

Celebrating

100
YEARS OF

PRACTICE COURT
at **Baylor Law.**

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A SPECIAL EDITION OF

DOCKETCALL

FALL 2020

INTRODUCING THE ROB AMMONS COURTROOM *at Baylor Law*

Baylor Law dedicates a new, first floor courtroom at the Shelia and Walter Umphrey Law Center in honor of eminent Houston trial lawyer, Rob Ammons.

The Rob Ammons Courtroom is named in appreciation of a generous gift from Mr. Ammons establishing the **Robert E. Ammons Endowed Scholarship in Law** which benefits deserving Baylor Law students, with preference given to students who have demonstrated an interest in advocacy. The Rob Ammons Courtroom accommodates Baylor Law's robust Practice Court Program by facilitating Practice Court mock trials, inter-school and national mock trial and moot court competitions, and mediations and mock trials for practicing attorneys.

"We are so grateful for Rob's generosity which will substantially benefit Baylor Law students for years to come," said Baylor Law Dean Brad Toben. "Rob's career as a preeminent trial lawyer reflects great honor upon Baylor Law and the preparation we give our students in advocacy. Also, we're always especially pleased when Baylor Lawyers share their love for, and confidence in, our school by sending their

children to us. Rob and Chris have sent us R.J. and Lexie, and it's a delight to see three Baylor Lawyers in the family!"

"Baylor Law is a special place. The faculty, the Practice Court Program, and the friends that I made during my years at Baylor Law have been the foundation of my career as a trial lawyer.

I am proud to have two of my children, R.J. and Lexie, attending

"We are so grateful for Rob's generosity which will substantially benefit Baylor Law students for years to come."

- DEAN BRAD TOBEN

Baylor Law and I am thankful for being in a position to give back to a place that gave so much to me," said Rob.

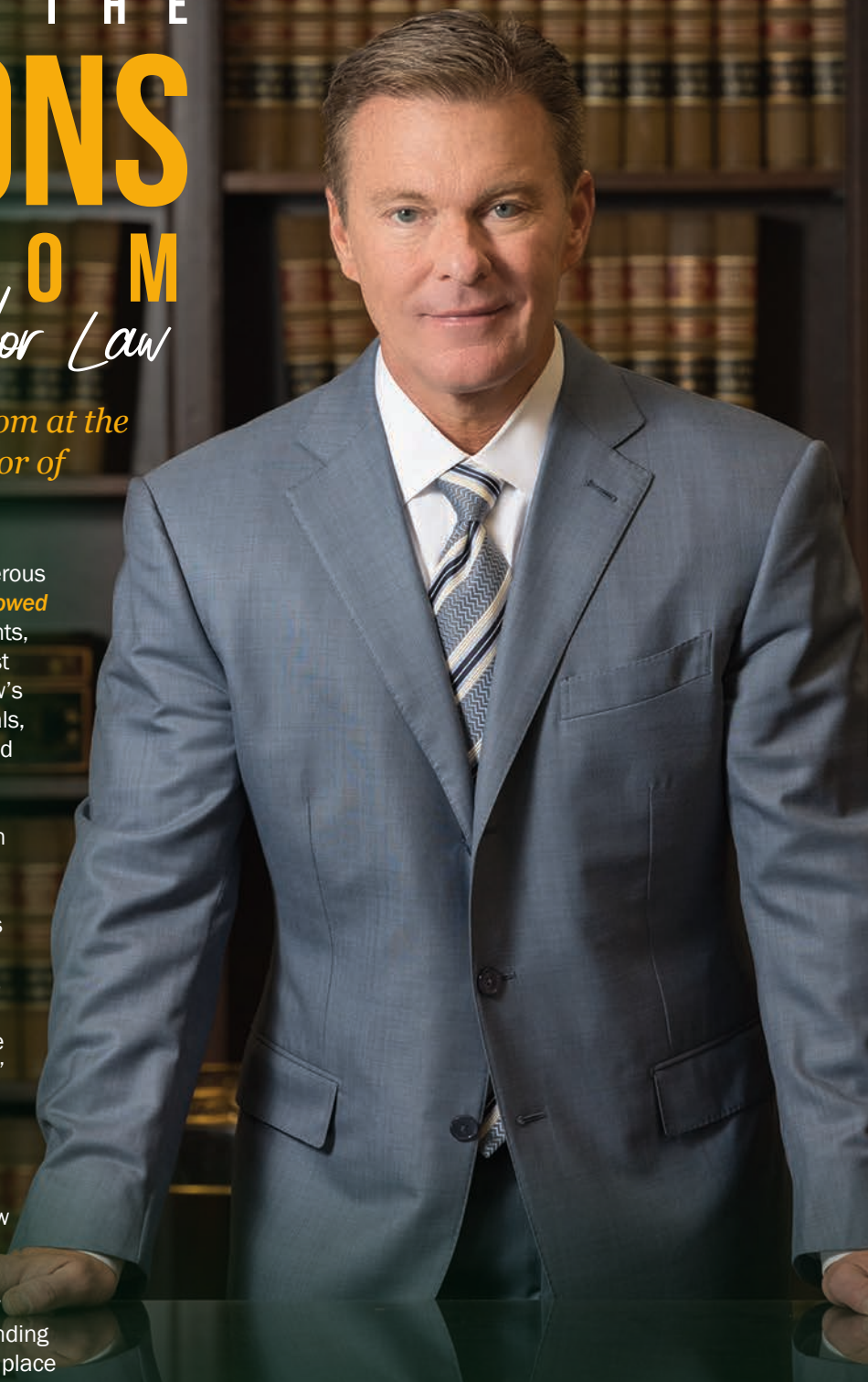
Robert E. Ammons earned his Bachelor of Arts degree from Baylor University in 1985. After receiving an academic scholarship, Rob continued his education at Baylor Law, where he was the editor of the *Baylor Law Review* and a member of both the Order of the Barristers and the Phi Delta Phi Legal Fraternity. He earned his JD with honors in 1988 and was selected to serve as a briefing attorney for the Supreme Court of Texas.

In 1989, Rob began his private practice with the law firm Vinson & Elkins. Five years later, he developed his personal injury practice and began representing plaintiffs in catastrophic injury and wrongful death cases. Consistently since 2003, Rob's peers in the legal community have named him to the list of Texas Super Lawyers. He is a frequent speaker on product liability issues and a published author. He and his wife, Christine, have four children: R.J., a member of the Baylor Law Class of 2020, Lexie, a member of the Baylor Law Class of 2021, Alexandra, and Austin.

MAKE YOUR PERMANENT MARK

*Additional naming opportunities are available, but limited. Contact Kristine Bridges, Director of Development for Baylor Law, at Kristine_Bridges@baylor.edu, call **254.710.8537**, or visit baylor.edu/law/give*

Baylor Law.





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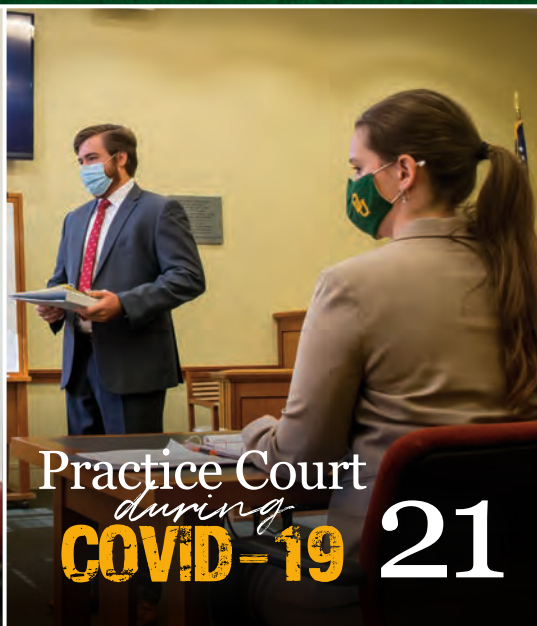
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Baylor Law.

DOCKETCALL

Docket Call is published by Baylor Law for its alumni, faculty, staff, students, supporters, and friends.

Established in 1857, Baylor Law was one of the first law schools in Texas and one of the first west of the Mississippi River. Today, the school has more than 7,600 living alumni. It is accredited by the American Bar Association and is a member of the Association of American Law Schools.

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Practice Court

in a Time of Crisis

A FOREWARD BY PROFESSOR GERALD R. POWELL

Nobody who has lived through it will ever forget the year 2020. Even Mrs. Palsgraf couldn't have foreseen the cataclysmic events of this year, especially at our quiet little corner of the world on the banks of the Brazos River. Could you have ever imagined PC on a PC? Jury trials conducted through a computer monitor? Online Top Gun?

Now in the midst of a global pandemic and great social change, we are celebrating the centennial of Practice Court. Maybe it's fitting that this celebration falls during a hundred-year crisis.

Practice Court, the brainchild of Justice James P. Alexander, officially commenced in 1920 with the reopening of the Law School after a long hiatus. When those first PC students stood up to answer questions in class for the first time in the 1920s, who could foresee the challenges they would face as lawyers after graduation? I'm sure most of them believed that their new careers would thrive in a well-deserved time of peace and prosperity. After all, they had survived the *Great War* — the war to end all wars — and the *Spanish Flu*. Who could possibly foresee what would come next? Can you imagine starting a law practice during the *Great Depression*? And who could foresee the need for a young Baylor Lawyer and FBI agent named Abner McCall to chase Nazi spies across the mountains of the Big Bend during a second world war? Who could foresee the need for another Baylor Lawyer named Leon Jaworski to prosecute Nazis for unimaginable war crimes?

While the precise events of the future evoking their call might not be foreseeable, it is entirely foreseeable that Baylor Lawyers, *all* Practice Court trained and tested, will be there when they are needed, especially when the stakes are life or death. It's who we are. You stood on your feet in PC, at times taking blows like a punching bag so nobody would ever knock you down when it really mattered. That confidence enables Baylor Lawyers to answer the call.

I remember September 11th of 2001 like it was yesterday. As I was leaving home for school that morning, breaking news came on the television. I saw smoke billowing from the Twin Towers before they fell, and I will never forget it. I remember walking into my class an hour after the first plane hit the World Trade Center. We were all in a state of shock. The world had suddenly changed. I didn't really know what to say. I tried to give my students some reassurance that what we were doing was still important, though even to me the predicate for the dying declaration hearsay exception seemed utterly inconsequential. I told them we needed to stick with it, however, because there would be a need for zealous, ethical prosecutors to bring the terrorists to justice, for fearless defense lawyers to defend unpopular clients accused of terror, and — in the inevitable backlash — for conscientious lawyers to represent innocent Muslim-Americans wrongfully targeted because of their religion. Like Mrs. Palsgraf, maybe I couldn't foresee the exact circumstances, but I had an abiding confidence that Baylor Lawyers would be there when called. I couldn't foresee her name in 2001, but I wasn't surprised eighteen years later when I watched Baylor Lawyer Katie Sweeten, a prosecutor with the Department of Justice Anti-Terrorism Task Force, take down a dangerous ISIS terrorist in federal court. That Baylor Lawyer saved lives. Go get 'em, Katie!

So it is with the events of today. Baylor Lawyers will be called to serve. Already some have stepped up in their roles as political leaders. Kyle Deaver, Mayor of Waco, fearlessly took necessary steps to protect our community against the virus before anyone in Austin or Washington was willing. Clay Jenkins, County Judge of Dallas County, did the same. Those Baylor Lawyers saved lives.

As if the pandemic wasn't enough of a challenge, our country was already facing a health crisis of immense proportions. In 2017 alone almost 50,000 Americans

died from opioid overdoses. Not surprisingly it was a team of Baylor Lawyers at Nix Patterson who took on big pharma like they had taken on big tobacco years earlier. I watched with great pride as team leader Brad Beckworth made the opening statement on behalf of the citizens of Oklahoma in the historic televised trial. Not surprisingly, they won a great victory, historic by any metric, for Oklahoma and America. Beckworth and Drew Pate and Trey Duck and others saved lives.

In 2020 our country still faces serious social justice issues. The legitimate constitutional police power is tested not only by the coronavirus crisis but also by some bad cops who give a bad name to the many more good cops. The pesky balance between security and liberty is tested in ways sometimes sadly

foreseeable, but sometimes not.

*It is entirely foreseeable that Baylor Lawyers, all Practice Court trained and tested, will be there when they are needed, especially when the stakes are life or death. **It's who we are.***

I heard recently from young Baylor Lawyer Luis Herrera who reported on the trial of his first case — it's the kind of email I always love to get — and he reported that he

represented an immigrant woman and her daughter who fled persecution and torture in their home country, seeking asylum in America. He won their freedom after eight months of ICE detention in Arizona. Both the Immigration Judge who granted them asylum, and the DHS lawyer who opposed it, praised his preparation and advocacy in the trial. There's a young Baylor Lawyer who made a real difference — he saved lives. Attaboy, Luis!

In Dallas, Baylor trial lawyers Michelle Tuegel and Morgan McPheeters filed suit and successfully forced the city to end its use of tear gas and rubber bullets against peaceful protesters. They protected lives.

Never before has the rule of law been so brazenly threatened by people who are supposed to be public servants. Who will rise to its defense? Who will fight for constitutional checks and balances? Who will be willing to speak truth to power? Who will advocate for the bedrock principle that no one — not even a president — is above the law? Watergate Special Prosecutor Leon Jaworski answered that call in 1973 when another president abused his office. Who will stand now for the rule of law? Can you foresee?

When I completed PC in 1976 and began the practice of trial law in 1977, I certainly couldn't foresee that someday I would be teaching Practice Court. I went to law school to be a trial lawyer, like my hero of a big brother, Bob, a Baylor Lawyer.

I wanted to be a doer, not a teacher. But when I got the call from my PC classmate, Brad Toben, asking if I'd be interested in returning to Baylor to teach Evidence and work alongside Louis Muldrow in Practice Court, I was thrilled. It had never been part of my dream, but it soon became my life's work. It's been an honor to teach with my PC colleagues, great lawyers all: Louis Muldrow, Bill Underwood, Jim Wren, Jeremy Counsellor, Liz Fraley, Susan Kelley-Claybrook Ortiz and Robert Little. It has been the greatest privilege imaginable to have a small part in preparing superb Baylor Lawyers like Katie Sweeten, Brad Beckworth, Drew Pate, Trey Duck, Kyle Deaver, Clay Jenkins, Luis Herrera, Michelle Tuegel, Morgan McPheeters, and so many, many others. In Morgan's PC class of 2013-2014 I had the absolute joy of teaching my own son, Colin L. Powell. At times that joy was foreseeably terrifying for both of us, but somehow we made it through PC together, even when I assigned him a report, and now he's a really fine young trial lawyer in Dallas. His old man's proud.

In July of 2021, God willing, I'll retire from teaching at Baylor Law after thirty-five years. I haven't always been right or fair or understanding or patient. After all, it was my job to be your PC sparring partner, and yes, sometimes the blows came below the belt like they sometimes do in the proverbial real world. I hope you'll forgive me now. Retirement is truly a bittersweet prospect for me. I'll miss so many things — the people mainly. Maybe it's enough to say that I've always loved what I did and who I did it with, both students and colleagues, foreseeable to any of us or not.

Godspeed to all my beloved Baylor Lawyers. There being no shortage of dragons to slay, I can't wait to hear about the great good you'll do.



Gerald R. Powell

**Gerald R.
Powell, JD '77**

ABNER V. MCCALL
PROFESSOR OF EVIDENCE



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Practice Court: The Past 100 Years

Baylor Law graduates have a reputation for being well prepared for the practice of law, due in significant part to their Practice Court experience. Commanding a room, mastering the facts and the law, and maintaining composure and credibility under pressure are essential building blocks for legal leadership. All are painstakingly developed whether through mini-trials, advocacy exercises, or being called on during class.

Put best by Louis S. Muldrow, “Baylor’s prevailing philosophy is that trial practice and procedure can be taught effectively only by one actively engaged in that pursuit.” Baylor Law has traditionally recruited its Practice Court professors from judges and trial lawyers deeply immersed in the realities of trial practice and who are recognized as true masters of the art of trial advocacy and procedure. Baylor Law graduates are trained to understand and respect dedication to the rule of law and to integrity, and that comes to fruition during the demanding hours of Practice Court.

Since its inception one century ago, the bedrock of Practice Court has been a commitment to preparing Baylor Law graduates for excellence in the practice of advocacy, precise knowledge of evidence and procedure, and the highest degree of professional conduct. To appreciate the foundations upon which Practice Court was built, it is important to understand the reality of what McLennan County looked like 100 years ago.

Who was Your PC Professor?

It's a question that many Baylor Lawyers are eager to answer. One so routine yet so significant, and remarkably defining. One that can feel more important than the year of graduation. A question that can form an instant connection — *Who was your PC professor?*

Since 1920, there have been many brilliant professors who have greatly impacted the students of Practice Court. The program has demanded nothing less than excellence from those students who endured the stressful six months on their journeys to become Baylor Lawyers. For the past century, a common theme persists throughout Practice Court: *As attorneys, we accept the calling to lead, counsel, and rescue our clients with integrity and professionalism. We can only meet that calling if we are prepared to go the distance under great pressure.* This has been the guiding principle of Practice Court since Judge James P. Alexander demonstrated what it meant to be a lawyer of great integrity. This principle remains at the core of the program today.



JUDGE JAMES P. ALEXANDER 1920-1941, PC PROFESSOR

After Baylor University moved to Waco in 1886, Baylor Law resumed formal operations in 1920 amid a rising resurgence of the Ku Klux Klan nationally and especially in the South. The 1915 silent film “classic” *The Birth of a Nation* had swept the nation, glorifying the KKK by portraying blacks as primitive beastly predators of white women and the Klan as the protectors of white civilization. In 1916, Black 17-year-old Jesse Washington was lynched in Waco outside of the courthouse in front of more than 15,000 spectators, with the lynching recorded in photos published nationally. The KKK found large support within mainstream Protestant Christianity in opposition to “Blacks, immigrants, Catholics, and Jews.” In October 1921, McLennan County Sheriff Bob Buchanan nearly died facing off against a massive hooded rally of KKK marchers in Lorena, outside of Waco. And by the time the first class of new Baylor Law students reached the third-year Practice Court course in 1922, the Klan dominated public elections in Texas (reaching its apex in 1924), and almost all elected officials in Waco and McLennan County had officially joined the KKK.

The small number of dissenters in Waco and McLennan County still standing in public opposition to the KKK by 1922 were few, but they were notable. Samuel P. Brooks (President of Baylor University), J.M. Dawson (Pastor of First Baptist Church-Waco), and Judge James P. Alexander (19th District Court Judge and founder of Baylor Law’s Practice Court) signed a public letter opposing the Klan, knowing their stand would cause them to lose large swaths of constituents, church members, and voters.

Even though he knew it would cost him his judicial office in the next election, Judge Alexander openly condemned the actions of the KKK, including appearing at a KKK meeting to personally refuse to sign the Klan oath. He believed the extralegal actions of the KKK — appointing itself to serve as the enforcer, judge, jury, and executioner of its view of civilization and justice — were in direct conflict with the United States Constitution.

Watergate prosecutor Leon Jaworski, in his book *Crossroads*, recounted his formative experience of Judge Alexander’s stand against the KKK and quoted Judge Alexander’s words in Practice Court: *“Perhaps someday people may feel that a judge who decides against joining such an organization is an enemy of the country. Perhaps they may decide that anyone with a foreign-sounding name is suspect. Against this, we have only one defense, next to God, and that is the United States Constitution . . . and it’s good to know we have all these aspiring young lawyers anxious to defend it.”*

Jaworski went on to summarize the impact of Judge Alexander: *“Great as were the contributions of Judge Alexander to the development of Texas Jurisprudence, they were excelled by the rich contribution he made to the building of young lawyers, both in ability and character. . . Among Judge Alexander’s many noble virtues, none was more pronounced than his unswerving determination and unbounded courage to uphold the right and denounce the wrong.”*

In his Practice Court class, Judge Alexander taught young lawyers to try cases with ethical standards and integrity. Characteristics that he modeled in his own legal career and that remain at the core of the Practice Court Program today.

Judge Alexander taught Practice Court from 1920 until 1941 when he became Chief Justice of the Texas Supreme Court. In a lecture he gave at Baylor Law years later, Judge Alexander advised students that, “A lawyer is engaged in a noble profession, but one not without its responsibilities. It is a lawyer’s duty and obligation in life to adjust the rights of mankind, as the defender of the liberty of the individual. Wherever he goes, he is a thorn in the side of the tyrant or the dictator, or those who would usurp unwarranted power. The lawyer of today is facing ever-increasing responsibilities.”

Following Judge Alexander’s tenure, Judge Joseph W. Hale taught Practice Court for two years until Baylor suspended activities in 1943 due to World War II, and again for a short time following the reopening of the Law School in 1946. That year, the class size had grown so much that Judge Frank M. Wilson joined Judge Hale, and the two taught Practice Court together before Judge Wilson took sole responsibility for the course.





JUDGE FRANK M. WILSON 1947-1971, PC PROFESSOR

Judge Wilson was a highly regarded appellate judge in the Tenth Court of Civil Appeals who was known for his concise opinions and his strong belief that a judicial system could not succeed without predictability of the law. He was named Baylor Lawyer of the Year in 1969 and served as president of the Baylor Law Alumni Association and the Waco-McLennan Bar Association. He acted as a chairman on the State Bar of Texas Tort and Insurance Law Section and the Rules Committee. Nationally, he was a member of the Administration of Justice Committee, the American Judicature Society, and the American College of Trial Lawyers. No matter how demanding his schedule, he could always be found teaching Sunday School Class at the Columbus Avenue Baptist Church-Waco each Sunday.

By 1951, Judge Wilson was the only professor of Practice Court, and he continued teaching PC until 1971. He taught his students how important the responsibilities of a lawyer were and how a lawyer must always be devoted first to principle and duty. “Judge Frank Wilson was virtually synonymous with Practice Court. It was the most demanding part of our law school curriculum. If you didn’t do well in practice court, you didn’t graduate from law school,” said Professor David Guinn. He modeled this devotion and dedication to his students through his own commitment to the course. Every day he began class precisely at 7:30AM. During the 23 years he taught Practice Court, Judge Wilson only missed three weeks of class during the summer of 1967 to go to Europe with his wife. Only illness could ultimately stop him from teaching, as it did in 1971.

During his tenure, he worked diligently to simulate actual trial practice for his students and, in doing so, began what is now considered the legacy of the Practice Court experience. “He subjected his students to each stress, demand, or threat which they would encounter as a trial lawyer,” said Professor Louis Muldrow. “He employed burdensome assignments, personal criticism, devastating questions, icy glares, and disconcerting command performances...[but] with mature reflection, after having gained personal experience, one realizes that he taught his students to not only act as lawyers but to think as lawyers; and to think and act as lawyers under fire,” Muldrow said. “Harshness was not utilized for harshness’ sake, but because it was needed.”

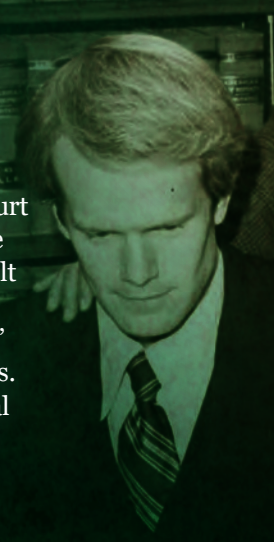
Judge Wilson’s commitment and generosity to Baylor remain present in the Law School today. As a scholar of the law, he had a deep love for old and rare legal books. The writings of Lorde Edward Coke were his favorite among his private collection of over 2,100 texts, all of which he donated to the Law School. They are still housed in the Rare Book Room on the second floor of the Law Library.

MATT “MAD DOG” DAWSON 1971-1983, PC PROFESSOR

Matt Dawson, often referred to as “Mad Dog,” became Practice Court Professor in 1971 following Judge Wilson. As an adversary in litigation, Mad Dog was justly nicknamed. “He was half junk-yard dog and half pit-bull. He wouldn’t turn you loose until you were thoroughly whipped,” said Professor Gerald Powell.

Following his graduation from Baylor Law, Dawson clerked for Texas Supreme Court Chief Justice (and Baylor Law’s first Practice Court professor) James P. Alexander. He then spent the next 25 years as a trial lawyer in East Texas. During his practice, he built a reputation for being fierce, tenacious, and effective in the courtroom.

One of his major contributions to the PC program was the addition of “mini-trials.” In addition to the one “Big Trial” of PC, each student had to compete in two mini-trials. These exercises consisted of an opening statement, examination of witnesses, and final arguments. Due to their effectiveness, the mini-trials became the model for the mock trials of the American College of Trial Lawyers National Competition.



Dawson knew that to be an accomplished lawyer, one had to practice at it. The introduction of mini-trials allowed students the opportunity to learn what they did wrong and how to get it right. Students competed in mini-trials until there were only two teams left standing. Dawson also taught the importance of preserving error, teaching students how to build an appellate record, and how to prepare briefs for appeal.

If anyone doubts that his legacy at Baylor Law remains to this day, the life-size bronze Matt “Mad Dog” Dawson statue on the second floor of the Law School serves as a bold reminder. Additionally, each Practice Court class participates in an intrascholastic mini-trial competition, now called the Bob and Karen Wortham “Mad Dog” Practice Court competition. The winner of the competition is awarded a cash prize and “The Mad Dog,” — an 18-inch bronze statuette of Professor Dawson.

LOUIS S. MULDROW 1983-2000, PC PROFESSOR

According to colleague and friend, Professor Gerald Powell, “Louis Muldrow would recite Robert Frost’s verse about the road less traveled by and make you wish you were so bold a wayfarer in life. He knew, with a sigh, it would make all the difference in you.”

From 1983 until 2000, Louis S. Muldrow directed the Practice Court Program. Holding the position as the Leon Jaworski Professor of Practice and Procedure, he was honored as Baylor Lawyer of the Year in 2000. Prior to joining the Baylor Law faculty, Muldrow was a highly successful trial lawyer and practiced for many years with the law firm of Naman, Howell, Smith, Lee & Muldrow.

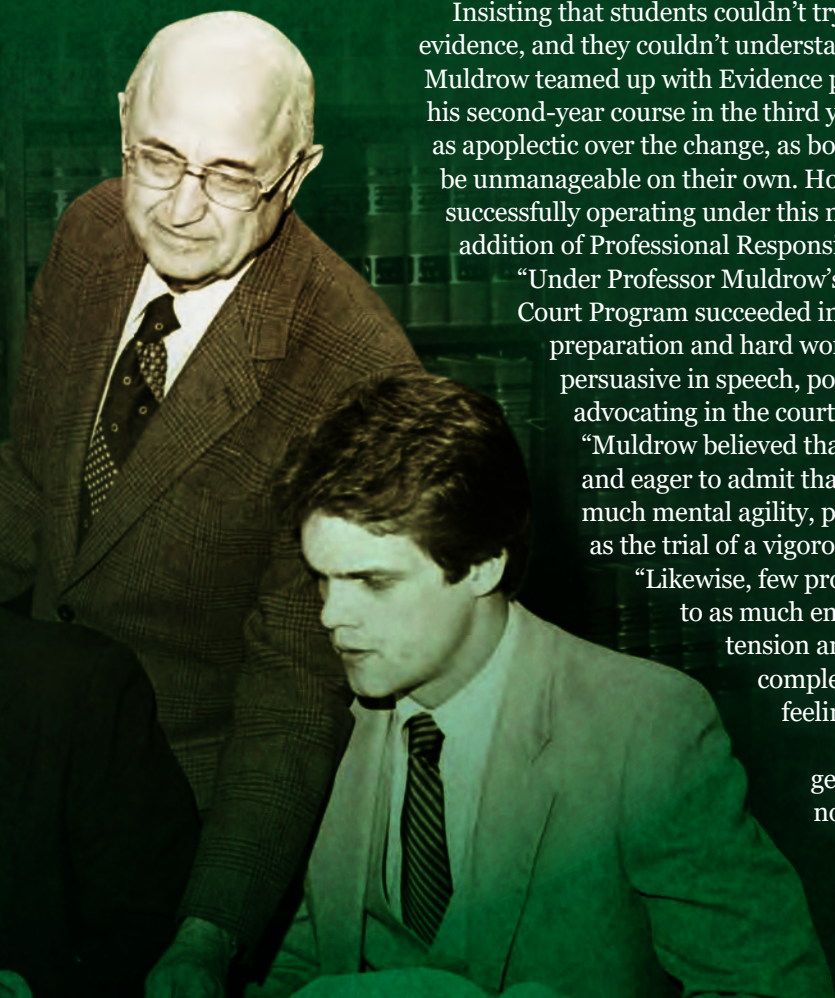
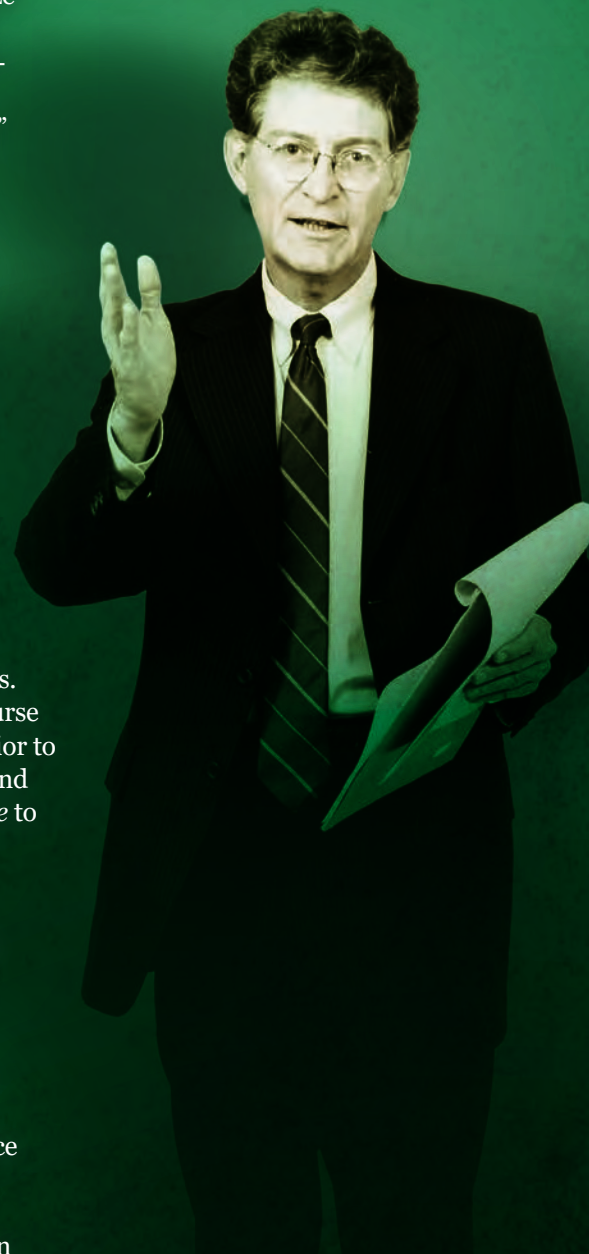
His philosophy was in order for students to fully grasp the elements of a jury trial, each step in the trial process should be treated separately. Appellate writing was moved elsewhere in the law curriculum, allowing him to expand on Dawson’s mini-trials. He eliminated the competition approach to allow for more advocacy exercises in the course that consisted of one opening statement exercise and a witness examination exercise prior to the first mini-trial. The goal was to familiarize students with speaking to a jury and questioning witnesses. Before “Big Trial,” Muldrow implemented *voir dire* to teach students the strategy and importance of selecting a jury.

Insisting that students couldn’t try a case without understanding evidence, and they couldn’t understand evidence without trying a case, Muldrow teamed up with Evidence professor Gerald Powell to combine his second-year course in the third year. Students could be described as apoplectic over the change, as both classes had been rumored to be unmanageable on their own. However, Practice Court has been successfully operating under this model since the early ’90s, with the addition of Professional Responsibility as well.

“Under Professor Muldrow’s remarkable leadership, the Practice Court Program succeeded in teaching students the value of preparation and hard work, how to be precise in analysis, persuasive in speech, poised under pressure, and effective in advocating in the courtroom,” said Baylor Law Dean Brad Toben. “Muldrow believed that every experienced trial lawyer is ready and eager to admit that few professional pursuits require as much mental agility, pointed analysis, and presence of mind as the trial of a vigorously contested case,” Toben added.

“Likewise, few professional pursuits subject the participant to as much emotional, mental, and even physical tension and stress as trial work. The students complete the course battle-weary, but with a feeling of confidence that combat can supply.”

After 17 years as PC Professor, influencing generations of Baylor Lawyers, Muldrow is now enjoying retirement in Waco, Texas.





WILLIAM UNDERWOOD 2000-2005, PC PROFESSOR

Notorious for once teaching to an empty class on a snow day, Bill Underwood quickly impressed upon his students the never-ending demands of the legal profession. Underwood served as the Professor of Practice Court from 2000 to 2005. Named the Leon Jaworski Professor of Practice and Procedure and Master Teacher, he made a significant impact on the program. Before he was the Professor of Practice Court, Underwood had been teaching at the Law School for 10 years and had served as General Counsel for Baylor University.

Much like the Practice Court professors before him, Underwood believed that “while one mission of the Practice Court Program is to prepare students for litigation and trial practice, the program’s broader mission is to prepare each student to be a competent, responsible, and ethical lawyer and human being, whether the student ever sees the inside of a courtroom or not.” He is credited with integrating discovery and focusing more on federal practice in the Practice Court Program.

While Evidence and PC were being taught in the third year, the increasing demands from both courses made it difficult for students to focus on other classes. The decision was made to essentially “give the students over” to Underwood and Powell all in one quarter to allow for a true immersion experience in which the students lived and breathed PC and nothing else for the first half of the Practice Court Program.

In 2006, Underwood took over as the interim president of Baylor University. He then was unanimously elected by the Mercer University trustees to become the president of Mercer University, where he remains today. Knowing the best trial attorneys come from Baylor Law, he proudly encouraged his daughter, Jessica, JD ’14, to attend Baylor Law.

GERALD R. POWELL 1986-2005, PC PROFESSOR 2005-2021, PC PROFESSOR/DIRECTOR

Gerald “Jerry” Powell began teaching Evidence in the Practice Court Program in 1986 and took over as the Practice Court Director in 2005. After he graduated from Baylor Law in 1977, Powell built a very successful practice as a trial and appellate lawyer at the Dallas-based firm of Vial, Hamilton, Koch & Knox, where he was made partner by 1982. Four years later, Powell returned to Baylor Law to teach and was appointed shortly after that as the Abner v. McCall Professor of Evidence Law.

Through the classes he taught in evidence, advanced evidence, and trial advocacy in Baylor Law’s Practice Court Program, plus an advanced trial advocacy seminar, Powell distinguished himself as one of the most impactful professors at the University. His dedication was recognized when he received the title of “Master Teacher,” the highest honor given to a Baylor University faculty member.

In his class, Powell’s calm but tough-love approach to teaching creates a strong desire in his students to meet his expectations and not disappoint him. For many students, and even lawyers, the Rules of Evidence can be abstract and challenging to grasp, especially learning which statements constitute impermissible hearsay. However, you would be hard-pressed to find someone who understands the Rules of Evidence and teaches them more effectively than Powell. Due to his instruction, Baylor Lawyers excel in making correct and precise objections during trial.



When Jim Wren was hired as a full-time professor in 2006, Powell brought him on board to assist in teaching the Practice Court Program. The two partnered beautifully to divide and conquer the amassed material that students were expected to learn, and ultimately restructured the course. Students took PC I and PC II during the first quarter along with Professional Responsibility, and students took PC III along with electives in the second quarter. The program still stands under this structure today, with Powell teaching Evidence in PC II, although the focus and demands of the program have expanded exponentially. Another enhancement implemented by Powell and Wren was the designation of Jaworski Fellows, seasoned attorneys who assist in students' advocacy exercises.

Powell can instill a mountain of fear in students with his never-ending pauses, waiting for a correct answer he will not likely receive. He also mesmerizes students the minute he begins to tell a story like only a true trial lawyer can. Making every student recite the business records predicate from memory before they pass his class (rumor has it that one student was made to do so while doing a handstand), Powell can certainly bring the laughs while impressing upon students a predicate they will never forget.

Powell's southern gentlemanly appeal, with his three-piece suits and pocket watches, plus his slow to anger demeanor, allow students to experience how the art of advocacy is not only effective in the courtroom, but how it can be a powerful tool of communication in one's everyday life.

JAMES E. WREN 2006 - PRESENT, PC PROFESSOR BEGINNING 2021, PC DIRECTOR

Jim Wren began teaching Practice Court in January of 2006 and is the Leon Jaworski Chair of Practice & Procedure.

Coming from a career as a high-profile attorney and partner at the law firm of Williams Squires Wren Brown & Gilliland, L.L.P., Wren has been an invaluable asset to the Practice Court Program. He is board-certified in Civil Trial Advocacy by the National Board of Trial Advocacy, and in Civil Trial Law and Personal Injury Trial Law by the Texas Board of Legal Specialization, and he has formerly served as the National President of the National Board of Trial Advocacy. Prior to leaving full-time practice to teach Practice Court, he was selected annually as a Texas Super Lawyer in Business Litigation and also spent years as an adjunct professor at Baylor Law, teaching the Management of Complex Litigation course to third-year law students.

Wren and Powell diligently worked together to restructure the Practice Court Program so each professor taught exclusively on one subject matter — avoiding the overlap that had inevitably happened. “Basically what we did was take subjects from the different PC courses and the evidence course before and put them together by subject matter so that it was a more logical structure,” Powell said. Wren is responsible for teaching PC I, which focuses on pre-trial practice and procedure in state and federal court.

As if PC wasn't demanding enough, Wren can be credited with introducing *Daubert* hearings, expanding course material on motion practice (before, during, and post-trial), as well as the importance of a trial notebook, which is now graded. Students also take depositions with a real court reporter so they can read the transcripts and learn from their mistakes.



Wren starts Practice Court class at 7:45 each morning. He says, “In class, as in court, there is no such thing as ‘on time.’ You are either early, or you are late.” There are no late arrivals. Students often perceive him as firm but fair. In addition to his emphasis on the importance of character and integrity, Wren’s students absorb the necessity of grit, resilience, and a growth mindset. Wren strongly emphasizes the value of conducting the course as a team with Professors Powell, Fraley, and Counseller. Wren will take over as the Director of Practice Court upon Powell’s retirement in 2021.

ELIZABETH M. FRALEY **2015 – PRESENT, PC PROFESSOR**

Elizabeth M. Fraley joined Baylor Law as a full-time Practice Court professor in fall 2015. As the Practice Court Program’s first female professor, this addition was long overdue.

Fraley graduated from Newcomb College of Tulane University in 1985 before attending Baylor Law. While at Baylor Law, she was a member of the *Baylor Law Review* and active in national moot court and mock trial teams. Following graduation, she joined Scott, Douglass & Luton (now Scott, Douglass & McConnico) in Austin, becoming a partner in just three years. In 1995, Fraley opened Fraley & Fraley, LLP, in Dallas, where she served as managing partner. She has been named a Texas Super Lawyer every year since 2004. She has been a *D Magazine* “Best Lawyers in Dallas” annually since 2011. She is a member of the American Board of Trial Advocates and is president of the Waco Chapter.

Fraley’s legal practice focuses on litigation and mediating medical malpractice claims, professional licensing claims, and business and commercial disputes, and she has tried more than fifty civil jury trials. In addition to her legal practice, Fraley teaches PC III, which is taught in the second quarter of Practice Court. Building upon what students learn in PC I and II, this course focuses on jury selection, trial procedure, the jury charge, deliberations, the verdict, judgments, and post-trial motions. Fraley also assists in advocacy exercises during both PC quarters. Fraley freely offers her students advice on how to manage the stress of being a lawyer while always guiding students to maintain their character. During advocacy exercises and mini-trials, Fraley shows her students how to command the courtroom and build credibility with the jury, and she makes it look effortless. She is highly respected by her students as a professor and admired as a trial lawyer.



While one goal of the Practice Court Program is to prepare students for litigation and trial practice, the program’s broader mission is to prepare each student to be a competent and ethical lawyer and advocate who is prepared for the courtroom, boardroom, and beyond.





JEREMY COUNSELLER 2003 - PRESENT, PC PROFESSOR

Students first meet Jeremy Counseller in Civil Procedure their first year, where his quick-witted humor yet serious tone leaves students wondering whether he is friend or foe. Counseller joined the faculty of Baylor Law in 2003. After graduating from Baylor Law, he served as a law clerk to the Honorable Reynaldo G. Garza of the United States Court of Appeals for the Fifth Circuit. He then joined the firm Bracewell & Patterson, LLP (now Bracewell LLP), where he was an associate in the trial section. In addition to his experience in civil law, Counseller also served as an Assistant Criminal District Attorney in McLennan County, where he prosecuted misdemeanors and felonies. Having been a successful litigator in both civil and criminal law, Counseller's students often seek his guidance for making career decisions.

As a teacher, the clarity with which he explains complex legal concepts is greatly valued by his students who often seek to overprepare for his class to avoid disappointing him. Teaching Texas and Federal Procedure, as well as assisting in courtroom exercises, Counseller is a familiar face to the PC students. Professor Counseller will take over teaching PC II upon Professor Powell's retirement while continuing to set the tone in students' first quarter of law school as their Civil Procedure professor.

Counseller also serves as the director of the Baylor Academy of the Advocate in St Andrews, and previously served as Baylor University's Faculty Athletics Representative to the Big 12 Conference.

SUSAN KELLEY-CLAYBROOK ORTIZ 2013 - PRESENT LEGAL WRITING LECTURER

After graduating from Baylor Law in 1985, Kelley-Claybrook Ortiz was a partner at local firm, Haley & Olson, P.C., specializing in civil appellate law. She taught Legal Writing and Law and Medicine as an adjunct in the late 1980s and early 1990s.

In 2013, she returned to the Law School to assist Professor Matt Cordon with the LARC program. She also reunited with her former law partner, Professor Jim Wren, and joined the Practice Court instruction team as they increased the focus in PC on written advocacy, as well as oral advocacy. Working with students on their five writing assignments throughout both quarters of Practice Court, Kelley-Claybrook Ortiz helps students tailor their writing skills to meet the needs of each of their trials.

Kelley-Claybrook Ortiz also works with law students on an individual basis as students prepare their cover letters and résumés in preparation for job interviews through the Career Development Office.



Practice Court Today

*Welcome to the program ranked by the Princeton Review as “arguably the best training ground in the nation for practical lawyering,” and the “Marine Corps of law schools.” The program recognized as one of the most rigorous, most demanding — yet most rewarding — law school experiences for honing real-world lawyering and leadership skills anywhere in America. **Welcome to today’s Practice Court.***



Core Curriculum

PRACTICE COURT I

Taken in the first quarter of the Practice Court Program and taught by Professor Jim Wren, Practice Court I immerses Baylor Law students in the strategies of Texas and federal civil procedure from a case's inception through final preparation for trial. Students learn to properly construct — and attack — the various pleadings for a case from both the standpoint of plaintiff and defendant, and to conduct effective pre-trial discovery.

PRACTICE COURT II

Professor Gerald Powell teaches Practice Court II, an intensive and in-depth study of trial procedure, evidence law, and trial advocacy taken in the first quarter of the Program. Instruction in the classroom focuses primarily on the rules of procedure and evidence in Texas and federal courts, including the practical use of the rules in the litigation process. In preparation of his retirement, Professor Powell is co-teaching PC II with Professor Jeremy Counseller this year.

PROFESSIONAL RESPONSIBILITY

Taught by the Hon. Ed Kinkeade, federal court district judge in the Northern District of Texas (and accompanied by his trusted Labrador, Falco), Professional Responsibility focuses upon the role and responsibility of the legal profession. Students cover the subjects disciplinary rules of professional conduct, client relations, and *pro bono* services.

PRACTICE COURT III

Practice Court III, taught by Professor Liz Fraley, builds upon Practice Court I and II and is taken during the second quarter of the Practice Court Program. The course focuses on jury selection, trial procedure, the jury charge, deliberations, the verdict, judgments, and post-trial motions. Students continue with advocacy exercises, culminating in the Big Trial.

ELECTIVE COURSES AFFILIATED WITH BIG TRIALS

Elective courses that can only be taken by students at the same time as, and in coordination with Practice Court III

- ADVANCED TRIAL PREPARATION
- ADVANCED DISCOVERY MANAGEMENT
- NEGOTIATION SETTLEMENT & PRACTICE
- CRIMINAL LAW CAPSTONE
- INTELLECTUAL PROPERTY CAPSTONE

ADVOCACY LECTURES AND EXERCISES

During both quarters of Practice Court, instruction includes lectures in trial advocacy, followed by advocacy exercises in the afternoons and evenings. The advocacy lectures include topics such as:

- Opening Statements
- Courtroom Basics (e.g., standing to address the judge, how to offer documents into evidence, etc.)
- Direct/Cross Examination (with student demonstration)
- Closing Arguments
- Civility Matters (e.g., interacting with opposing counsel, court staff, etc.)
- Effective Depositions and Deposing Expert Witnesses
- Conducting *Voir Dire*

THE ADVOCACY EXERCISES ARE AS FOLLOWS:

OPENING STATEMENTS

For their first advocacy exercise in Practice Court, students are handed a case packet from which to deliver an opening statement. This exercise gives students an opportunity to experiment with demonstrative aids and to learn how to make objections to argumentative statements and other objectionable matters.

DIRECT/CROSS EXAMINATION

Using the skills learned during the advocacy lectures in the first quarter of Practice Court, students are provided a case packet and use it as a basis for conducting one direct and one cross examination. This is the students' first exposure to authenticating and offering documents into evidence using witnesses.



MINI-TRIALS

During the first quarter of Practice Court, students complete two “mini-trials” that focus on developing written and courtroom advocacy skills. Students are provided a case packet that may include a brief description of the case, depositions, exhibits, and a jury charge. As part of the trial, which is tried to a jury panel and before a judge composed of their Practice Court classmates, students deliver opening statements, conduct witness examinations, and make closing arguments. In addition, they submit and argue pre-trial motions, which may include motions in limine, motions to exclude, and motions to suppress. Students are also required to prepare trial notebooks.

BENCH HEARING

Historically, students completed three mini-trials during the first quarter of Practice Court. One of the three mini-trials was ultimately replaced with a bench hearing based on a *Daubert/Robinson* challenge. After being provided with a case packet, they draft a motion, or response to a motion, to exclude expert testimony and then argue it before a Baylor Law faculty member. At the hearing, students are expected to call witnesses and answer questions from the judge to either support or defend against the motion.

SUMMARY JUDGMENT

During the second quarter of Practice Court, students are given a case packet and use it to learn about the summary judgment process. Students either draft a traditional motion for summary judgment or a response to the motion, and then they argue the issue in a hearing. Several judges in the greater Waco area give their time and preside over the summary judgment hearing in their courtrooms so the students can learn how the process works in real practice. The clerks schedule the hearings on the courts’ dockets, and the students argue the motions as if they were being heard upon any other matter in the courtroom that day.

BIG TRIAL

Recognized around the Baylor Law community as the capstone of the Practice Court Program, the “Big Trial” gives students an opportunity to handle a case from beginning to end. The Big Trial represents the pinnacle of the Practice Court Program, pitching students into all types of cases, from breach of contract, to medical malpractice, and toxic waste disputes, to name a few. Students build the case from scratch, relying on a collection of facts to develop a case theory and draft pleadings. In the months preceding their trial, students take depositions, request written discovery, and conduct a *voir dire* examination on the facts of their case. The trial is tried before a panel of real jurors from the community and often lasts multiple days. A Practice Court professor or Jaworski Fellow is in each courtroom for the duration of the trial to observe, instruct, and grade. At the conclusion of trial, students engage in post-trial motion practice to secure or prevent rendition of a judgment on the verdict.

DEPOSITIONS

As part of the discovery component for Big Trial, students both take and defend depositions of at least two witnesses in their case. The depositions are digitally recorded and later transcribed for students to use in preparing their case and at trial.

VOIR DIRE

Using the facts from their Big Trial cases, students conduct a *voir dire* examination of a panel composed of 1L students and other Practice Court students. As part of this exercise, students are required to challenge panel members “for cause” and properly preserve error if their challenges are overruled.

A Day in the First Quarter of Practice Court

MONDAY – FRIDAY

7:45 A.M.
Practice Court I

9:30 A.M.
Break

10:30 A.M.
Practice Court II

12:00 P.M.
Break

MONDAY – THURSDAY

1:00 P.M.
Advocacy Classes or
Exercises lasting anywhere
from one to four hours

(Opening Statements, Witness
Examinations, Bench Hearings,
Mini-Trials)

FRIDAY

1:30 – 3:45 P.M.
Professional
Responsibility Class

EVENINGS AND WEEKENDS

Prepare for the next classes
and exercises

On average, students have 75-100
pages of reading for each class, totaling
approximately 150-200 pages each night.

PRACTICE COURT AND LEGAL WRITING

Several years ago, the Baylor Law faculty and administration decided to place an even greater emphasis on improving student writing. Writing during Practice Court became the capstone of the Law School's legal writing program. The Legal Writing Center at Baylor Law has worked with the advocacy professors to develop a robust, pedagogically-sound curriculum of writing assignments spanning both quarters of Practice Court. Many of the assignments are integrative, arising within the context of the students' mini-trials and big trials. They have three, graded writing assignments during PC I and II and two during PC III. Students receive detailed written feedback and evaluation on their writing assignment before they rewrite each document.

The writing curriculum at Baylor Law now extends over all three years of a student's law school experience. Litigation writing in Practice Court builds upon the first-year LARC 3 class — Persuasive Communications, and the relatively new second-year LARC 5 class, Litigation Drafting.

WRITING ADVOCACY

Practice Court covers a wide range of writing assignments — including but not limited — to pre-trial motions, bench briefs, discovery and related motions, and expert motions. The legal writing faculty is directly involved in reviewing written assignments, and they often also judge the hearings that correspond with those assignments. Some of the documents that students are required to draft include:

- Motion to Withdraw Counsel
- Motion in Limine
- Motion to Suppress/Exclude Evidence
- Motion to Exclude Expert Testimony
- Traditional Motion for Summary Judgment
- Big Trial Pleadings and Discovery (Requests for Production, Requests for Disclosure, Interrogatories, etc.)
- Rule 11 Agreement with Big Trial Opposing Counsel
- Jury Charge
- Post-Trial Motions (Motion for Judgment on the Verdict, Motion for Judgment Notwithstanding the Verdict, Motion for New Trial, etc.)



BOB AND KAREN WORTHAM “MAD DOG” PRACTICE COURT COMPETITION

Amidst the craziness of 3L year and preparing for Big Trial, Practice Court today provides litigation-inclined students yet another opportunity to develop their trial skills through the Bob and Karen Wortham “Mad Dog” Practice Court Competition. Named after legendary Practice Court Professor Matt “Mad Dog” Dawson, this week-long competition pits students against each other in a one-on-one advocacy competition. Students are given a case file merely one week before the single-elimination competition begins, and they battle it out until one champion remains.

Professional Track Options

A significant number of students each year know they are interested in pursuing a particular area of law. Baylor Law offers fifteen Professional Tracks of Study and seven Special Distinctions:

ADMINISTRATIVE PRACTICE

BUSINESS LITIGATION

BUSINESS PLANNING

**BUSINESS PLANNING
SPECIAL DISTINCTION**

COMMERCIAL LAW

**COMMERCIAL LAW SPECIAL
DISTINCTION**

CRIMINAL PRACTICE

**CRIMINAL PRACTICE
SPECIAL DISTINCTION**

ESTATE PLANNING

**ESTATE PLANNING SPECIAL
DISTINCTION**

FAMILY LAW PRACTICE

FIDUCIARY LITIGATION

GENERAL CIVIL LITIGATION

HEALTHCARE LAW

INTELLECTUAL PROPERTY

**INTELLECTUAL PROPERTY
LITIGATION**

**INTELLECTUAL PROPERTY
SPECIAL DISTINCTION**

**PERSONAL INJURY
LITIGATION**

PUBLIC INTEREST LAW

**PUBLIC INTEREST LAW
SPECIAL DISTINCTION**

**REAL ESTATE AND NATURAL
RESOURCES**

**SPECIAL DISTINCTION IN
LITIGATION**

Practice Court gives students the opportunity to develop trial advocacy skills that are vital to a variety of practice areas. Students can make a case-specific request for their second mini-trial and/or Big Trial, and then work with a professor or adjunct specializing in that area for additional guidance. Today, students have a variety of cases from which they can choose, including patent infringement, transactional law, and criminal law case files. For those students who select the criminal option, they are provided one case packet and try separate civil and criminal jury trials based on the packet's fact pattern. The goal of the Practice Court Program is to expand this option by offering more case packets in a wider variety of practice areas. We are actively seeking case files to use as the foundation for new PC exercises.

To share a case you have, please contact law_alumni@baylor.edu.



FEATURED BIG TRIAL CASES

For all practical purposes, Big Trial cases are tried exactly the same as they would be tried in a normal courtroom. In fact, they have all previously been heard somewhere in Texas federal or state court. Some notable Big Trial cases include:

- *Texaco, Inc. v. Pennzoil Co.* – transactional focus, tortious interference with contract claim
- *Starmer v. Duncan* – multi-party wrongful death case
- *Impact Products v. Concord* – patent infringement case
- *Pedroza v. Hayward & TWCS* – breach of fiduciary duty based on existence of partnership by conduct

Practice Court *is Essential for* ALL LAWYERS



Brittany Blakey, JD '19, (second from left) and Reid McKinney, JD '19, (far right) with their Practice Court partners Ali Mosser, JD '19, (far left) and Emily Rice, JD '19 (second from right).

Reid McKinney, JD '19, and Brittany Blakey, JD '19, knew they were not destined to be litigators. Having both opted for the joint JD/MBA program through Baylor Law, they were focused on taking all the transactional courses they could during their time in law school. So how would Practice Court serve them?

McKinney and Blakey both worked closely with Professor Beth Miller prior to PC. Knowing where their interest lies, Professor Miller, along with the PC team, tasked them with being the first students to tackle trying the *Texaco Inc. v. Pennzoil Co.* case. "It was a bear of a case, we just had to start somewhere and unpack

it document by document and begin to tackle it systematically," said Blakey. While McKinney won't likely find himself in a courtroom, "that case taught me where I end up when transactions go south," he said.

"You need to understand how agreements work, where the pitfalls are, where areas of contention are likely to develop," said Blakey.

"The strategy aspect of taking a case from start to finish translates well to what I do every day. On day one, I need to know what to do to get this deal closed, who the players are, manage those interactions between parties, and know when I need to get litigation involved early," said McKinney.

Blakey currently practices oil and gas and hopes to never see a courtroom, but that doesn't mean her PC experience was all for naught. "There are certain ubiquitous skills you just have to have as a lawyer — preparation, organization, attention to detail, how to employ a systematic approach to problem solving, learning to operate under little to no time, and how to then manage that time and operate under that kind of pressure," she said.

While there are undeniably fewer jury trials happening each year, the value and work ethic imparted by the Practice Court Program is one that equips all lawyers with the skill set needed to excel in their profession.




Teaming Up

The effectiveness of Baylor Law's advocacy program and flagship Practice Court Program is reflected in the growth of the interscholastic competition teams and their successes in both regional and national competitions. Years ago, Baylor Law would compete in a handful of mock trial and moot court competitions each year. Under the leadership of Robert Little, Director of Advocacy Programs and Lecturer, and Kathy Serr, Advocacy Program Coordinator, Baylor Law teams now compete in approximately three dozen interscholastic advocacy tournaments. More than 60 students compete — and win — not just in mock trial and moot court competitions, but also tournaments in client counseling, sports law, transactional law, environmental law, veterans law, arbitration and negotiations, *voir dire* exercises, and more. Baylor Law currently has eight full time faculty and staff members coaching teams along with eight additional adjunct faculty and volunteer alumni coaches.

“Competing in more competitions around the country gives us a chance to offer more students the chance

to compete, but more importantly it gives us a chance to offer more students intensive real-world training with practicing attorneys in a variety of practice areas,” said Little. “Plus, our students are great ambassadors for Baylor Law, and competing around the country in front of lawyers, judges, and law professors throughout the nation gives us a chance to highlight the advocacy training that we provide our students throughout their time at Baylor Law, including Practice Court. It's a great opportunity to show the rest of the country what it really means to be a Baylor Lawyer.”

When the COVID-19 pandemic hit this spring, the Law School moved quickly to host the very first online mock trial competition for law students, the **2020 Top Gun National Mock Trial Tournament**. Following the success with that tournament, Baylor Law was asked to host another online tournament, the **2020 National Board of Trial Advocates Tournament of Champions Mock Trial Tournament**. Baylor Law also hosts the nation's premier Transactional Law competition, **The Closer**, in January of every year.



ROBERT LITTLE
2019 – PRESENT
DIRECTOR OF ADVOCACY
PROGRAMS AND LECTURER



KATHY SERR
2008 – PRESENT
ADVOCACY PROGRAM COORDINATOR

Robert Little joined Baylor Law as Director of Advocacy Programs and Lecturer in 2019. He graduated from Baylor University in 2002 and graduated from Baylor Law in 2005. During law school he was a member of the mock trial team that won a National Championship at the prestigious American Association of Justice Student Trial Advocacy Competition.

After graduating from Baylor Law, Little entered private practice at Naman, Howell, Smith & Lee, PLLC, in Waco, Texas. In 2012, he became a partner. During his time at the firm, he handled cases in personal injury, construction, probate, commercial litigation, and appeals.

In 2008, Little began coaching mock trial teams at Baylor Law as an adjunct faculty member. His teams won the National Championship at the 2009 and 2012 National Trial Competition. That same year, his team won the National Championship at the Tournament of Champions.

Little assists in advocacy exercises and continues to coach award-winning teams while raising the profile of Baylor Law within the national tournament community.

Alongside Kathy Serr, he manages and assists with all intra- and inter-school competitions, including **The Closer**, **Top Gun**, and many others. Little has taught trial advocacy as part of Baylor Law's **Academy of the Advocate in St Andrews**, Scotland, since 2013 and serves as the program's Dean of the Advanced School of the Trial.

Kathy Serr is a 1991 Baylor Law graduate. As a student, she competed on many of the teams she now coaches and was recognized as a member of the National Order of Barristers. After graduation, she worked as a felony prosecutor in her hometown of Midland before returning to Waco.

Serr became Advocacy Program Coordinator in the fall of 2008. Prior to that, she served as a coach to many of Baylor Law's winning moot court and mock trial teams for more than a decade. She continues to coach teams but is also responsible for the administrative aspects of maintaining and improving Baylor Law's nationally ranked advocacy program, including recently coordinating the highly successful **Top Gun National Mock Trial Competition** and **The Closer Competition**.



Practice Court

during COVID-19

PC STOPS FOR NO PANDEMIC



Baylor Lawyers are taught to quickly adapt to unforeseen circumstances in the courtroom, but no one could have anticipated a global pandemic that shuttered schools and businesses throughout the world for months on end. Refusing to ease up and deprive students of their right of passage in Practice Court, Baylor Law quickly transitioned to online lectures the first day after spring break. Students were taught through prerecorded and synchronous classes that still allowed for Socratic method interrogations on hearsay exceptions and venue transfers. Courtroom exercises were held via Zoom, which, for the first time, resulted in students selecting their own jury by conducting *voir dire* immediately before their Big Trial. This approach continued through the summer. In the fall, a hybrid in-person/online curriculum was implemented.

Social distancing guidelines put classroom and courtroom space at the law center at a premium. To counter this, two outdoor spaces were built totaling approximately 3300 square feet — complete with electricity, air conditioning, and high-speed wireless internet. While one of these spaces was designed exclusively for courtroom exercises, there was still a need for a space large enough for this particularly large PC class. Always ready and prepared for the most daunting of circumstances — a staple of the Practice Court Program — the Practice Court professors secured a space outside of the law center large enough to accommodate Practice Court classes while maintaining strict social distancing. Enter First United Methodist Church in Waco. The fall 2020 PC class began meeting at First United Methodist in August. Certainly, the church has seen an increase in praying since then.

Miss Trial

Q&A with *Elizabeth Fraley*

BAYLOR LAW'S FIRST FEMALE PRACTICE COURT PROFESSOR

Elizabeth M. Fraley joined the Baylor faculty in 2015 as an Assistant Professor, teaching Practice Court and now serving as co-director of the Executive LL.M. in Litigation Management.

The legal profession was the last profession to admit women in more than token numbers. Women never constituted more than 10% of law students until 1973, when the need to fill law school seats during the Vietnam War and Title IX of the Education Amendments of 1972 barring sex discrimination in schools receiving federal funds really opened law schools to women. For these trailblazing women, obtaining employment was extremely difficult. After graduating third in her class at Stanford Law in 1952, the late Supreme Court Justice Sandra Day O'Connor was offered a job as a legal secretary by one of San Francisco's leading firms. Similarly, the late Supreme Court Justice Ruth Bader Ginsburg could not obtain a clerkship in the Second Circuit Court of Appeals in 1959, even after graduating first in her class from Columbia Law. Very few firms hired women in the fifties and sixties. Even if a firm decided to hire a woman, she would seldom, if ever, be trusted to go to court or have client contact. The few women in private practice often siloed themselves to the "domestic sphere" of the law — family and juveniles cases — where society thought the female presence was appropriate.

Women made up only 4% of the legal profession in 1970 and only 21% in 1991. As late as 1993, an ABA survey revealed that as many as 65% of male attorneys had no female colleagues. The vast majority of today's attorneys and judges are men who went through most of their professional lives with no female peers and no opportunity to relate to women in the workplace.

In 1950, there were five women on tenure tracks at approved law schools, including Baylor Law's Margaret Amsler (*more about Amsler on page 25*). Female faculty role models were virtually nonexistent. Baylor Law's Class of 1969 had two women. Fast-forward to 2016 — the number of women enrolled in juris doctorate programs moved past 50% for the first time. Since then, women have continued to make up more than half of the enrollment. Now, it is common for law schools to have at least one-third of its faculty positions still occupied by females. Only fifteen law schools have a near-equal faculty male/female ratio at 50/50. Baylor Law's faculty is composed of 37.5% women. One of those remarkable women is Professor Elizabeth M. Fraley.

Professor Fraley joined the Baylor faculty in 2015 as an Assistant Professor, teaching Practice Court and now serving as co-director of the Executive LL.M. in Litigation Management. She pulls from her experience to guide soon-to-be attorneys through the ups and downs of "Big Trial" in Practice Court III, where students plead, discover, and try a lawsuit from start to finish. She serves as faculty at the Academy of the Advocate in St Andrews, Scotland, which serves as a two-week trial advocacy bootcamp for law students from several schools, including Baylor Law, Campbell, and Chicago-Kent.

Q&A *What was your law school experience like?*

It was actually really good. I remember the first day as I was leaving Austin where we had stayed with my grandparents, my grandfather was a lawyer. He spent the morning over breakfast quizzing me on basic contract principles. I left the house feeling like I had made a horrible mistake, but found that I liked how Baylor Law got you into the groove of what it was going to be like as a lawyer. I became very involved in advocacy teams, national moot court teams, and when I was in Practice Court, I competed on mock trial teams. I had a group of colleagues who were really good advocates and made me feel like I had a place in the Law School.

Q&A *What do you remember about your PC experience?*

It is astonishing how much we all remember. Scott Edwards, who now tries cases nationally in tire defect and car defect claims was my PC partner. And yes, Muldrow was absolutely terrifying. You always felt vaguely nauseated until he called on you, then you were actively nauseated.

We tried our big trials at some of the local senior centers and nursing homes. Muldrow would come watch you. So not only do you have a live jury, but you have Muldrow there. During a break, he came up to my PC partner and me and said, "This is the most boring trial in the history of advocacy! You are literally going to bore these citizens to death. You are going to have to do better. I don't want their dead bodies on my conscience." And so yeah, there was a lot of that!

But boy, I came out and tried four cases my first year in practice and argued at the Court of Appeals, and I knew what I was doing. There was plenty of room for improvement, but procedurally and being able to walk into the courtroom — I mean, the PC professors had already scared everything out of me.

Q&A *When you were in law school, did you have a female faculty role model?*

At that time, no. I am trying to remember a single female faculty person that I had. A very pregnant Dean Leah Teague was the 3L who led us around on our orientation path so, no, there wasn't a female faculty role model at that time.

When you started your career as a trial lawyer, did you have a female mentor?

No, I didn't. Although I was in a firm where there were some very accomplished women and I did have another female colleague who was a couple of years older than me, there were a lot more men. Many of my female colleagues struggled with that when we got out of law school because there wasn't really a great group of strong women, the way there is now. It is much easier to find mentors in the trial world now. We still have a long way to go, but it is much easier.

How have you seen the legal profession shaped by the growing presence of female attorneys?

I think that the legal profession is best served when it is truly reflective of our community and our country. I think that's true on juries, I think that is true in corporations, I think that is true in businesses. I think we have done really well getting women in the door, but I think we have done a horrible job at keeping and promoting women. However, those women are some of the most amazing courtroom lawyers because they really bring depth, dimension, and understanding. They are creative problem solvers. They are flexible — if you are a working mom with three kids and a busy trial schedule — you learn flexibility really quickly. Being able to adapt is a great skill for a trial lawyer.

Why did you decide to leave private practice to join the Baylor Law faculty full-time?

Jerry Powell is very persistent. We had these conversations over many, many years. I think it was a combination of factors. I had recently turned fifty, and I was starting to have all of these "internal legacy" thoughts. I loved what I was doing, I loved my clients, I loved having my own firm, but was that all there was? Is this the footprint that God wants me to leave? I was having a lot of those thoughts. It is really nice to be on the "Best of" and the "Super" lists — but was there more? I was passing through Waco, so I popped in to say hi to Powell. He was running advocacy exercises in the courtroom. He and I had a high-old time. Whoever those PC students are, I am really sorry. I remember saying to him, "Wow I would love to have your job, that was fun!" A few weeks later he called me and said, "Were you serious?" and I said, "It isn't open, you are still teaching." He invited me to lunch in Waco to have a conversation about whether there was a need and a place to have a female PC professor, and whether there was a need and a place in my life that would make me right for that role. Eventually, it became very clear. You know, sometimes God sends little whispers and sometimes he does the burning bush. I was grateful that He realized a burning bush would be super helpful there. It took a lot of prayer and thinking, but I have never questioned or regretted the decision. I love working for Baylor Law because I get to work with an administration, faculty, and staff that are truly committed to the students, to the alumni, and to doing it right and doing it well.





You teach some unconventional topics in Practice Court — like how to dress and act professionally & courtroom body language. Why is it important that young lawyers have those skills?

If by “unconventional” you mean, “under taught” and therefore we are sending a generation of law students out unprepared for the reality of life, then okay. I think there are certainly people who grow up in houses with a sense of what is appropriate and other people do not. If we are going to turn out whole lawyers, then somebody who is not a judge should tell you if you are wearing something that is inappropriate for court. Part of the obligation we owe to the client is to be the right advocate for them. If you think the only thing the jury listens to are your words, and that they are not watching you or your behavior or what you are wearing, I have a huge file of letters written to me by jurors where they debunk that myth pretty soundly.

How does your experience as a trial lawyer help you in teaching Practice Court?

Knowing the rules is like saying, “I know the rules of chess, and I have a board and the pieces,” but appreciating which rule to use and how to use the pieces and looking strategically many steps ahead so you are where you need to be at the right time — then adding in the ability to communicate with a diverse group of people while you are doing all of these procedural things behind the scenes, is an art as well as a science. It is so valuable if you have been there and made the mistakes and can now teach students how you learned from them.

What else do you do in Practice Court to try to emphasize real-life skills?

I give my students a chance to earn “exercise immunity.” If they complete 12 one-hour workout sessions of any kind, they report to the PC Associate that they have earned immunity. If the student chooses to use their immunity for class, they can tell the PC Associate before class starts that they wish to be immune, then I will not call on them that day. A big reward, right? I firmly believe that if you don’t start building healthy habits now, that is a great recipe for you to fizzle out.

From Professors Powell and Wren

Why was Professor Fraley chosen to teach Practice Court?

JAMES WREN: We spent three full years recruiting Liz Fraley. We knew we wanted a topflight lawyer to teach PC — ideally, we wanted the new professor to be a woman. We wanted Liz Fraley not just for the sake of women law students, but for everybody. Women are increasingly at the forefront of our profession. We need to teach men how to respond effectively in a profession that is no longer dominated by men on all levels. We needed a first-class example of a truly outstanding trial lawyer, and Liz is the embodiment of that.

How have you seen her presence amplify and improve the PC experience?

JAMES WREN: When I came out of PC, my classmates and I were all “little Matt Dawsons,” whether that



fit our personality or not. There is more than one way to be a great trial lawyer. This profession allows you to bring your own personality to the courtroom. Seeing Professor Fraley in action further broadens the experience for everybody. She is a tireless worker. She approaches PC just like she approaches her trials — maximizing every possible opportunity to be better.

GERALD POWELL: She is a person who is capable of doing almost anything she sets her mind to, and doing it fearlessly. It’s not surprising I hear young women in PC say how much they want to be like Liz Fraley. What a great tribute to her. She’s tops in my PC book.

From day 1 as a 1L to the final day of Practice Court with Professor Fraley, she was one of the many strong women at Baylor Law who served as my mentors, professors, and friends. I look up to her in a way that can barely be put into words, not only as an attorney, but as a woman with strong character and a belief that wherever God plants her, she will bloom.

I was always met with a lot of grace and just enough fire to get me going again. I can't help but want to serve the next generation in the way she served me. She is the definition of what it means to be a trailblazer. I am forever grateful for the trail she has blazed so that I, and many others, could follow behind.

— MICHELE NAUDIN, BAYLOR LAW GRADUATE 2020



Baylor Law's First *Woman of Distinction,* Margaret Harris Amsler

Through her trailblazing career as an attorney, state legislator, and professor of law at Baylor Law, Margaret Harris Amsler (1908-2002, JD '37) played a key role in opening the legal profession to women and making an impact in Texas law that continues to this day.

The daughter of Judge Nat Harris, a Waco attorney, justice of the peace, and Baylor Law professor, and encouraged by her parents, who taught her that “sex has nothing to do with making full use of her mind,” Amsler graduated *summa cum laude* from Baylor in 1929 and obtained a master's degree in English Literature from Wellesley College in 1929. As the only woman among her law school colleagues, she graduated first in her class from Baylor Law in 1937.

Following graduation and beginning her law practice, she went on to become the first female to represent McLennan County in the Texas Legislature (1938-1940) and to become the first female briefing attorney and Marshal of the Texas Supreme Court (1941-42). In 1941, she became the first full-time tenure-track law professor in any ABA-accredited and AALS member law school in Texas (and only the third nationwide). She was also instrumental in reviving the operations of Baylor Law in 1946, after it was briefly shut down during World War II.

For her accomplishments, Ms. Amsler was the first woman recipient of the President's Award of the State Bar of Texas, and, in 1987, was inducted into the Texas Women's Hall of Fame.



A Gift to the **Art** of **Advocacy**





The rugged coast of the Kingdom of Fife is worlds away from an East Texas residence. Nonetheless, Baylor Lawyer Mark Mann, JD '81, is at home each summer at Baylor Law's Academy of the Advocate in St Andrews, Scotland. Mark has been an instructor in the St Andrews summer program for many years alongside other Baylor Law faculty and experienced trial attorneys who serve as guest faculty.

Situated near the birthplace of English Common Law in historic St Andrews, Scotland, the Academy is a result of a unique partnership between Baylor University (founded in 1845), the oldest continually operating university in Texas, and the University of St Andrews (founded in 1413), the third oldest university in the English-speaking world. "The Academy of the Advocate in St Andrews is one of the world's finest training grounds for aspiring courtroom advocates," says Professor Jeremy Counsellor, the Academy's Program Director. "Students learn in one of the most beautiful and historic places in the world. It's an invaluable and unforgettable experience."

Prominent professors from top advocacy schools around the country are invited to the program to share their expertise with the students, however, Baylor Law alumni such as Mark make a significant contribution to the program.

Mark is an experienced trial attorney, practicing over 40 years in Texas state and federal courts. He is Board Certified in Personal Injury Trial Law by the Texas Board of Legal Specialization and a Certified Civil Trial Specialist by the National Board of Trial Advocacy.

The program is organized into three schools: the School of the Appeal, the School of the Trial, and the Advanced School of the Trial. Intimate by design, with a student to faculty ratio of approximately 3 to 1, the program is limited to a maximum of 60 students. Following enrollment, students select a school and complete the course of study in the two-week session. Upon completion of any school, they receive three semester (or five quarter) hours of credit.

"Mark is consistently a crucial member of our teaching team in the School of the Trial at St Andrews," says Professor Counsellor. "Whether providing classroom instruction or facilitating a small group exercise, Mark is a true master at training our students in the art and craft of advocacy."

Mark is frequently joined in St Andrews by his wife, Debbie Mann. Mark and Debbie met at Baylor while Debbie ran track as one of Coach Clyde Hart's first female athletes and Mark was a rising law student. Their continued love for Baylor has been shown through their service of leadership and generous giving to various Baylor causes.

Their love of Baylor and the St Andrew program caused them to provide an impactful gift to the program, establishing the Mark and Debbie Mann Endowed Law School Fund for Study Abroad. The Fund allows Baylor Law to support the St Andrews Program which trains and develops law students in the art of advocacy. "Debbie and I enjoy our time in Scotland and my interactions with the students and fellow instructors is a greatly fulfilling experience," Mark said. "I go to Scotland to impart some experience of my 40 years of practice, but I think I gain more out of watching and listening to the students than I contribute — it's a truly great program for advocacy."

The St Andrews Program is a natural extension of Baylor Law's eminent trial advocacy Practice Court Program. The Program also allows law students from across the country who aspire to be trial advocates to experience this unique Baylor Law program. "It is our goal to host the top law students in trial advocacy from across the country in St Andrews each summer," explains Baylor Law Dean Brad Toben. "The generous gift from the Manns allows us to extend the deep Baylor Law traditions far beyond the walls of the Umphrey Law Center. We are grateful for their robust support which will allow the St Andrews program to grow in influence."

The Curt and Melody Seidlits Endowed Scholarship in Law was established by the Hon. Curt and Mrs. Melody Seidlits of Austin, Texas.

The Curt and Melody Seidlits Endowed Scholarship was established in 2019 and provides assistance to deserving students attending Baylor Law. At the same time, the Seidlits also established the Seidlits Family Endowed Scholarship, both scholarships supporting Baylor University's Give Light Campaign. "Melody and I are thrilled that we can give back to Baylor as an institution that has provided so much to our lives, both personally and professionally," Curt said.

The Honorable Curtis L. Seidlits, Jr., earned his Bachelor of Arts degree in Political Science from Baylor University in 1974 and his JD degree from Baylor Law in 1977. He began his legal career as a prosecutor and spent nearly 20 years in private practice.



give Light

THE CAMPAIGN FOR BAYLOR

Curt Seidlits serves as Founder and CEO of Focused Advocacy, which specializes in legislative advocacy, municipalities, utilities, and regulatory challenges in Austin, Texas. Before founding Focused Advocacy, Seidlits served as Senior Vice President of Public Affairs for Energy Future Holdings, formerly TXU Corp. He oversaw state and federal governmental advocacy, as well as public policy and political action committees.

Before joining TXU, Seidlits was the president and CEO of the Association of Electric Companies of Texas, a group representing the investor-owned electric companies in Texas. During Seidlits' 13-year tenure in the electric industry, he helped develop the public policy changes that established competition in the electric industry and the ensuing debate over several legislative sessions. He participated in the same debate at the federal level working with various national groups and federal policy makers.

Seidlits served in the Texas House of Representatives from 1986 until 1996. He served on a variety of House committees including Judiciary, Ways and Means, Elections, and Redistricting. In 1993, he was appointed chairman of the House State Affairs Committee, and during his tenure he oversaw many diverse issues, including tort reform, ethics, utility regulation, telecommunications and electric utility regulation, and public information and purchasing laws.

Melody Seidlits earned her Bachelor of Science in Education degree from Baylor University in 1977. She and Seidlits met at Baylor and enjoy cheering for the Baylor Bears. The Seidlits have three children: Stephanie, Sarah, BA '06, and Curtis III, as well as four grandchildren.

THE CAMPAIGN FOR BAYLOR

Give Light is an ambitious \$1.1 billion comprehensive philanthropic campaign for the future of Baylor University. The campaign undergirds *Illuminate*, the University's Academic Strategic Plan, and will impact every aspect of campus life — academics, athletics, student life, and service learning — while also increasing financial support for our students and for the priorities of our schools and colleges.

Please contact Kristine Bridges at Kristine_Bridges@baylor.edu or **254-710-8537** to learn more about Baylor Law's *Give Light Campaign* priorities.

Paved and Engraved

Make a Lasting Mark on Baylor Law

Baylor Lawyers have a rich tradition of leaving their marks on Baylor Law. Make your own lasting imprint or honor a loved one by taking the opportunity to engrave a granite paver located in the walkway of the Charles E. Wallace Family Courtyard at Baylor Law. The courtyard is one of the most visible spaces at the Law Center, serving as a welcoming space and the main entry for all students, faculty, and guests.

Pavers are available in a variety of sizes with gift amounts starting at only \$500.



SIZE	GIFT AMOUNT
8X4	\$500
12X12	\$1,000 <small>AND UP</small>
24X12	\$2,500 <small>AND UP</small>
24X24	\$5,000 <small>AND UP</small>

For more information or to purchase your own paver, visit
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