

Law Review

SOUTH • CAROLINA

ALUMNI-STUDENT NEWSLETTER

WINTER 2010

UNIVERSITY OF SOUTH CAROLINA SCHOOL OF LAW

VOL. II, ISSUE II

NEWS & EVENTS

VOL. 61's ALUMNI EVENT:

Saturday, February 20

This year's *South Carolina Law Review* alumni event will be held on Saturday, February 20, 2010. Volume 61 has planned a slate of terrific events, including a captain's choice golf outing and an oyster roast and barbeque. Please look inside (page 3) for details regarding the specifics of the event. We look forward to seeing many of you at the day's events.

INTEREST IN PEER REVIEW INITIATIVE CONTINUES TO INCREASE

Volume 61 is pleased to announce that two additional law journals have joined the Peer Reviewed Scholarship Marketplace (PRSM).^{*} The *Arizona State Law Journal* and the *Rutgers Law Journal* have recently joined PRSM.

^{*}Building on the success of the Peer Review Pilot Program, the Volume 61 Editorial Board has launched 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.

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 winter 2010 newsletter. This newsletter will highlight some of the *Law Review's* accomplishments during the fall semester, and it will also provide information regarding plans for the upcoming semester.

The *Law Review* enjoyed another successful fall semester. Editors diligently spaded articles for the first two issues, both of which were published in a timely manner. For some editors, this involved countless hours at the South Carolina State Archives, wading through judgments and pleadings dating back to the seventeenth and eighteenth centuries. At the same time, the *Law Review's* 2009 symposium—the “U.S. Court of Appeals for the Fourth Circuit: Its Tradition, Its Jurisprudence, and Its Future”—was a resounding success. More details and pictures from the symposium can be found inside this newsletter, but we would be

remiss not to acknowledge that the success of the symposium was the result of contributions from countless *Law*



Review alumni. I thank all of you for your generous support. Finally, I am proud to note that the *Law Review* continues to move forward with its experiment with peer review, teaming up with five other journals to create a peer review consortium.

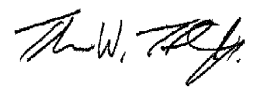
The spring semester promises just as much success and excitement as the fall. The *Law Review's* third issue will contain articles from the symposium. It will also include the *Fourth Circuit Survey*, which is comprised of student-written summaries analyzing recent cases decided by the Fourth

Circuit. The fourth issue will be the *Annual Survey of South Carolina Law*, featuring notes and comments analyzing timely issues in South Carolina law. Also, in the first two weeks of February, the *Law Review* membership will elect the Editor in Chief for Volume 62.

Finally, this year's alumni event—an oyster roast and golf tournament—will take place on Saturday, February 20. I sincerely hope that you will be able to attend. The event will provide a great opportunity to reconnect with old classmates and meet the current membership.

If I can answer any questions regarding the *Law Review*, please contact me at thomas.traxler@gmail.com. Thank you for your continuing support of the *Law Review*.

Respectfully,



Thomas W. Traxler, Jr.



ABOVE: Judge J. Harvie Wilkinson III delivers his keynote address in the auditorium of the School of Law during this year's symposium.



ABOVE: Former Chief Judge of the Fourth Circuit William "Billy" Wilkins converses with Judge Robert B. King at a reception following Judge Wilkinson's keynote address.

BELOW: Judge Wilkinson, attorneys Matthew Richardson, Hannah Metcalfe, and Kay West, and Editor in Chief Tommy Traxler pose for a Federal Bar Association photo.



VOLUME 61'S FOURTH CIRCUIT SYMPOSIUM A WONDERFUL SUCCESS

We are proud to announce that our 2009 symposium—"The U.S. Court of Appeals for the Fourth Circuit: Its Tradition, Its Jurisprudence, and Its Future"—was a resounding success. The symposium took place on October 15-16, 2009, at the University of South Carolina School of Law and featured a very distinguished group of judges, scholars, and attorneys who weighed in on the practices of the Fourth Circuit, its jurisprudence in various substantive areas, and its possible direction in the future.

On the morning of Thursday, October 15, the Fourth Circuit heard oral arguments at the law school in front of a crowd of approximately 550 students, professors, and local attorneys. The Hons. William B. Traxler, Jr., J. Harvie Wilkinson III, and Clyde H. Hamilton presided over three cases. That evening, Judge Wilkinson delivered the keynote address for the symposium to around 150 students, professors, practitioners, and judges. A reception followed in the law school lobby. The South Carolina chapter of the Federal Bar Association cosponsored the speech and the reception.

Over 150 attorneys and other interested individuals were in

attendance for the panel discussions on Friday, October 16. In the morning, two panels provided practical guidance for practitioners arguing in front of the Fourth Circuit. Chief Judge Traxler, Judge Robert B. King, and Judge Dennis W. Shedd sat on the first panel and answered moderator-led questions regarding the intricacies of the Fourth Circuit. The judges graciously offered their advice about how best to prepare for and present arguments before the Fourth Circuit. The following panel featured Dick Harpootlian, Amy Ray, and Matt Gissendanner, skilled appellate advocates and former Fourth Circuit clerks, who offered their advice about arguing before and preparing briefs for the Fourth Circuit.

The rest of the day focused on generating substantive discussion on the Fourth Circuit's jurisprudence. Professor David Stras of the University of Minnesota Law School provided data reflecting recent trends in the Fourth Circuit's practice and jurisprudence, and Professor Carl Tobias of the University of Richmond Law School commented on the possible direction of the Fourth Circuit under the Obama Administration. Professor John

Blume of Cornell University Law School analyzed the Fourth Circuit's death penalty jurisprudence, while Assistant United States Attorney Bill Watkins critiqued the Fourth Circuit's modified categorical approach for determining what constitutes a violent felony under the Armed Career Criminal Act. Professor Helen Norton and attorney Kevin Hall offered differing takes on the Fourth Circuit's government speech jurisprudence. Finally, Professor Hank Chambers and attorney Allen Nickles discussed the Fourth Circuit's employment discrimination jurisprudence.

We are very grateful for the generous support we received from many alumni. Throughout the planning stages, countless number of alumni provided advice and offered assistance. Moreover, the program featured a number of alumni as well, including Chief Judge Traxler (Vols. 24 & 25), Judge Shedd (Vols. 28 & 29), Professor Alan Medlin (Vols. 29 & 30), Matt Gissendanner (Vols. 57 & 58), and Bill Watkins (Vols. 49 & 50). We would like to thank everyone who helped with and were able to attend the symposium. Your support made it a true success.

VOLUME 61'S ALUMNI EVENTS TO BE HELD SATURDAY, FEBRUARY 20

Volume 61 will hold this year's alumni events on Saturday, February 20, 2010. We hope that each of you will be as excited about the events scheduled as we are and that you will plan to join us for a day of relaxed fun and fellowship.

Events will begin with a four person captain's choice golf outing to be held at Northwoods Golf Course. This is a beautiful course, and it will be a wonderful time for you and fellow alumni to gather and reunite while engaging in some friendly competition. Feel free to invite and encourage others who may not be alumni of the *Law Review* to come out and participate as well.

The tournament will begin with a shotgun start at 9:30 a.m. on Feb. 20. The cost to participate in the tournament

is \$35.00 per player. This fee includes 18 holes of golf, a golf cart, and range balls to use for warming up. Concessions, including food and nonalcoholic and alcoholic drinks, will be available throughout the day in the course's pro shop.

Following the golf outing, Volume 61 will host an oyster roast and barbeque at the University House, which is located across from the University of South Carolina's football stadium. The oyster roast and barbeque is planned from 5:00-8:00 p.m.

Hudson's Smokehouse will provide the oysters and barbeque. Along with barbeque and oysters, we will also provide a beer and wine bar.

There is no charge for attending the oyster roast and barbeque, and

spouses and significant others are invited as well.

If you plan to participate in the golf tournament, we ask that you RSVP to Associate Managing Editor Josh Thompson at ThompsonT@email.sc.edu by Sunday, February 14. Please RSVP with the number of players that you have, and we will fill any gaps in your team number with members of the *Law Review* who plan to participate in the tournament.

If you would like to attend the oyster roast and barbeque, we ask that you RSVP to Associate Managing Editor Josh Thompson at ThompsonT@email.sc.edu by Monday, February 15 with the number of persons who will attend.

Any questions about the events, the venues, or the menu for the oyster roast and barbeque may be directed to Associate Managing Editor Josh Thompson at ThompsonT@email.sc.edu or (864) 426-3316. We hope you will plan to attend the day's events, and we look forward to seeing many of you then!

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**SOUTH CAROLINA LAW REVIEW'S PEER
REVIEWED SCHOLARSHIP MARKETPLACE
(PRSM) IS NOW ONLINE....**

www.legalpeerreview.org

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

Forthcoming Articles For Volume 61, Book Three

THE DANCE OF DEATH OR (ALMOST) "NO ONE GETS OUT OF HERE ALIVE": THE FOURTH CIRCUIT'S CAPITAL PUNISHMENT JURISPRUDENCE
JOHN H. BLUME

THE WILD WEST OF SUPREME COURT EMPLOYMENT DISCRIMINATION JURISPRUDENCE
HENRY L. CHAMBERS, JR.

A SURVEY OF THE FOURTH CIRCUIT'S DEVELOPING GOVERNMENT-SPEECH JURISPRUDENCE
M. TODD CARROLL AND KEVIN A. HALL

THE RISING CASELOAD IN THE FOURTH CIRCUIT COURT OF APPEALS: A STATISTICAL ANALYSIS
DAVID R. STRAS & SHAUN PETTIGREW

FOURTH CIRCUIT JUDICIAL APPOINTMENTS
CARL TOBIAS

ROSEBORO'S MODIFIED CATEGORICAL APPROACH: IS IT INCONGRUENT WITH *BEGAY*?
WILLIAM WATKINS, JR.

THE FOURTH CIRCUIT AND ITS FUTURE
J. HARVIE WILKINSON III

FOURTH CIRCUIT SURVEY PUBLICATION ANNOUNCEMENT

The Volume 61 Editorial Board would like to congratulate the following students who will be published in this spring's *Fourth Circuit Survey** as part of Book Three:

JOSHUA BENNETT
Lefkoe v. Jos. A. Bank Clothiers, Inc.

JOSEPH S. BOWMAN
Muffley ex rel. National Labor Relations Board v. Spartan Mining Co.

CHRISTOPHER BROWN
Piedmont Environmental Council v. Federal Energy Regulatory Commission

ANDREW R. DEHOLL
Moore v. Williamsburg Regional Hospital

TAYLOR TOWE DENSLOW
Richmond Medical Center for Women v. Herring

IAN DUGGAN
CACI Premier Technology, Inc. v. Rhodes

STEVEN K. HARDY
George & Co., L.L.C. v. Imagination Entertainment Limited

CLARK H.C. LACY
Carden v. Aetna Life Insurance Company

SARAH E. MERKLE
Snyder v. Phelps

STEPHEN WILLS MURPHY
United States v. Vankesteren

ROSALYN K. SINGER
United States v. Squirrel

STEVEN C. WOODLIFF
United States ex rel. DRC, Inc. v. Custer Battles, L.L.C.

*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.



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