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Tuesday, July 10, 2012

Practice makes perfect? Some professors want to return to the courtroom

Law schools are lukewarm on real-world sabbaticals for academics.

By Don J. DeBenedictis

SANTA ANA - Like most law schools these days, Whittier puts a great deal of effort into classes, clinics and special programs meant to teach students what it's like to actually practice law. It requires students to take several writing classes and provides many practice-oriented offerings, including a concentration in trial advocacy.

But as Whittier Dean Penelope E. Bryan notes, law schools generally like the professors who teach their students to have no more than three years' time in actual practice. "It's been a litany for a number of years," Bryan said. "If you really had an academic mind, you wouldn't practice very long."

That's what makes a request by one of Bryan's professors so remarkable: Martin H. Pritikin hopes to use his upcoming sabbatical to work as a criminal prosecutor.

Although he has substantial civil litigation experience and heads Whittier's Institute for Trial and Appellate Practice, Pritikin has never handled any criminal matters. That is a problem, he said, "given that I teach and write about criminal law ... and coach students on criminal trials."

He believes that even a few months as a line city attorney or district attorney would inform his teaching and his research.

'It totally changed what I teach. It blows open your mind in a crazy way.' - Ronald L. Steiner

"It would also give me a better idea of what my students are going to be facing" when they get jobs, he said.

Pritikin would not be the first to take time off to head into the trenches. But, even as schools are pressured to provide more practical training to their students, professors seem to be left out of that equation. The idea that they would leave teaching to practice has critics in legal academia. Those who have done it, however, say taking an "experiential sabbatical" significantly improved their teaching.

"That little excursion I did had a profound impact on me and my law school," said Chapman University School of Law Professor Ronald L. Steiner.



Litigation

Security guards win rest period class action before trial

In a pre-trial ruling, a class of 15,000 current and former security guards has been awarded \$89.7 million in wages, interest and penalties for being required to be on call during rest breaks.

Government

State AG weighs in on pension rollback dispute

A decision by the California attorney general's office giving a police officers association the go-ahead to sue over pension rollbacks has thrust the state's top lawyer into the spotlight on a contentious issue.

Law Practice

Womble Carlyle recruits IP litigator in Silicon Valley

Womble Carlyle Sandridge & Rice LLP announced Monday the hiring of intellectual property litigator Behrooz Shariati for the firm's Cupertino office.

National Center for Youth Law expands summer program

Marita Grant, a law student at Howard University, has been interested in public interest law and juvenile welfare ever since she was in the foster care system. Now she's making a difference at the National Center for Youth Law in Oakland.

Litigation

Monterey County sues over desalination facility plan

In a battle over securing Monterey County's future water supplies, local officials have sued a water utility over its bid to build a privately owned desalination facility.



Discipline

Bar continues aggressive look at discipline stipulations

In a memo to State Bar leaders, top attorney-discipline prosecutor Jayne Kim said her office is taking a second look at even more discipline plea bargains than previously announced.

Banking

Cyber theft and wire transfer fraud litigation

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Steiner spent a couple of months in 2009 in the Orange County district attorney's Trial Attorney Partnership Program, which usually brings in young civil litigators from large firms for a taste of the courtroom. Steiner, a political scientist as well as a lawyer, decided to participate after teaching a policy class in Chapman's unique LL.M. program for prosecutors.

After he came back to the school, he not only started teaching criminal law courses, he launched a new trial-advocacy LL.M. program that gives recent law school graduates a 15-week "residency" in a criminal office or law firm.

"It totally changed what I teach," he said about the experience. "It blows open your mind in a crazy way."

Patricia C. Bradford had been teaching tax law and other subjects at Marquette University Law School for 30 years when she decided to spend a semester's sabbatical as a "public service special prosecutor" in the Sheboygan County District Attorney's Office, north of Milwaukee.

Bradford had never been in the courtroom in all her years as a lawyer, she said. By the time her tour was over, she had won a jury trial. And she now teaches criminal law classes for the first time.

"I think it really helped me connect what I'm doing in the classroom to real life," she said.

Schools "more and more hire people who've never practiced law and have dual degrees," Bradford said. An experiential sabbatical helps a professor "know what your students would actually do," she said.

But she conceded that her dean was reluctant when she first proposed the idea last year, if only because sabbaticals traditionally are spent on research and scholarly writing.

"We law professors are paid to teach students and conduct and publish research, and the premise of a sabbatical leave is that we are spending a semester or a year with a different balance," Supreme Court and computer-crime expert Orin S. Kerr of George Washington University Law School responded last week when Pritikin floated his plan on the PrawfsBlawg legal blog.

"If we think it would be fun or interesting to get more experience, we can take an unpaid leave of absence to do that. But I'm not sure it makes sense for the university to pay for us to get that experience through a paid sabbatical leave," Kerr wrote.

Pritikin said he would not be paid as a prosecutor, except by his school. Steiner and Bradford also worked as volunteers.

But practice experience can be research, others believe. Why can't the courtroom be your research site? Bradford asked.

"It is empirical research," she said. "There's nothing like walking in and handling the sentencing of somebody without knowing much about the case."

Gary Lowenthal, an emeritus professor at Arizona State University's Sandra Day O'Connor College of Law, used his sabbatical tour with the Maricopa County Attorney's Office to handle several jury trials and to produce a book closely examining one criminal case. The book, "Down and Dirty Justice: A Chilling Journey Into the Dark World of Crime and the Criminal Courts," is used in a number of undergraduate criminal-justice courses, he said.

A former public defender in Oakland, Lowenthal sought the prosecution experience because he felt "out of touch with what was going on in the practice."

"It was a great experience," he said. "In the end, [the sabbatical] really did meet my goal."

Lowenthal said there have been a number of professors over the years who have spent a sabbatical in practice. UCI School of Law Dean Erwin Chemerinsky also pointed out that some professors take leaves of absence to work in government, such

By **Julie Bonnel-Rogers** of Silicon Valley Law Group

U.S. Supreme Court

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U.S. Supreme Court

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Law Practice

Former federal prosecutor joins Ballard in San Diego
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Mergers & Acquisitions

Deal Makers
A roundup of recent mergers and acquisitions and financing activity and the lawyers involved.

Discipline

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A Glendale attorney faces possible disbarment after he allegedly bilked an 88-year-old widow out of more than \$407,000, sticking her with a \$1.4 million tax bill.

Judicial Profile

Jerold L. Turner
Superior Court Judge Kern County (Bakersfield)

Law Practice

Practice makes perfect? Some professors want to return to the courtroom
Law schools are under pressure to provide more practical training to their students, but professors

as Yale Law School Dean Harold H. Koh, who currently is the legal adviser to the U.S. State Department.

But leaving academia for a stint in the courtroom seems to be at least somewhat rare. Communications officers for several law schools in California said they knew of no such requests or experiences at their schools.

Chemerinsky said schools have widely different policies and rules about sabbaticals, and some schools' rules might not allow for time in practice. That is the case at Whittier, where Bryant said she is inclined to approve Pritikin's request, if he finds an appropriate post, but would have to label it as a special dean's leave. Whittier's rules require that sabbaticals be for research, she said.

Besides the boost to teaching and research, Marquette's Bradford discovered another benefit from her experiential sabbatical. It was great for alumni relations. "Almost every lawyer I went up against in the courtroom was one of my former students," she said.

Criminal lawyers in Sheboygan were "so honored that a law professor would actually go into their courtroom," she said, and that carried over in their meetings later on with the dean.

"You're actually interested in what lawyers need to learn," they told Bradford.

seem to be left out of that equation.

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