



# Buffalo Law Review

## Alumni Newsletter

A NEWSLETTER FOR BUFFALO LAW REVIEW ALUMNI

SPRING 2010

## Law Review to Honor Pigott & Engel

The *Law Review* is delighted to announce that Judge Eugene F. Pigott, Jr. '73 and Professor David M. Engel, will be honored for their distinguished service to the University at Buffalo Law School and the Buffalo legal community at the Law Review's 21<sup>st</sup> Annual Law Review Dinner on April 21, 2010 at the Park Country Club in Williams-ville, NY.

Judge Eugene F. Pigott, Jr. currently serves as an Associate Judge of the NY State Court of Appeals. He graduated from Le-Moyne College (B.A. 1968) before serving on active duty in the United States Army from 1968 to 1970, where he served in Vietnam as an interpreter. He graduated from UB Law in 1973. Before joining the bench, Judge Pigott was in private practice in Buffalo with the firm Offermann, Fallon, Mahoney & Adner. In 1982 he was appointed Erie County Attorney where he served until 1986. In 1986 he became chief trial counsel for the firm of Offermann, Cassano, Pigott & Greco. In February 1997, he was appointed to the NY State Supreme Court by Gov. Pataki.



Hon. Eugene F. Pigott, Jr.

In 1998 he was designated to the Appellate Division, Fourth Department and appointed as the Presiding Justice in February 2000. Six years later, he was nominated by Gov. Pataki to the Court of Appeals. His nomination was confirmed by the New York State Senate on September 15, 2006.

The *Law Review* honors Judge Pigott because his career in private practice and on the bench, coupled with his relentless promotion of UB Law, demonstrates his special ability to practice and adjudicate the law at the highest level while serving his community with distinction. Judge Pigott's professional flexibility and commitment to public service is at the heart of what the *Law Review* aspires to instill in its members and in the legal community through the publication of diverse, cutting edge legal scholarship. The *Review* is privileged to honor Judge Pigott for his service to the Law School, the Buffalo legal community and for his many professional achievements.

Professor David M. Engel is the SUNY Distinguished Service Professor of Law. He

received his A.B. from Harvard University in 1967 and his J.D. and M.A. from University of Michigan in 1974. From 1991 to 2001, he served as Director of the Baldy Center for Law and Social Policy and from 2002 to 2008 he was Director of International Programs at the law school. He is faculty adviser to the Asian Law Students Association and a member of UB's Asian Studies Advisory Council, which he chaired from 1999-2001. Professor Engel teaches courses on Torts and Products Liability and seminars on Injuries and on Law, Culture, and Society. He also teaches the Thailand Bridge Course, which takes UB Law students to Chiangmai, Thailand in January for intensive study of Thai legal culture.



Professor David M. Engel

The *Law Review* honors Professor Engel because his contributions to the legal academy are unparalleled and he is simply beloved by so many of his students. *Law Review* members know him as an excellent and devoted teacher who carries himself with unwavering kindness and humility. The legal community knows him as the expert on how cultural practices impact legal institutions and society's legal consciousness. UB Law is lucky to have Professor Engel, members of the *Review* are lucky to have learned from him and the *Review* is lucky to have the opportunity to honor him.

The members of the *Review* hope you will join us on April 21<sup>st</sup> to honor Judge Pigott and Professor Engel.

### Please Join Us!

21st Annual *Law Review* Dinner  
The Park Country Club  
Wednesday, April 21, 2010

Please join us as we recognize Hon. Eugene F. Pigott, Jr. & Professor David M. Engel for their distinguished service to the Law School community. To reserve a seat, please visit [www.buffalolawreview.org](http://www.buffalolawreview.org).

## Year in Review: 2009-10

Overall it has been a fantastic year for the *Buffalo Law Review*. As the current Editorial Board's tenure comes to an end, it's fitting to recap the year's highlights. We are currently finalizing our last issue as a Board, the May issue. This year began with editing the July issue during the last semester of our 2L year and over the summer. At that time, our Note and Comment Editors graded over a hundred casenotes as we welcomed our new class of associates. This incoming Editorial Board worked tirelessly throughout the year on citepack after citepack.

The fall brought about orientation, where we educated our new class on the *Review* process. At the same time, our Articles team helped select pieces for our December, January, and April issues. We are proud of all the articles we publish. For two weeks, Catherine Carpenter's *Legislative Epidemics: A Cautionary Tale of Criminal Laws that Have Swept the Country* was among the Top 10 most downloaded papers on the Social Sciences Research Network.

Our articles spanned a diverse set of subjects, from employment discrimination to juvenile justice to evi-

dence. The Publications team judiciously edited the pieces, once again earning praise from authors on our professionalism and talent. In the end, this Board and the associates should be proud of its body of work.

The *Review* is also in the process of launching the *Buffalo Law Review Forum*. The *Forum* is an online extension of traditional pages. It aims to cull short pieces that might not fit into our full volume but could still contribute to legal discourse. The *Forum* can be viewed from our website and we expect to officially launch the *Forum* this spring.

And as always, the *Review* is quite proud of the four student pieces published in this volume. Jeffrey Fiut, Nathaniel Stuhlmiller, Joshua Pennel and Jenna Moran all worked diligently as authors on their respective pieces. The entire Editorial Board took great strides to put out what is in my opinion a high-quality work product. We owe a great deal of gratitude to the '08-'09 Editorial Board. Without their leadership and guidance, we would not have had the success of this year.

Jonathan Lamberti  
*Editor-in-Chief*

## Past *Law Review* Honorees

Each year the *Buffalo Law Review* honors outstanding members of the legal community. Below is a list of past honorees. Join us this year as we recognize Hon. Eugene F. Pigott & Professor David M. Engel.

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Robert B. Fleming.....	1990
Louis A. Del Cotto.....	1991
Jacob D. Hyman.....	1992
Hon. John T. Curtin.....	1993
Markus D. Dubber, John B. Sheffer II & Nancy Staudt.....	1994
Thomas E. Headrick.....	1995
Kenneth Joyce.....	1996
William A. Niese & Elizabeth Mensch.....	1997
Albert R. Mugel.....	1998
Herald Price Fahrigner.....	1999
James A. Wooten.....	2000
Hon. Michael A. Telesca.....	2001
Hon. Hugh B. Scott.....	2002
Hilary P. Bradford.....	2003
Hon. Barbara Howe.....	2004
Robert B. Conklin.....	2005
Denise O'Donnell & Robert Schwenkel.....	2006
Barbara D. Klippert & Dennis R. McCoy.....	2007
Jeffrey Crandall & Paul Battaglia.....	2008
Hon. Kevin M. Dillon & George M. Williams, Jr.....	2009

## Introducing the *Buffalo Law Review Online Forum*

The *Law Review* is pleased to announce the launch of the *Buffalo Law Review Online Forum*. The *Forum* is an online extension of the *Law Review* intended to promote scholarly legal discourse beyond the printed page and to increase the *Review's* Internet presence in the academic community.

The *Forum* focuses on the publication of short responses to articles published in the *Review* and

additionally on shorter original works, such as essays.

At this time, the *Law Review* is committed to actively marketing the *Forum* to a broad group of authors. The Editorial Board has recently accepted two pieces for publication in the inaugural "issue."

Vice Dean James Gardner has submitted a piece highlighting his testi-

mony before the New York State Legislature on changing the selection process for Court of Appeals Judges in light of the inefficiencies exposed following Chief Judge Judith Kaye's 2008 retirement announcement.

Additionally, the *Law Review* accepted University of Connecticut Professor Michael Fischl's response piece to the recently published Atelson symposium. The *Review* selected

these pieces due to their excellent treatment of contemporary legal issues and the high likelihood that these pieces will generate the robust dialogue necessary to get the *Forum* up and running.

More information on the *Forum* is available on the *Review's* website at:

[www.buffalolawreview.org](http://www.buffalolawreview.org)

## *Law Review* Members Succeed School-Wide

This school year, members of the *Buffalo Law Review* have accomplished a great deal outside of the classroom.

Many *Law Review* associates and editors participated in the 2009 Charles S. Desmond Moot Court Competition. Notably, all four finalists in this year's competition were *Law Review* members: Scott Iseman, Joshua Agins, Christopher Moran, and Jeffrey Fiut. Iseman and Agins were selected as the overall competition winners, and Moran and Fiut were awarded best brief. Mollie McGorry was recognized for her brief and oral advocacy, and Kevin Grossman and Mary Miner received a best brief award.

Matt Musial was chosen to represent UB Law at the National Wechsler Criminal Moot Court Competition in Buffalo. During the intramural competition at UB, Musial was honored with the best brief and best oral advocate awards. Jason Urbaniak participated in this year's Niagara Cup Moot Court Competition in Washington, DC. Thomas Johnson and Vincent Miranda competed in the FBA Thurgood Marshall National Moot Court Competition in Washington, DC.

*Law Review* members participated in Trial Team competitions as well. Scott Iseman competed at the Michigan State Trial Competition, Melanie Beardsley

competed in the National Civil Trial Competition in Los Angeles, and John Latella competed in the Buffalo/Niagara Mock Trial Competition. Kara Stoddart advanced to the semi-finals of the American Association of Justice regional mock trial competition, receiving maximum points for her closing argument in her two rounds from five out of six judges.

Charles Mann received the New York State Bar Association Entertainment Business Law Scholarship.

Finally, many members will soon be published authors. Jenna Moran's article, *Independent Contractor or Employee? Misclassification of Workers and Its Effect on the State*, was

recently selected to be published in the Buffalo Public Interest Law Journal.

An article written by Stephanie Nott while working at the University of Rochester, entitled *Designer Monotransregulators Provide a Basis for a Transcriptional Therapy for de novo Endocrine-Resistant Breast Cancer*, will soon be published in *Molecular Medicine* and on PubMed.

Richard Scherer's article entitled *Grab A Drink and Pass the Blame: An Argument Against Social Host Liability* earned an honorable mention in the International Defense Counsel's legal writing contest, and will be published in the April edition of the *Defense Counsel Journal*.

## Unique Summer Experiences Among Associate Class

During the summer of 2009, associate members of the *Law Review* worked in a wide array of legal fields and geographical areas, from Buffalo to Bishkek, Kyrgyzstan.

Many associates gained valuable legal skills and knowledge right here in Western New York, completing internships in firms, courts, and government agencies. Nathaniel Bank, Helen Root, and Kimberly Thrun interned in some of the area's leading law firms, while Daniel Punch and Allison Ogorek interned with local courts. Ogorek also served in a government office, working at the Internal Revenue Service, Office of Chief Counsel, and Christopher Moran interned with the Office of the U.S. Attorney for the Western District of New York.

Outside of the Buffalo area, several associates had some rather unique summer

internships. At the Connecticut Office of the Attorney General, Department of Public Safety, Justin Greatorex collaborated with a senior attorney on a substantial research paper regarding Tasers and suggested changes to the Connecticut State Police's current usage policy. Shayna Hutchins spent her summer investigating mortgage fraud cases in the FBI's Financial Institution Fraud Unit, Criminal Investigative Division, in Washington, DC.

Charles Mann worked in entertainment law in New York City this summer, first as a summer associate in a small entertainment firm and, second, as a Legal & Business Affairs intern with a start-up entertainment media company. John Mosychuck, meanwhile, interned for Hon. Julio Fuentes, a notable University at Buffalo Law School alumnus and Judge on the U.S. Court of Appeals for the Third Circuit. Brendan

Sheehan interned for Hon. Thomas J. McAvoy, Senior U.S. District Judge for the Northern District of New York.

Three associates interned a little farther from home. Tiffany Lebron worked in various locations throughout Uganda as a Buffalo Human Rights Center Barbara & Thomas Wolfe Fellow. While in Uganda, Tiffany researched human rights issues with the Foundation for African Development (FAD), worked with the local population at FAD's affiliate law firm, Lukwago & Co. Advocates, and volunteered with the Bethlehem Parents School, a Southern Ugandan orphanage.

Estelle Hofschneider, also a Wolfe Fellow, traveled to the Pacific island of Saipan in the Commonwealth of the Northern Mariana Islands, where she interned with the Micronesian Legal Services Corporation for the summer. Working on a

variety of immigration-related issues, Estelle focused much of her attention on citizenship questions arising out of the unique political relationship between the Commonwealth and the United States.

Ryan Seher interned at Kalikova & Associates in Bishkek, Kyrgyzstan, a law firm representing multinational corporations operating in the small Central Asian republic. Because Kyrgyzstan is rich in natural resources, especially gold, Ryan spent most of his time working on legal issues surrounding the Kumptor goldmine, the second largest goldmine in the world, and the Canadian and Australian corporations that operate the mine.

This varying breadth of summer experiences is indicative of the diversity of interests which the current associate class has brought to the *Law Review*.

## Law Review Members Selected for Publication in 2009-10

Four *Law Review* members were selected for the distinct honor of having their student notes and comments published in the pages of the *Law Review* this year.

Jeffrey Fiut's comment, published in December, is titled *Recusal and Recompense: Amending New York Recusal Law in Light of the Judicial Pay Raise Controversy*. It argues that New York's system of judicial recusal undermines confidence in the right to a fair and impartial trial by allowing judges to sit in cases in which the judge's impartiality could reasonably be questioned. It then sets forth a new system of recusal with two salient features: the adoption of an objective recusal statute and the crea-

tion of an independent tribunal to review recusal petitions.

Nathaniel Stuhlmiller's comment, published in January, is titled *Flores-Figueroa and the Search for Plain Meaning in Identity Theft Law*. He explores the importance of the plain meaning doctrine in the context of identity theft law. By analyzing several Circuit Court identity theft decisions and the Supreme Court's recent decision in *Flores-Figueroa v. United States*, the article points out the difficulties courts often face when attempting to grammatically interpret a statute. The article also weighs the pros and cons of the various methods of statutory interpretation discussed in *Flores-Figueroa*, and seeks to determine which

method should be used to analyze a criminal statute.

Joshua Pennel's comment, slated to be published in April, is titled *The End of Indeterminate Sentencing in New York: The Death and Rebirth of Rehabilitation*. He assesses the New York Sentencing Commission's suggestions for reforming the New York sentencing system. The Commission's recommendations include reforming the Rockefeller Drug Laws, increasing the use of community corrections, and eliminating indeterminate sentences. The article takes a critical look at both the probability of these recommendations being enacted by the New York Legislature and the potential changes to the sentencing system if these recommen-

dations are implemented.

Jenna Moran's comment, slated to be published in May, is titled *The OPEB Tsunami: Riding the Wave of Public Sector Postemployment Health Benefits*. She studies recent governmental accounting standards that mandate state and local government recognition of the unfunded liability of workers' retirement health benefits. She theorizes that public sector employers may follow the lead of private sector employers who, facing similar challenges twenty years ago, reduced or wholly eliminated retirement health benefits. Her article analyzes whether an employer can legally modify these long-promised benefits.

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## *Law Review* Softball Legacy Continues

The Editors and Associates faced off on October 17, 2009 for the annual *Law Review* softball game. The wind was sharp and the air cold but spirits were high as the teams arrived at Clark Field on the University's South Campus. The Associates arrived in force, outnumbering the Editors nearly 2-1, determined to exact some revenge for the relentless flow of cite-packs and office hours assignments. The Editors, humbled by last year's humiliating defeats, hoped to know what it

felt like to be on the winning side this year.

Fueled by Big League Chew bubble gum and David's Sunflower seeds, the teams battled and the score went back and forth for six innings. There were spectacular diving catches in the outfield, towering home runs hit into parking lots, costly errors and other uncoordinated, nerd-like mistakes typical of a *Law Review* athletic event. In the end, the Editors survived a four run top of the 6<sup>th</sup> inning rally by the Associates to hold

on and win the coveted game 15-14.

After the game, both teams came together at J.P. Bullfeathers for the fall bar night to nurse sore muscles and bruised egos and to celebrate a great start to the semester. Articles Editor Jeffrey Fiut was named game MVP for his multi-home run/diving catch performance.

The Editors and Associates will play again in the spring. But for now, the Editors reign as the softball champions.

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[www.buffalolawreview.org](http://www.buffalolawreview.org)

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