

Law Review

SOUTH • CAROLINA
ALUMNI-STUDENT NEWSLETTER

FALL 2009

UNIVERSITY OF SOUTH CAROLINA

VOL. II, ISSUE I

NEWS & EVENTS

VOL. 61 SYMPOSIUM

This year's symposium is entitled "The U.S. Court of Appeals for the Fourth Circuit: Its Tradition, Its Jurisprudence, and Its Future" and will be held at the University of South Carolina School of Law. The symposium will feature numerous well-respected speakers and panelists and should be of great interest to anyone currently residing within the Fourth Circuit or interested in the future direction of the Court.

For more information on this year's symposium, please visit:
www.sclawreview.org/symposium

VOL. 61's ALUMNI EVENT

This year's *South Carolina Law Review* alumni event will be held during the Spring semester. Plans are still tentative but as soon as details are confirmed, information about the event will be mailed to the Law Review's alumni and will be posted on our website. Any thoughts and suggestions regarding this year's event are welcomed and may be directed to Associate Managing Editor Josh Thompson at ThompsonT@mailbox.sc.edu.

FROM THE DESK OF THE EDITOR IN CHIEF...

Dear *South Carolina Law Review* Alumni:

On behalf of the *South Carolina Law Review*, I am pleased to send you our Fall 2009 newsletter. Over the summer, the Editorial Board for Volume 61 has been hard at work laying the groundwork for another successful year. This newsletter includes information about some of our more significant plans and events.

Over the summer, the *South Carolina Law Review* accepted thirty new members to join the editorial staff for Volume 61. As could be expected, all come with excellent credentials and proved themselves capable of excellent work through their academic credentials and their superb performance in the

2009 Joint Journal Writing Competition. On August 17, 2009, they underwent orientation and training to prepare them for their *Law Review*



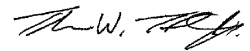
view work. We were very fortunate to have Chief Justice Jean Toal address the new members about the importance of *Law Review* membership, along with Matthew Richardson and Professor Martin McWilliams.

We are very excited to begin in earnest this year's work for the *Law Review*.

As you can imagine, the plans and information in this newsletter reflects countless hours of work and toil by members of the Editorial Board over the summer. I hope that you will include yourself in many of the plans and take a greater interest in the activities of the *Law Review*.

If I can answer any questions or concerns regarding the *Law Review*, please contact me at traxler@mailbox.sc.edu.

Respectfully,



Thomas W. Traxler, Jr.

SOUTH CAROLINA LAW REVIEW FILLS GAP IN FOURTH CIRCUIT SCHOLARSHIP

When the Editorial Board of Vol. 60 of the *South Carolina Law Review* began looking at legal scholarship in our region of the country, something stood out to the leadership. Editorial Board members were surprised to observe that no legal publication within the Fourth Circuit had undertaken the duty of publishing scholarly reflections on Fourth Circuit decisions.

Not backing down from a challenge, the *Law Review* has added a *Fourth Circuit Survey* to its topics of publication. Opening the opportunity up to all law students, Vol. 60 asked for submissions for its first annual *Fourth Circuit Survey*.

Continued on Page 4



ABOVE: Editor in Chief Tommy Traxler thanks Chief Justice Toal for her participation in Vol. 61 new member orientation.



VOL. 61 HOLDS NEW MEMBER ORIENTATION

On Monday, August 17 and Tuesday, August 18, the *Law Review's* Editorial Board held Orientation for the newly selected members of Volume 61 at the South Carolina School of Law.

Much of the two day orientation consisted of presentations by Board members explaining the role of the new members, the Editorial Board positions, the business aspects of the *Law Review*, and the editing aspects of the *Law Review*.

While Board members conducted most of the technical training, the Board was fortunate to have notable guest speakers, including

South Carolina Supreme Court Chief Justice Jean Toal, along with *Law Review* Faculty Advisor Martin C. McWilliams, Jr. and former Editor in Chief Matthew T. Richardson of Wyche Burgess Freeman & Parham, come and share their thoughts about the importance of the *Law Review*. Each speaker stressed the significance of the editing process as it relates to the personal growth of each individual member.

Chief Justice Toal reminded members of importance of the *Law Review* in both being a student-run publication and in representing the state's flagship educa-

tional institution, the University of South Carolina. Mr. Richardson brought home the importance of the *Law Review* to legal education by distributing a copy of now-United States Supreme Court Justice Sonya Sotomayor's Spring 2009 Columbia School of Law course syllabi. Within Justice Sotomayor's appellate advocacy syllabi, new members discovered that three of the eight assigned readings for the Justice's courses were articles published in the *South Carolina Law Review*.

Orientation remained well-balanced as, maintaining the *Law Review's* reputation of fostering close relationships and providing good fellowship, the journal held a cookout in the home of one of its 3L members in honor of its newest members.

LEFT: Former Editor in Chief Matthew Richardson addresses the *Law Review's* newest members during orientation.

VOLUME 60 STUDENT WORKS PUBLICATION ANNOUNCEMENT: To Be Published Within the Survey of South Carolina Law

ANDREW R. DEHOLL

Vital Surgery or Unnecessary Procedure? Rethinking the Propriety of Hospital Liability for Negligent Credentialing

WILLIAM L. MILLS

Toward a Clearer Liability Test for Defective Product Designs in South Carolina

KATHRINE MINOTTI

The Advent of Digital Diaries: Implications of Social Networking Websites for the Legal Profession

MARK R. NASH

Gatekeeper or Doorman?: Expert Testimony & Daubert in South Carolina

JUSTIN P. NOVAK

*Who's Guiding South Carolina Securities Law?: A Major Opportunity for Approaching the South Carolina Uniform Securities Act Post *Majors v. South Carolina Securities Commission**

CARLA J. PATAT

*Dancing the Texas Two-Step: What Does *Rothgery v. Gillespie County* Mean for the Sixth Amendment Right to Counsel in South Carolina*

JONATHAN SCHULZ

You Can't Have Your Cake and Avoid Liability Too: The Standards for Establishing Apparent Agent Theory

THOMAS W. TRAXLER, JR.

Amending the South Carolina Death Penalty Statute to Provide Defendants Who Plead Guilty to Murder Their Sixth Amendment Right for a Jury to Determine the Existence of Aggravating Circumstances

Forthcoming Articles For Vol. 61, Book One

The Height of Sophistication: Law and Professionalism in the City-State of Charleston, South Carolina, 1670-1775

By: William E. Nelson
Judge Edward Weinfeld Professor of Law
New York University School of Law

Policy, Perspective, and the Proxy Will

By: Ralph C. Brashier
Cecil C. Humphreys Professor of Law
University of Memphis Law School

Refuge from a Jurisprudence of Doubt: Hohfeldian Analysis of Constitutional Law

By: Allen Thomas O'Rourke
Post-Graduate Research Fellow
Harvard Law School

The Public Trust Doctrine and the Exclusive Economic Zone: A Legal Fiction on Steroids

By: Hope M. Babcock
Professor of Law and Director of the Institute for Public Representation
Georgetown University Law Center

The Equal Protection Class-of-One Claim: Olech, Engquist, and the Supreme Court's Misadventure

By: Robert C. Farrell
Professor of Law
Quinnipiac University School of Law

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VOL. 61 BUILDS ON VOL. 60'S PEER REVIEW CONCEPT FOR LEGAL SCHOLARSHIP

Encouraged by the success of the Peer Review Pilot Program, the Volume 61 Editorial Board is launching the Peer Reviewed Scholarship Marketplace (PRSM), a consortium of student-edited legal journals that employ peer review as an aid to the article selection process. The initiative and our experience with peer review are outlined in an Essay in our Peer Review Issue (Volume 60, Book 4) written by John Zimmer and Jason Luther, Volume 60's Peer Review Editor and Editor in Chief, respectively. Our efforts have received the support of several prominent legal scholars, including Judge Richard A. Posner, and PRSM members include the *Stanford Law Review*, the *Mississippi Law Journal*, and the *Wake Forest Law Review*.

The process is simple. Authors submit their manuscripts exclusively to PRSM. Subject matter experts, recruited to review the manuscript, identify and

summarize its strengths and weaknesses. When the reviews are complete, PRSM distributes the manuscript and its reviews to PRSM members, which will use the reviews as an aid in choosing which manuscripts to publish. Members will then make offers to authors like they always have, and authors will be free to accept or decline the offers. Indeed, we feel that peer review will benefit authors, student-edited legal journals, reviewers, and the legal community in general.

If you are interested in participating as a reviewer or would like more information about PRSM, please visit the PRSM website at www.legalpeerreview.org or contact William Tinkler, Peer Review Editor, at william.tinkler@gmail.com.

Save the date for. . .



SOUTH CAROLINA

Law Review Symposium

The U.S. Court of Appeals for the Fourth Circuit:
Its Tradition, Its Jurisprudence, and Its Future

October 15–16, 2009

University of South Carolina School of Law Auditorium
Columbia, SC

6.0 CLE credit hours

For the schedule and more details, please go to:
www.sclawreview.org/symposium

Fourth Circuit Survey Continued from Page 1...

The purpose of the *Fourth Circuit Survey* is to publish Articles, Essays, Case summaries, Notes, and Comments on legal topics applicable and significant to the Fourth Circuit's legal community.

Members of the Student Body embraced the opportunity to survey Fourth Circuit cases, and the *Law Review* received numerous submissions for consideration.

After submissions were reviewed, the *Law Review* proudly published six Fourth Circuit case summaries within Vol. 60.

Vol. 61 has pledged to continue the *Fourth Circuit Survey* and has already issued a call for submissions to the School of Law's student body.

Editor in Chief Tommy Traxler reflects the senti-

ment of the *Law Review's* membership in stating, "The *Fourth Circuit Survey* is a part of the *Law Review's* continued commitment to produce work of value to the local Bench and Bar. By summarizing and analyzing recent decisions from the Fourth Circuit, the *Law Review* hopes to provide a useful, relevant tool to practitioners and judges alike."

SOUTH CAROLINA LAW REVIEW'S PEER REVIEWED SCHOLARSHIP MARKET-PLACE ("PRSM") IS NOW ONLINE....

www.legalpeerreview.org

Please visit the PRSM website to see how South Carolina's flagship legal publication is now working to better the world of legal scholarship publication.

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