused the loss of love and affection. Dorothy probably had no difficulty establishing the second element. As is often the case, Dorothy relied on the separation and divorce to prove that Joe's love and affection was alienated and destroyed.

The first element, that there was a marriage with love and affection, usually does raise factual issues for the jury to resolve, however. Dorothy's evidence portrayed a storybook marriage while Margie's evidence chronicled some trouble in paradise. Indeed, the plaintiff in an action for alienation of affections has not made out the tort if the defendant's evidence establishes that the marriage was loveless when the defendant appeared. The law does not require proof of an untroubled marriage, however, and the plaintiff can satisfy this element even though there is some evidence of marital discord. So the jury could have believed some or all of Margie's evidence of problems

between the Hutelmeyers and still have concluded, as they did, that Dorothy had satisfied her burden of proof.

The third element often raises the most issues—and the most ire from the detractors of the tort of alienation of affections. To prove that the defendant maliciously caused the loss of love and affection, the plaintiff need establish only that the defendant/third party intentionally engaged in conduct that had as a probable consequence the loss of affection for the spouse. The plaintiff need not establish, however, that the defendant intentionally destroyed the marriage: only that the defendant intentionally engaged in conduct that would probably affect the marital relationship. Dorothy did not have to prove, for example, that Margie felt spite towards her or even that Margie initiated the relationship with Joe. If Margie made occasions for the relationship to develop, the jury could find the requisite malice. As long as the jury also found that Margie's conduct was one of the causes of the alienation, Dorothy could satisfy her burden of proof even though there might have been other contributing factors and, indeed, even though the marriage would have ended without Margie.

Treatment in other states

The Hutelmyer case is hardly an isolated phenomenon in North Carolina. In fact, the million dollar verdict was the second that year. In January, 1997, a Forsyth County jury in North Carolina had awarded \$1.2 million to Lynn Falls and against Sheila Noah in the aftermath of the breakup of the Falls' seventeen-year marriage. And six weeks after the Hutelmyer verdict, a Wake County jury awarded \$243,000 to Jacques Moryoussef against David Nickerson for the affair Nickerson had with Moryoussef's wife, Wendy Moryoussef, and the breakup of the Moryoussefs' thirteen-year marriage. And 1997 was not an unusual year in North Carolina. Family lawyers across the state attest that when there is a paramour, discussions of alienation of affections actions are a routine part of settlement negotiations, so much so that a release of third-party actions has become boiler plate on the word processors of North Carolina lawyers who draft separation agreements.

Outside North Carolina, however, the actions are rare. According to recent graduate Jennifer McDougal, writing in the most recent *Wake Forest Law Review*, only Alaska, Hawaii, Illinois, New Mexico, and North Carolina continue to recognize both alienation of affections and criminal conversation. Forty-one states and the District of Columbia

[History offers few examples of laws that have successfully insulated the intact marriage.]

have abolished actions for alienation of affections; thirty-nine states and the District of Columbia have abolished actions for criminal conversation. Moreover, in the states that have retained one or both actions, the courts or legislatures have severely restricted them by limits on damage awards, short statutes of limitations, or high burdens of proof and evidentiary standards. Neither the appellate courts nor the General Assembly has imposed any such limits in North Carolina.

Outside North Carolina, the move to restrict the torts began in the thirties when legislatures concluded that the threat of blackmail loomed far more serious than the threat of "the other woman" or "the other man." In fact, the trend was part of a larger movement to curtail not only these actions, but other actions as well—like actions for breach of promise to marry and for seduction. These "heartbalm actions," as Professor Robert E. Lee was fond of saying, provided dollars as a salve to rub on the broken heart of the plaintiff. As colorful as the actions were, legislatures found their potential for abuse greater than their prophylactic effect and limited them or abolished them altogether. As the movement to restrict the actions grew, legislatures cited additional reasons for curtailing them, like runaway damage awards for hurt feelings and loss of a good financial match, outdated notions of marriage

that recognized property rights in the affections of one's spouse, and debunked theories of the role of fault in marital dissolution. More recently, courts and legislatures have based decisions to restrict alienation suits, in particular, on the harmful effect of these trials on children of the marriage.

The law's role in protecting the family

While most states appear firmly opposed to allowing actions for alienation of affections and criminal conversation, at the same time, concerned citizens have turned to the law for ways to save the family. For example, in a number of states, legislatures have been deliberating about longer waiting periods for divorce. A number of states are toying with the idea of re-introducing fault into no-fault divorce. The boldest experiment is underway in Louisiana, which issues to willing couples an alternative marriage license for a "covenant marriage." By electing this form of marriage, the parties lose the right to divorce by the state's standard grounds and agree that their covenant marriage can be dissolved only by satisfying more rigorous divorce requirements. In the same vein, a number of states have added factors relating to marital misconduct to their factors for awarding alimony, making

not only post-divorce need relevant to the award but also adultery, abandonment, and mental cruelty. These proposals reflect various attempts to save the family by deterring certain conduct. In the face of these efforts, has North Carolina waited so long to abolish alienation of affections and criminal conversation that it finds itself a state ahead of its time?

Laudable as the goal of protecting the family is, history offers few examples of laws that have successfully insulated the intact marriage without unfortunate, unintended consequences. The English experience with forbidding divorce maintained marriages but often at the expense of the emotional and physical health of spouses and children trapped in loveless unions. The American experience of divorce granted only for fault led to widespread perjury by parties and their lawyers and generated even more widespread disrespect for the law from people whose only experience with the judicial system was the charade played out in divorce court. Even when one or both parties were guilty of marital misconduct, the allegations and counter-charges that characterized actions for divorce often crippled the already damaged relationships and made later contacts between the parties, necessary because of children, painful if not dangerous. Also, many observers attribute decades of inattention to the problems of domestic

violence in part to the marital rape exemption and its message that the law furthered the best interests of the marriage by not intervening, even to punish criminal conduct.

Many believe that the law best protects the family not by regulating the intact marriage, but by recognizing that marriage involves two independent people. The evolution of family law reflects this view by abolishing the marital rape exemption, lifting evidentiary restrictions on spousal testimony, eliminating interspousal tort immunity, and allowing more spousal freedom of contract. In this light, the actions for alienation of affections and criminal conversation are out of step, premised as they are on property rights in the affections of the other spouse and making irrelevant the decision of the wayward spouse to participate in the extramarital relationship. Equally as important, mental health professionals and sociologists insist that marriages rarely end because a third party has intervened. Rather, for a variety of complex, inextricable reasons, marriages most often end as spouses grow apart and the marriage withers away. The research indicates that marriages seldom end with a bang upon the appearance of the other man or woman.



For that rare case when the malice of the third person causes the breakup of the healthy marriage, other torts may be available. In some states, the tort of intentional infliction of emotional distress, with its more rigorous burdens of intent and proximate cause, may redress this wrong. In their current form, the torts of alienation of affections and criminal conversation dispense with the need to prove that the third party intended to cause the marriage to end. Without this burden, the torts are more useful to extract unreasonable settlements than they are to deter conduct that the research indicates is only tangentially related to why a marriage has ended. For marriages that would have ended anyway, these torts may inflame the divorce proceeding unnecessarily and require compensation from defendants who may not have committed either crimes or torts of the heart. ■

Professor Suzanne Reynolds (JD '77) has been a member of the School of Law faculty since 1981 and teaches family law, contracts, and professional responsibility. A speaker to various governmental and private groups on law reform, she served on the drafting committee that rewrote North Carolina's laws of adoption and alimony in 1995. She is the author of Lee's North Carolina Family Law, 5th ed., and numerous articles on equitable distribution, and helped organize the Domestic Violence Advocacy Center which provides legal services to indigent victims of domestic violence in northwest North Carolina. Among her numerous awards and honors are the Governor's Distinguished Woman of North Carolina award in education for 1998; the Gwyneth B. Davis Award for Public Service from the North Carolina Women's Attorneys in 1996; and the Joseph Branch Excellence in Teaching Award from the law school in 1994.



THE EMINENT SCHOLAR AND RESEARCHER

E. O. Wilson's most recent book, *Consilience: The Unity of Knowledge*, addresses the nagging doubt that we are now so inundated with information that knowledge, at least the big-picture knowledge envisioned by Enlightenment thinkers, is impossible. "Every college student," Wilson writes, "should be able to answer this question: What is the relation between science and the humanities, and how is it important for human welfare?"

Wilson does not specify a role for law schools in the quest "to renew the crumbling structure of the liberal arts" and to build a fundamental unity of knowledge, but his question evokes a perspective on why law schools draw adherents from such a broad array of disciplines, including the liberal arts. The law, certainly as much if not more than most disciplines, requires a willingness and capacity to explore, understand, and apply basic principles to ideas and problems in a way that yields a unified picture, or "a common groundwork of explanation," as Wilson puts it.

Wake Forest School of Law Dean Robert K. Walsh knows that it is from the "best tradition of the liberal arts" that the training of lawyers emerges. Without jeopardizing the foundation that has defined the school over the years, Walsh has encouraged a natural unfolding of the school's mission statement, which states in part that teachers "... encourage students to consider the social and economic

arena of health care has made him a much sought-after expert on a topic that continues to wrench the nation's conscience: Is health care a fundamental right or a commodity subject to ordinary marketplace principles? And Mewhinney stands at the crest of one of the great social, political, and economic transformations in the country's history—the emergence of the Baby Boomer generation into retirement and old age.

THE RIGHTS THING COMES NATURALLY

Perry, University Distinguished Chair in Law, is a self-confessed "child of the sixties." The free speech, civil rights, and anti-war movements—all framed by an environment of family-based debate and the formative years of college—convinced Perry that "one of the most interesting things a person could do was to think about and work on issues involving human rights."

In 1968 law school seemed to Perry a means to find a "... good practical way to make a difference in society" as a legal activist. But gradually the power of the ideas and issues took hold and soon after completing his studies at Columbia University, Perry thought that perhaps he could find the greater freedom in teaching law than practicing law.

"The most controversial, divisive political issues in our society—civil rights, affirmative action, discrimination based on sex, homosexuality, abortion—have a way of

THE LAW REQUIRES A WILLINGNESS AND CAPACITY TO EXPLORE, UNDERSTAND,
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settings in which legal principles and rules operate..." that is, to look at the big picture.

Three Wake Forest law professors—Michael Perry, Mark Hall, and Kate Mewhinney—are among those involved in work that connects them to some of the pre-eminent ideas and issues of our time. Perry, a scholar of the U.S. Constitution and its relationship to human rights, politics, morality and religion, on a daily basis asks questions and records thoughts that many have time to ponder only during rare moments of reflection. Hall's work in the

becoming constitutional issues," he says. "So that seemed like the area of the law I should be teaching."

Over nearly a quarter century as a faculty member of three law schools and a visiting scholar or lecturer at more than 25 universities worldwide, Perry has built a reputation as an expert in constitutional law, particularly in application to the areas of politics, morality, and religion. His seventh book, due this summer, is *The Judicial Usurpation of Politics? The Supreme Court and the Fourteenth Amendment*.

Through involvement in other disciplines,

C R O S S

Wake Forest law faculty members embody

C U R R E N T S

the principle that the best law emerges from

the best traditions of the liberal arts.

BY STEPHEN McCOLLUM



Michael Perry, standing, will be engaged closely with Wake Forest's new divinity school and its dean, Bill J. Leonard, seated.

"What is the Constitution, really?" asks the professor. "And beyond that, what is the Supreme Court's role in relation to it? Is it to merely interpret the Constitution as a legal document and thereby enforce existing law? Or, as some have asked, is there a legitimate role for the Court in actually legislating, making law as a result of its decisions?"

There does appear to be some limit, suggests Perry, to the extent to which the Supreme Court can solve some of the dramatic issues of our time. The debate over affirmative action is one.

"Even if the Constitution is not opposed to affirmative action," he says, "there remains the question of whether the morality of the American people isn't somehow opposed such that it becomes a difficult policy choice to sustain."

Even though he personally finds affirmative action a powerful and appealing principle in the context of American culture, Perry says that "the real challenge for the people on the front lines trying to bring about economic justice is to come to terms with the fact that, even if you have affirmative action, the difficult problem of economic and racial justice is not going to be significantly ameliorated by having some affirmative action programs strategically placed in, for example, colleges and universities.

"I think my generation would have shown a little more interest in some of these issues because of its historical experience," he says. "There is nothing comparable to the sixties in the experience of this generation."

COURTING PUBLIC POLICY

"Students get used to thinking that the only kind of law they are responsible for is the kind created by the courts," says Mark Hall, who holds joint appointments at Wake Forest's schools of law, medicine, and management. "But much of what I cover in class is pure public policy. Students wrestle with what is right and wrong about current law and what the law should be."

Hall has established a national reputation for his expertise in health care law and public policy. During this past semester, he served as visiting professor at the University of Pennsylvania.

Health care, Hall believes, offers fertile ground for making and critiquing social and economic arguments that have major public policy implications. His current research, which he conducts largely through the Department of Public Health Sciences at the medical school, is taking a dual track in the area of access to insurance. Specifically, he is examining the efficacy of laws that were supposed to make it easier for employers to buy insurance, and whether genetic testing make it harder to obtain insurance. The fire storm that created such potential for Hall the scholar clearly is managed care, and specifically the burgeoning business of health maintenance organizations (HMOs).

Although HMOs appear to be firmly established within a new marketplace mentality toward health care, eddies



Mark Hall believes health care offers fertile ground for exploring arguments that have major public policy implications.

of public and professional backlash are posing dilemmas for law students who are challenged "...to consider the social and economic settings in which legal principles and rules operate..."

What is significant about 15 percent of the population accounting for 80 percent of medical costs? Is it practical, not to mention efficient and equitable, to have public policy on an issue so controversial and universal as health care be carved up into as many as 1,000 separate bills on consumer rights filed in state legislatures?

The debate over HMO liability is, suggests Hall, one of those "novel developmental issues that is cutting edge" and that is precisely what makes it so topical for law students.

IN NO WAY THE SAME "OLD" STORY

Kate Mewhinney works on the front lines where living wills are supposed to prevent the loss of dignity and added expense accompanying prolonged medical treatment for a patient close to death. The bad news is that many people never execute the living will; the good news is some state statutes allow for decision-making by surrogates.

Mewhinney and her staff of Wake Forest law students are working on the cusp of one of society's biggest challenges—how to manage the needs and demands that will emerge as the nation's 76 million Baby Boomers reach retirement age over the next thirty years.

"Our work occasionally involves us with the family of a person on life support and there is no hope for regaining awareness or good health," says Mewhinney. The situation can easily get complex and convoluted. "In one case involving a family whose patient was in a nursing home with advanced Alzheimer's disease, we had to negotiate with the nursing home administrator and the legal department, as well as the physician, to terminate the tube feeding that was prolonging this man's right to die with dignity."

Mewhinney, as director of the Legal Clinic for the Elderly, can expect this scenario to play out repeatedly as the percentage of those over 85 is now the fastest growing segment of the population. For elder law specialists, the issue of mental capacity, and the ability to assess it, becomes crucial because as many as one fourth to one half of the population over age eighty-five suffer from some form of dementia.

Every day fast-forwards her into the future for what she describes as "a sneak preview of what's ahead for me. Everybody I meet has a relative who is facing at least one of the issues we deal with on a daily basis."

When Walsh authorized creation of the Legal Clinic for the Elderly in 1991 in conjunction with the J. Paul Sticht Center on Aging at the Wake Forest University Baptist



Kate Mewhinney works on the cusp of one of society's biggest challenges—how to manage the needs of an aging population.

Medical Center, he wanted to create more options for students to learn negotiation and settlement skills, to get deeper into administrative law issues, and to be able to handle cases that they could complete in a semester.

One challenge on the horizon for attorneys advocating for elderly clients is related to health care access. Mewhinney says, "I could count on one hand the number of lawyers in North Carolina who can answer the most important questions related to elder law."

That only highlights the importance of the clinic's role in training lawyers who can navigate through details and entanglements related to an individual's circumstances, many times as a prelude to navigating a complicated and sometimes irrational health care system. And, while Medicare is traditionally the avenue to health care for most of the elderly, Mewhinney has learned that it is the ability to apply the complex rules of the Medicaid program to various clients' circumstances that often makes the difference.

"Many elderly people, when faced with a health care emergency, are extremely confused about their options," explains Mewhinney. "Some have heard that they can own nothing, or must give property away, or, quite to the contrary, that they can't give any of their property to family members."

"It's exciting and gratifying to be involved with a part of the law that is growing and developing and for which there is such a need," she adds. "This is not a rich/poor issue, not a male/female issue, it involves everyone." ■

1949

Thomas S. Johnston (BS'45) was inducted into the North Carolina Bar Association's General Practice Hall of Fame in June 1997.

1959

Major B. Harding (BS'57) has been named chief justice-elect of the Florida Supreme Court for a two-year term starting July 1, 1998. He has been a Florida judge since 1968 and was appointed to the Supreme Court in 1991.

1961

W. Richard Gentry (LLB) was elected vice president of the Pennsylvania Conference of County Bar Leaders. He is a member of the West Chester, PA, law firm of Buckley, Nagle, Gentry, Brion, McGuire & Morris LLP. He was president of the Chester County Bar Association in 1992 and has served on the executive committee of the Conference of County Bar Leaders and in the House of Delegates of the Pennsylvania Bar Association since 1993.

Col. **Alfred A. McNamee** has a legal practice in Okeechobee, FL, where he does pro bono legal work. He retired from the United States Army in 1978 and retired from state employment in Florida in 1995.

1964

Sidney Eagles Jr. (BA'61) has been named chief judge on the

North Carolina Court of Appeals. He has served on the Court of Appeals since 1983.

William O. King was sworn in as president of the North Carolina Bar Association last October. He is a partner in the Durham, NC, firm of King, Walker, Lambe & Crabtree.

Eugene Price retired in December 1997 as the Forsyth County attorney. He served in that position for 27 years, longer than any other full-time county attorney in North Carolina has ever held the position in one county.

Robert V. Suggs (BA'59) has opened an office of his firm, Holshouser & Suggs, in Seven Lakes, NC. The firm is headquartered in Pinehurst, NC.

1965

Larry Ford has been appointed a superior court judge. He is an attorney in Salisbury, NC.

Clyde A. Wootton (BA'63) has formed the Durham, NC, law practice of Wootton and Wootton, PC. His son **Lance A. Wootton** (BA'88) has joined him as a partner in the firm.

1966

Lonnie Harper (BA'63) retired from the practice of law in November 1997.

1968

Jerome B. Friedman was sworn in as a federal judge for the Eastern District of Virginia in Norfolk in December. He

previously had been a judge in Virginia Beach for 13 years.

1970

John Barlow has edited a book titled *The Legal Elements of Boundaries and Adjacent Properties, Second Edition*. The book is co-edited by **Donald M. VonCannon** (JD'71) and is published by Lexis Law Publishing. John is a board certified specialist in real property law in North Carolina and a frequent lecturer at the Wake Forest School of Law CLE programs.

Robert C. Stephens (BA'67) received the George Williams Award from the Metropolitan YMCA of Greater Charlotte for lifetime support of the YMCA. He has been a YMCA volunteer for three decades and formerly chaired the Uptown YMCA's Board of Managers. He is a partner in the law firm of Horack, Talley, Pharr & Lowndes in Charlotte, NC.

1971

William H. Burchette has been appointed to the Guilford College Board of Trustees. He is a partner at Brickfield, Burchette & Ritts PC in Washington, DC.

Fred Stokes has established a solo practice concentrating in criminal law and domestic relations in Albemarle, NC.

Donald M. VonCannon has edited a book titled *The Legal Elements of Boundaries and Adjacent Properties, Second Edition*. The book is co-edited by **John Barlow** (JD'70) and is published by Lexis Law Publishing. Donald is an attorney

with the firm of Allman Spry Leggett & Crumpler, PA, in Winston-Salem and is a board certified specialist in real property law in North Carolina.

1972

Carl W. Hibbert has joined the Raleigh, NC, office of Kilpatrick Stockton as a partner in the trusts and estates practice group.

1973

James E. Cross (BA'70) has been appointed attorney for the town of Butner, NC. A partner in the firm of Royster, Royster & Cross since 1978, he also is attorney for the Granville County Board of Education and the town of Stem.

1974

Carl Peterson (BS'71) was named chief legal officer and corporate secretary for Prudential Property and Casualty Insurance Company, its subsidiaries, and affiliates. He is responsible for all legal affairs of the company, one of the leading insurers of homes and autos in the United States.

R. Michael Wells published an article titled "Questions You'd Like to Ask Your Lawyer, But May Hesitate to Ask . . ." in the magazine *Management Strategies for Business Executives—May Trends*. He is a senior partner in the Winston-Salem firm of Wells Jenkins Lucas & Jenkins.

1976

Resa L. Harris was named a member of the ABA board of

governors. She is a district court judge for North Carolina's 26th Judicial District.

1977

David Brantley (BA '74) was elected district court judge for North Carolina's 8th Judicial District in Nov. '96. He resides in Goldsboro, NC, with his wife, Pam, and their three children: Scott (12), Kate (7), and Steven (5).

Charles "Chip" T. Hagan III is chairman of the Greensboro, NC, Area Chamber of Commerce for 1998.

W. Reece Saunders (BA '74) is the city attorney of Rockingham, NC.

Joseph Stroud Jr. has been elected president of the Onslow County, NC, Bar Association. He is with the firm of Erwin Scoggin Simpson & Stroud in Jacksonville, NC, and is a certified specialist in state criminal law.

1978

Peter N. Ehrlich and his wife, JoAnn Ehrlich, recently signed a franchise agreement for their third Rocky Mountain Chocolate Factory, which is in Gulf Shores, AL. Their other locations are in Gulfport, MS, and Sandestin, FL. They continue to reside in Denver, CO, with their three daughters.

David W. Martin was promoted to the position of county attorney for Forsyth County.

Robert F. Sharpe Jr. has joined Pepsico as senior vice

president, general counsel, and secretary. Previously he was senior vice president and general counsel of RJR Nabisco. During a hiatus from RJR Nabisco, he served as vice president of Tyco International, an industrial manufacturing company.

1979

Don Vaughan was reelected to a fourth term on the Greensboro, NC, City Council. He has served two terms as Greensboro's mayor pro tem.

John Bundy Yorke is a partner in the corporate practice area of Smith Helms Mulliss & Moore in Charlotte, NC.

1980

Bob Crumley spoke at Legal Forum '97 in Lake Tahoe. He is with the firm of Crumley & Associate in Asheboro, NC.

Karen A. Raschke has joined the firm of Macaulay Lee & Powell in Richmond, VA. She is also outside counsel for the Center for Reproduction Law and Policy. Previously she worked as government relations counsel for Planned Parenthood Advocates of Virginia. In 1998 she was the recipient of the Richmond YWCA's "Outstanding Woman Award."

1981

Frederick L. Berry (BA '78) has formed his own law firm, Barron & Berry, LLP, in Greensboro, NC.

Ruby Warren Bullard (BA '79) is working part-time in the firm

Law Board of Visitors

New Members

Carol Allen (JD '80)
Ormond Beach

Charlie Barham, Jr. (BS '52,
JD '54)
Raleigh, NC

Bob Broughton (JD '79)
Raleigh, NC

Kay Donahue (JD '79)
Winston-Salem, NC

Harold Henderson
Kinsport, TN

Dan McGinn (BA '64, JD '67)
Greensboro, NC

Rob Sharpe (JD '78)
Greenwich, CT

Law Alumni Council

New Officers

John D. Madden (JD '83)
1998-99 President
Raleigh, NC

R. Michael Wells (JD '74)
1998-99 President-Elect
Winston-Salem, NC

New Members

Bob Benson (BA '72, JD '75)
Greensboro, NC

Ken Howard (JD '82)
Raleigh, NC

Jean Brooks (JD '91)
Greensboro, NC

Bob Lawing (JD '73)
Winston-Salem, NC

Wade Byrd (JD '73)
Fayetteville, NC

Glenn Pettyjohn (BA '59, JD '61)
Winston-Salem, NC

Susan Ellis (JD '93)
Winston-Salem, NC

Dan Timberlake (JD '88)
Lexington, NC

Lori Hinnant (BA '83, JD '87)
Winston-Salem, NC

Jim Welsh (BA '87, JD '97)
Winston-Salem, NC

George Holding (BA '91, JD '96)
Raleigh, NC

David Zacks (BA '64, JD '67)
Atlanta, GA

of Parish, Cooke, Russ & Bullard in Fayetteville, NC, and works full-time at home with her son, Robert (3).

Terri L. Gardner (BA '78) was named an equity partner at the Raleigh, NC, law firm of Smith Debnam Narron & Myers, LLP.

David L. Narkiewicz is president-elect of the Montgomery, PA, Bar Association, the third-largest county bar association in Pennsylvania.

Julia Turner Neal has become senior counsel for The Seibels Bruce Group, Inc. in Columbia, SC.

Mallory M. Oldham was elected director of the firm of Bell, Davis & Pitt, PA, in Winston-Salem. Her practice concentrates in real estate property law, commercial law, and corporate law.

Katherine Mims Schroeder has been a member of the city-county planning board of

Forsyth County and Winston-Salem since 1994.

1982

Rudy L. Ogburn is a shareholder with the Raleigh, NC, law firm of Young Moore and Henderson PA. He is serving as chair of the 1997-98 estate planning and fiduciary law section of the North Carolina Bar Association.

Tommy J. Payne was promoted to senior vice president of external relations for R.J. Reynolds Tobacco Co. in Winston-Salem. Previously he was vice president of government affairs in the company's Washington, DC, office.

1983

James Henry Burrus Jr. (BA '79) was appointed assistant special agent in charge of the Minneapolis Division of the Federal Bureau of Investigation.

Steven P. Miner is a shareholder in the firm of Metzger Wickersham in Harrisburg, PA. He engages in a general practice of law with an emphasis in business law and bankruptcy.

William B. Reingold has been appointed chief district court judge for North Carolina's 21st Judicial District.

Ricky Silver has been promoted to president and CEO of Silver-Line Plastics Corp. in Asheville, NC.

1984

Kathy (Kelly) Burnette was appointed to serve as a member

of the North Carolina State Board of Elections. She and her husband, **Tom Burnette** (JD '84), live in Oxford, NC, with their children, Sally (5) and Sunny (3). Tom was recently reappointed the attorney for the city of Oxford.

James Palmer Cain (BA '79) was elected chair of the Eastern Center for Regional Development. He is an attorney with the firm of Kilpatrick Stockton in Raleigh, NC.

Robert A.J. Lang is an assistant United States attorney for the middle district of North Carolina in Winston-Salem. Previously he was an assistant district attorney for Forsyth County.

W. Everette Murphrey IV (BA '81) was made a partner at the firm of Wood & Bynum LLP in Winston-Salem.

Jerry T. Myers (BS '80) was named an equity partner at the Raleigh, NC, law firm of Smith Debnam Narron & Myers, LLP. His practice areas are creditors rights, commercial litigation, and collection law.

George Wainwright is running for the North Carolina Supreme Court in 1998. He is a superior court judge in Morehead City, NC.

1985

Rhonda Kahan Amoroso has been appointed to the New York Freshwater Wetlands Appeals Board by Gov. George Pataki.

Nancy Paschall (BA '82) received an ENCORE award from the United Arts Council of

Giving Briefs

Law fund tops \$380,000

As of May 13, \$382,000 had been raised for the 1997-98 Law Fund. All funds raised above the \$300,000 mark go directly to student scholarships.

Parents campaign

The annual Parents' Campaign continues to help the Law Fund. Ralph and Mary Abraham of Hattiesburg, Mississippi, chaired the campaign for the second consecutive year. As of May 15, 52 parents had made gifts totaling \$32,019.

Spring Telethon

The spring telethon campaign, led by Ty Henson (JD '99), exceeded its \$15,000 goal with \$20,410 raised as of May 15. Several law students volunteered their time to raise scholarship funds.

Firm commitment

The 1998 Firm Representative Program kicked off this spring. Seventy-nine firms with four or more Wake Forest graduates were invited to participate in the program which recognizes firms with 100 percent alumni participation in the Law Fund. This is the fifth consecutive year the Office of Law Development and Alumni Relations has sponsored the program.

Traveling dean

Dean Bob Walsh spoke at 13 alumni receptions this spring—in Nashville, TN, Dallas, TX, Atlanta, GA, Hickory, NC, Charlotte, NC, Richmond, VA, New Bern, NC, Wilmington, NC, Rocky Mount, NC, Washington, DC, Raleigh, NC, Greensboro, NC, and Winston-Salem, NC. If you are interested in organizing law alumni events in your area, please call Bobby Finch in the Law Development and Alumni Relations office, (336) 758-5884.

Notes Alumni

Gaston County Board of Directors in honor of her many years of service to the arts community. She is a principal with the firm of Alala Mullen Holland & Cooper PA in Gastonia, NC.

1986

Robert Gregory Bailey (BA '83) was named a partner in the Washington, DC, law firm of Holland & Knight LLP. He has been with the firm since 1994 and focuses his practice on federal tax, labor, and securities laws.

Jeff A. Batts (BA '81) was named to the Board of Directors of First Citizens Bank. He is with the firm of Batts Batts & Bell in Rocky Mount, NC.

Joal Hall Broun (BA '83) is an assistant public defender in Chatham and Orange Counties, NC. She is also the chairman of the Orange County Water and Sewer Authority.

J. Stewart Clontz has been named a partner in the Greensboro, NC, firm of Gabriel, Berry & Weston, LLP. His practice focuses on advice and litigation in business, workers' compensation, personal injury, and misdemeanor criminal matters.

Elizabeth M. Repetti was elected director of the firm of Bell, Davis & Pitt, PA, in Winston-Salem. She is a frequent author of articles on bankruptcy and foreclosure for professional legal journals.

1987

Jane E. Yarborough has become a partner in the

Winston-Salem office of Kilpatrick Stockton, where she is a member of the health care group.

1988

Lawrence Jones is general counsel at the Cameron M. Harris & Co. in Charlotte, NC.

C. Douglas Maynard was elected president of the Forsyth County Bar Association's Young Lawyers Division for 1997-1998. He also opened his own firm, The Maynard Law Firm, in Winston-Salem.

Frederick A. Thomas has become a partner at the firm of Cummings & Lockwood in Stamford, CT. His practice concentrates in the areas of corporate, partnership, limited liability company, and venture capital tax and business planning.

Beth Weller testified before a Senate subcommittee on the effects of bankruptcy on education finances. She works for the firm of Blair, Goggan, Sampson & Meeks in Dallas, TX.

1989

Robert J. Higdon Jr. (BA '85) was awarded the U.S. Dept. of Justice's Director's Award, recognizing superior performance in criminal prosecutions by assistant United States attorneys. Attorney General Janet Reno presented the award in a September 26, 1997, ceremony.

Robert Reeves was elected to the North Carolina State Senate in 1996 and is seeking reelection. His wife, **Mary Morgan Reeves** (JD '88), is his

campaign manager. They are partners with Mary's father, **Robert Morgan** (JD '50), in the firm of Morgan & Reeves in Raleigh, where they also reside.

1990

Forrest Campbell Jr. has been named a partner at the firm of Brooks, Pierce, McLendon, Humphrey & Leonard in Greensboro, NC.

John P. Higgins is a partner in the firm of Alston & Bird's intellectual property litigation group. He specializes in chemical pharmaceutical patents. A registered professional engineer, he spent more than seven years in the oil and gas industry prior to joining the firm.

Donna Colberg Kelly is a partner in the Charleston, WV, office of Heenan, Althen & Roles. She specializes in occupational and mine safety and health law.

Daniel O. Kennedy has joined the Atlanta, GA, firm of Hunton & Williams as an associate in the firm's business practice group and a member of its corporate & securities team.

Terry M. Kilbride was named an equity partner at the Raleigh, NC, law firm of Smith Debnam Narron & Myers, LLP. His practice areas are litigation and workers' compensation.

John D. Young Jr. (BA '82) was elected a member of Sullivan & Cromwell. He resides in Hong Kong.

1991

Jean Brooks has been named a partner at Brooks, Pierce, McLendon, Humphrey & Leonard in Greensboro, NC.

Caroline Kelly received the Columbia Theological Seminary's Merit Scholarship in recognition of her academic achievement, leadership ability, and potential for ministry. She is a senior in the school's MDiv program.

Henry A. Mitchell III has formed the firm of Solomon & Mitchell, PLLC, in Durham, NC. He has also been chosen the North Carolina State Bar delegate to the ABA House of Delegates, as well as director of the Durham County Bar Association and president of its Young Lawyers Division.

Eric Rogers has opened his own law practice in Charlotte, NC.

Fred M. Wood is an associate in the Charlotte, NC, office of McGuire Woods Battle & Booth.

Sylvia Stanley Wood is an in-house attorney with Family Dollar Stores, Inc. at its corporate headquarters in Charlotte, NC.

Scott Wyatt (BA '88) married in October 1997, moved from Raleigh, NC, to Greensboro, NC, and is now an attorney with the firm of Wyatt, Early, Harris & Wheeler in High Point, NC. His e-mail address is scottwyatt@northstate.net.

Notes Alumni

1992

Linda Helms is president-elect of the Forsyth County Bar Association's Young Lawyers Division. She will serve as president for the 1998-1999 term.

Kathryn Noah Koonce (JD) is an attorney with the firm of Poyner & Spruill, LLP, in Raleigh, NC, where she resides with her husband, Calvin Battle Koonce.

Gant Redmon was chosen to serve on the President's Export Council Subcommittee on Encryption, which will advise the federal government on encryption policies. He is counsel for export and intellectual property matters for AXENT Technologies, Inc., which produces security products for information systems.

Kirby H. Smith III has joined the firm of McCotter & McAfee, PLLC, in New Bern, NC.

1993

Stephanie Lee Black is the co-author of the book *Freedom of Speech in the Public Workplace*, which is published by the American Bar Association. She has a law practice in Vail, CO.

Eric M. Braun has associated with the Greensboro, NC, firm of Schell Bray Aycock Abel & Livingston PLLC. This spring he has been teaching a class in municipal law in the graduate program for public administration at N.C. State University.

Jason W. Sowers has joined the Washington, DC, law firm of

Betts, Patterson & Mines, PS, as an associate practicing in commercial litigation.

J. Whitfield Wilks (JD/MBA) is a vice president at the North Carolina Trust Co., a private trust company with offices in Greensboro and Charlotte.

1994

Daniel G. Cahill has joined the firm of Sanford Holshouser Law Firm PLLC in Raleigh, NC, as an associate. He will concentrate in commercial and business litigation.

John W. Davis has become a partner in the Louisburg, NC, firm of Davis, Sturges & Tomlinson.

Jennifer Barnhart Garner formed the firm of Thompson & Garner, PA, with **Robert S. Thompson** (JD'83). The firm, located in Southern Pines, NC, concentrates in the areas of estate planning and administration, real estate, elder law, and corporate law.

Bradley Lewis Hutter has been named director of Mortenson Investment Group, LLC, and of the Mortenson Family Charitable Foundation in Madison, WI, where he resides with his wife, Joelle.

Michael J. McCormick is an attorney with the firm of Bond & Botes, PC. In January he opened the firm's 14th office in Biloxi, MS, where he serves as the managing attorney.

John Rambo is president-elect of the Washington County, TN, Bar Association.

Bruce Thompson (BA'88) has joined the Raleigh, NC, firm of Parker Poe Adams & Bernstein.

Allison Tufts Utecht works for Sterling Management in Hamilton, Bermuda, where she resides with her husband, Alex Utecht.

1995

Phillip G. Asby (JD/MBA) and **James V. Williams** (JD'95) have formed the law firm of Williams and Asby, PLLC in New Bern, NC. The firm specializes in small business representation and real property law.

Daniel C. Bruton is an associate at the firm of Bell, Davis & Pitt, PA, in Winston-Salem.

Benjamin David was elected secretary of the Forsyth County Bar Association's Young Lawyers Division for 1997-1998.

Jonathan E. Jones is a partner at the Greenville, NC, firm of Everett, Warren, Harper & Swindell.

John Covington Overfield is a partner in the new law firm of Follin & Overfield, LLP, located in Greensboro, NC.

1996

John B. Anderson (BA'93) is a member of the employment law practice group of Parker Poe Adams & Bernstein, LLP. He works in the firm's Charlotte, NC, office.

Kerrie Vaughan Forbes is an associate with the firm of Jones, Day, Reavis & Pogue in Dallas, TX.

William Ross Forbes Jr. is a associate with the firm of Cozen & O'Connor in Dallas, TX.

Jonathan Gann Odom recently completed a successful deployment aboard the aircraft carrier USS Independence as part of the military buildup against Iraq. He advised naval personnel on the law of armed conflict and provided other legal services. He is currently a criminal prosecutor at the Naval Trial Service Office Pacific in Yokosuka, Japan.

Allison W. Stoudt is an assistant district attorney in Berks County, PA.

Devin Ferree Thomas has associated with the law firm Brooks, Stevens & Pope, PA, in Cary, NC, where he practices workers' compensation defense.

Jenna Bost Thomas will complete a two-year judicial clerkship with the Hon. **Ralph A. Walker** (JD'63) of the North Carolina Court of Appeals and will associate with the law firm of Howard, Stallings, Story, Wyche, From & Hutson, PA, in Raleigh, NC, in July 1998. She will practice commercial business litigation.

Robert A. Wells has become a partner in the Greensboro, NC, law firm of Gabriel Berry & Weston, LLP.

1997

John T. Earwood (BA'92) is an associate on the labor and employment team with the law firm of Hunton & Williams in Raleigh, NC.

Notes Alumni

Brant J. Hellwig (BA '94) has joined the law firm of Bell, Davis & Pitt, PA, as an associate concentrating in the areas of estate planning and administration.

Brandon K. Lewisohn is a member of the real estate practice group of Parker Poe Adams & Bernstein, LLP. He works in the firm's Charlotte, NC, office.

R. Shelly Null has accepted a position with State Farm Insurance Co. in Charlottesville, VA.

Frank E. Silber is a member of the merger & acquisitions/general corporate practice group of Parker Poe Adams & Bernstein, LLP. He works in the firm's Raleigh, NC, office.

Jon L. Spargur is an associate at the firm of Bell, Davis & Pitt, PA, in Winston-Salem.

William B. Wright III is a member of the real estate practice group of Parker Poe Adams & Bernstein, LLP. He works in the firm's Raleigh, NC, office.

Marriages

Joal Hall (BA '83, JD '86) and Jonathan E. Broun. 7/5/97

Jon Wade Myers (BA '88, JD/MBA '92) and Eryn L. Thacker. 11/8/97

Kenneth Clarke Haywood (JD '92) and Tammy Taylor. 9/20/97

Kathryn Leggett Noah (JD '92) and Calvin Battle Koonce. 3/14/98

Jennifer Barnhart (JD '94) and Bradley E. Garner. 10/5/97

Allison Tufts (JD '94) and Alexander Utecht. 7/5/97

John C. Saydlowski (BA '93, JD '96) and Grace C. Weathers (BA '94). 4/4/98

Jenna Bost Thomas (JD '96) and **Devin Ferree Thomas** (JD '96). 9/7/96

Births/Adoptions

Rudy L. Ogburn (BA '79, JD '82) and Deb Ogburn, Raleigh, NC: son, David Rudolph. 1/2/97

Margaret Whiteside Smith (BA '83, JD '85) and **Jack Smith** (JD '86), Charlotte, NC: son, Christopher John. 6/20/97

Edie Johnson (JD '88), Nashville, TN: daughter, Ann Scott. 10/14/97

Beth Weller (JD '88) and Bill Parkinson, Dallas, TX: daughter, Erin Elizabeth. 9/18/97

Robert H. Raisbeck Jr. (BA '85, JD '89) and Teresa Raisbeck, Mocksville, NC: daughter, Kayla Louise.

Beth Rickabaugh Setzer (JD '89) and Dennis Setzer, Statesville, NC: daughter, Sara Margaret. 2/21/98

Michelle Fournier Ingle (BA '91, JD '94) and Dennis D. Ingle, Mount Pleasant, SC: daughter, Hannah Fournier. 1/12/98

Julie Ann Ontko Parker (BA '83, JD '87) and **Michael J. Parker** (JD '87), Mocksville, NC: son, John Parker. 4/11/94; daughter, Katherine Ann. 9/5/97

Sylvia Stanley Wood (JD '91) and **Fred M. Wood** (MBA/JD '91), Charlotte, NC: son, Fred Marshall. 3/10/98

Leslie Bell (JD '92), Laurel, MD: daughter, Sophie. May 1997

Dawn Hickey Morgan (JD '93), Kernersville, NC: son, John Cale. 7/7/97

Matthew H. Bryant (JD '95) and Beth Bryant, Winston-Salem: twin sons, Benjamin Matthew and Samuel Hallman. 2/11/97

S. Gordon Hill (JD '96) and Hayes Smith Hill, Orlando, FL: daughter, Rebecca Hudson. 10/22/97

Deaths

Thomas J. Edwards (JD '29) February 24, 1998, Rutherfordton, NC. He practiced law in Rutherfordton for 55 years, before retiring at age 80.

William Henry McElwee Jr. (JD '30) March 30, 1998, North Wilkesboro, NC. He was a lawyer in Wilkes County for 60 years. He was a past president of the North Carolina Bar Association; board member of the North Carolina Board of Examiners; chairman of the Governor's Highway Safety Commission; and board member of Wilkes General and Davis Hospitals. He was co-owner of the Forest Furniture Co. and was director emeritus of Lowe's Company. He is survived by his wife of 55 years, Douglas Plonk McElwee; two sons, William Henry McElwee III and John Plonk McElwee; two daughters, Elizabeth M. Cannon and Dorothy M. Shartzter; and eight grandchildren.

Richard L. Brown (JD '32) February 25, 1998, Albemarle, NC. He engaged in the active practice of law for 65 years and

was the third of five succeeding generations in his family to practice law.

Charles Clyde Hayes (JD '35) January 5, 1998, Wilkesboro, NC

Charles Folger (JD '48) April 7, 1998, Dobson, NC. He was a former mayor of Dobson and a founder of Surry Community College.

Meredith E. "Red" Cavendish (JD '49) April 13, 1998, Greenville, NC. He was a sergeant major in the Marines from 1939 to 1945 and was a special agent with the FBI in Chicago. He practiced with the Greenville firm of James, Hite, Cavendish and Blount from 1951 to 1983.

George Henry Johnson (BS '48, JD '51) January 25, 1998, Fletcher, NC

George Almon Goodwyn (BA '56, JD '59) November 6, 1997, Tarboro, NC

Denny Glenn Higgins (BA '71, JD '75) October 26, 1997, Fayetteville, NC. He was senior staff attorney for Cumberland County, NC, a position he held for the last four years. He was an active member of the NC Association of County Attorneys and the state bar Quality of Life Committee. He is survived by his wife, Linda.

David A. Guth (JD '79) August 19, 1997, Washington, DC. He was a partner in the law firm of Adduci, Mastriani & Schaumburg in Washington, DC, and was a former magistrate in Wake County, NC. He is survived by his wife, Elaine Jesse Guth; and two daughters, Kristen and Susan. ■

a GIFT OF a LIFETIME

W. Fred Williams Sr.

WHEN W. FRED Williams Sr. (BS '37, JD '40) discusses his six-decade relationship with Wake Forest Law School, his pride and devotion are evident. Through the years, Williams has been generous to the school with his time and resources, fulfilling a need to give something back to the place that has filled his life with so many fond memories.

In 1984 Williams saw a way both to do something substantial for his beloved law school and to honor his parents. That year he initiated a ten-year plan to fund the Wake Forest School of Law's first chaired professorship, The Bess and Walter Williams Distinguished Professorship, named for his mother and father.

Williams is pleased with the results of that plan. Though a search is currently underway to fill the professorship, it was occupied successfully from 1995 to 1997 by Steve Nickles, an internationally known bankruptcy and negotiable instruments authority who recently accepted a joint chair in the law and business schools.

Instead of being disappointed in Nickles' departure, Williams blessed the decision as a progressive step for the school towards the increasingly interdisciplinary nature of the study of law. "More and more, law has become an education to carry you into other areas of work," Williams says. "When I



W. FRED WILLIAMS SR.: A GREAT CAREER, AND A GREAT ROLE MODEL.

finished law school, 90 to 95 percent of the students went into the practice of law. As the country and economy grow, opportunities for people with legal backgrounds develop in other areas."

Williams' attraction to Wake Forest developed at an early age, while he was still a boy in Chattooga County in the hills of northwest Georgia. A cousin told him about Wake Forest, and although he'd never been there before, he decided it was the place for him. "I'd made up my mind I could make my way," he says. So in 1933, during the height of the Great Depression, Williams hitchhiked to Wake Forest, arriving with "about sixty bucks in my pocket."

After a year spent washing dishes and doing anything he could to earn money, Williams

entered Wake Forest College in 1934. In 1935, while still a student, he and fellow classmate Ben Elliott opened the College Soda Shop in downtown Wake Forest, adjacent to the post office. The young men's entrepreneurial venture quickly became a local landmark. Open from 7:00 a.m. to 1:00 a.m., the shop was a favored hangout for the students, who enjoyed its butter-toasted sandwiches.

Williams graduated from college in 1937 and married Vida Thompson, a Meredith College graduate. He decided to study law, an interest which had been piqued while serving as a runner for a family friend who had been a solicitor in the Georgia court system. "So I continued to jerk soda and study law for the next three years," he says.

In 1940 Williams passed the bar and opened a small, "shot-gun-style" office in Raleigh. "I didn't have a secretary and did all my own typing, but I did have a telephone," he says. "I took whatever business came my way." Ever the hard worker, he also continued to run the soda shop, working there from 4:00 p.m. until midnight.

World War II triggered many changes for Williams. In 1942 he closed his law office, disposed of the soda shop, and joined the Army Corps of Engineers. By the time he was released from the Corps' real estate division in 1945, he had served several years as a project manager in charge of the acquisition of camp sites and other real estate in North and South Carolina.

When he opened his new law office in Raleigh, he was able to capitalize on his war-time experience. "I had a lot of contacts by then, and I began to get a little business. Most of it was in the real estate area closing loans for insurance companies," he remembers.

It was a job he did for a group of investors negotiating with the government for the purchase of improvements on land leased by Fort Ord that Williams credits with changing his life. After the transaction was completed, he made a deal with the purchasers to help dismantle the camp. "For the first time in my life I had debts paid,

Alumni Briefs

a new automobile, and a little money in the bank," he says.

Williams moved to Greensboro to become house counsel to the real estate company born of that dismantling process, Bessamer Improvement Company. He eventually managed the company, completing a transition into real estate development. In 1961 he signed on with Joseph Koury to help develop Four Seasons Mall. Williams worked with Koury in the development business for sixteen years. "In 1976 I decided to just look after my own mess (managing properties)," Williams says. He also decided it was time to enjoy life.

Throughout his successful career, Williams has put a lot of energy into maintaining his ties to Wake Forest. He is a member of the President's Club, a former member of the Law Alumni Council, former president and member of the College Alumni Council, and presently sits on the Law School Board of Visitors. In 1987 Williams received the Carroll W. Weathers Distinguished Alumnus Award.

Law school Dean Robert Walsh is just one of Williams' many Wake Forest admirers. "We're very proud of Fred," says Walsh. "He has had a distinguished career and is a great role model for those entering the profession." ■

—Roberta Brunstetter

■ WAKE FOREST'S FIRST class of International LL.M. students, who graduated in May, have formed an International LL.M. Alumni Association. Sabrina Zancan, Fancesco Ferrini, Adriana Ozorio, and Abdul-Aziz Al-Bosaily will be the association's original officers. They plan to use the organization to promote the LL.M. program at the School of Law and serve as a network for current LL.M. students and LL.M. graduates. They also hope to provide a forum for circulation and discussion of the theses of interested LL.M. students.

■ FOURTEEN LAW SCHOOL alumni were admitted to practice before the Supreme Court of the United States in April. Before the ceremony, there was a breakfast which Justice Sandra Day O'Connor and the Supreme Court Clerk General Suter attended. The alumni who participated in the admission ceremony were:

Carol Allen '80 JD
Steve Berlin '81, '84 JD
Tom Comerford '72, '74 JD
Vinnie Convery, '71 JD
Bobbi Gomez '86, '89 JD
Mark Gomez '86, '89 JD
Ashley Hogewood '61, '63 JD
Bill Kafer '66, '69 JD
John Lassiter '76, '80 JD
Karen Linz '92 JD
Dick Lupo '85 JD
Bobby Martin '61, '64 JD
George Mast '58, '60 JD
Julie Sandine '92 JD

Law Homecoming Weekend

OCTOBER 23-24, 1998

Friday, October 23

- 9 a.m. Alumni Golf Tournament
- 10 a.m. Dean Walsh Alumni Tennis Tournament
- 1-5 p.m. Return to the Classroom
- 6:30 p.m. Partners' Banquet—Forsyth Country Club

Saturday, October 24

- 8:30 a.m. Alumni Association General Meeting—Magnolia Room
- TBA Football Game—Wake Forest vs. UNC

Hotel Information

Courtyard by Marriott, University Parkway
(336) 727-1277
Ramada Plaza Hotel, University Parkway
(336) 723-2911
Holiday Inn Select, University Parkway
(336) 767-9595

To order football tickets, call 1-888-758-DEAC (3322) and ask to be included in the Law Homecoming block. Tickets are \$25 each and there is a \$4 handling fee per order. There are a limited number of tickets in the block and orders must be placed no later than October 9, 1998.

*For further information, call the
Office of Law Development and
Alumni Relations,
1-800-752-8568.*

Spring Reunion **Weekend**

FOR THE SECOND YEAR IN A ROW, classes observing special reunions have met on campus in the spring. Homecoming for all alumni is held in the fall.

Celebrating spring reunions next year, on April 30 and May 1, will be the classes of 1949, 1969, 1974, 1979 & 1989. The class of '49 is looking forward to celebrating its fiftieth reunion on campus.

Celebrating spring reunions this year were the classes of 1968, 1973, 1978, and 1988. More than 120 alumni gathered on May 1 and 2 for the various reunion activities. Friday's events included a tour of the Worrell Professional Center, a CLE program on ethics, and individual class receptions. Saturday's events included golf, tennis, and a joint reception with alumni from all four reunion classes.



MARY AND **Dennis Salvagio** (JD '73) AT LEFT WITH **DEAN WALSH**

Class of '73 Committee

Alfred G. Adams
Wade E. Byrd
Joseph B. Cheshire, V
James E. Cross, Jr.
George B. Hyler, Jr.
Richard F. Landis
Thomas W. Prince
John P. Van Zandt, III
Melvin F. Wright, Jr.

Class of '78 Committee

Vickie Cheek Dorsey, Chairperson
Bill Argabrite
Marks Arnold
Mel Garolfalo
Kay Ruthven Hagan
Lloyd Nault
Gene Pridgen



PROFESSOR EMERITI **Jim Sizemore**, AT LEFT, AND **Mel Wright** (JD '73) AND **David Wagner, Jr.** (JD '68) AT RIGHT

Class of '68 Committee

J. Donald Cowan, Jr. Chairperson
Gerard Davidson
John Fountain
Edward Grannis, Jr.
Breck Regan
Edwin Welch
Benjamin White, Jr.
Charles Young, Sr.



Nancy Walker (BA '84, JD '88) AT LEFT WITH **Roberta Wood Gavin** (JD '88) AND **Beth Weller** (JD '88)

Class of '88 Committee

McLain Wallace, Chairperson
Collins Barwick
Lisa Bland
Sam Dixon
David Joseph
Jenny Lynch
Linda Wohlbruck

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