

GRACE McLANE GIESEL

James R. Merritt Professor & Distinguished Teaching Professor

Office:

Room 283
Louis D. Brandeis School of Law
University of Louisville
Louisville, Kentucky 40292
(502) 852-6382

Education

EMORY UNIVERSITY SCHOOL OF LAW, Atlanta, Georgia
Juris Doctor, 1985, with distinction
Order of the Coif
Managing Editor, Emory Law Journal

YALE UNIVERSITY, New Haven, Connecticut
Bachelor of Arts, 1982, in Economics

Awards and Honors

2008 James R. Merritt Professorship (3 year term)
2008 University Faculty Favorite Nominee
2006 University Faculty Favorite Nominee
2005 James R. Merritt Professorship (3 year term)
2004 University Distinguished Service Award
1999 University Distinguished Teaching Professor Award (Lifetime)
1999-present Dean James R. Merritt Fellowship
2001, 2002, & 2003 Law School Nominee for University Service Award
1998 & 1999 Law School Nominee for University Distinguished Teaching Professor Award

1997 Law School Nominee for the President's Award for Outstanding Scholarship, Research and Creative Activity

1996-98 Wyatt Tarrant and Combs Fellow

1993-94 Law School Teaching Excellence Award

Teaching

Professor, University of Louisville School of Law, Louisville, Kentucky
July 1995-Present

Associate Professor, University of Louisville School of Law, Louisville, Kentucky
July 1992-95

Assistant Professor of Law, University of Louisville School of Law, Louisville, Kentucky
August 1988-92

Current Courses: Contracts I & II; Professional Responsibility; Drafting

Other Courses: Criminal Law, Property Law; Corporations; Insurance Law; Criminal Procedure; Independent Studies in Drafting, Insurance and Professional Responsibility.

Special Programs: Summer Enrichment Program 1993 & 1994

Judicial Clerkship

United States Court of Appeals for the Sixth Circuit
Law Clerk to the Honorable Boyce F. Martin, Jr.
1985-86

Legal Practice

Woodward, Hobson & Fulton, Louisville, Kentucky
Specializing in medical malpractice and product liability litigation
1986-88

Scholarly Publications

Books

G. Giesel, *Mastering Professional Responsibility*, Carolina Academic Press (2009) (415 pages).

G. Giesel, Contracts Contrary to Public Policy, Vol.15 of **Corbin on Contracts** (2003) (714 pages).

Law Review Articles

G. Giesel, *Client Responsibility for Lawyer Conduct: Examining the Agency Nature of the Lawyer-Client Relationship*, 86 **Neb. L. Rev.** 346 (2007) (49 pages).

G. Giesel, *A Realistic Proposal for the Contract Duress Doctrine*, 107 **W. Va. L. Rev.** 443 (2005) (55 pages).

G. Giesel, *Corporations Practicing Law Through Lawyers: Why the Unauthorized Practice of Law Doctrine Should Not Apply*, 65 **Mo. L. Rev.** 151-207 (2000) (56 pages).

G. Giesel, *Enforcement of Settlement Contracts: The Problem of the Attorney Agent*, 12 **Geo. J. Legal Ethics** 543-591 (Spring 1999) (48 pages).

G. Giesel, *The Kentucky Ban on Insurers: In-House Attorneys Representing Insureds*, 25 **N. Ky. L. Rev.** 365-405 (1998) (40 pages).

G. Giesel, *The Legal Advice Requirement of the Attorney-Client Privilege: A Special Problem for In-House Counsel and Outside Attorneys Representing Corporations*, 48 **Mercer L. Rev.** 1169-1218 (1997) (49 pages).

republished in 48 **Defense Counsel Journal 103 (1999)

republished as an appendix to James S. Bolan, **Legal Problems of Museum Administration, Attorney-Client Privilege for In-House Counsel "Advocats Avec Frontiers, ALI-ABA, March 30, 2000.

G. Giesel, *The Expanded Discretion of Lower Courts To Regulate Access to the Federal Courts After Wilton v. Seven Falls Company: Declaratory Judgment Actions and Implications Far Beyond*, 33 **Hous. L. Rev.** 393-446 (1996) (53 pages).

G. Giesel, *Defamation Liability for Attorney Speech: A Policy-Based and Civility-Oriented Reconsideration of the Absolute Privilege for Attorneys*, 10 **Ga. State L. Rev.** 431-485 (1994) (54 pages).

G. Giesel, *The Business Client is a Woman: The Effect of Women as In-House Counsel on Women in Law Firms and the Legal Profession*, 72 **Neb. L. Rev.** 760-802 (1993) (42 pages).

** An excerpt of this article under the same title was published in **Equal Access**, Vol. II, Issue 1, p.8-9 (1996) (publication of the American Bar Association Section of Litigation, Committee on Equal Opportunity and the Law).

G. Giesel, *The Ethics or Employment Dilemma of In-House Counsel*, 5 **Geo. J. Legal Ethics** 535-596 (1992) (61 pages).

G. Giesel, *A Proposal for a Tort Remedy for Insureds of Insolvent Insurers Against Brokers, Excess Insurers, Reinsurers, and the State*, 52 **Ohio St. L.J.** 1075-1130 (1991) (55 pages).

G. Giesel, *The Knowledge of Insurers and the Posture of the Parties in the Determination of the Insurability of Punitive Damages*, 39 **Kan. L. Rev.** 355-414 (1991) (59 pages).

Other Publications

G. Giesel, *Ethics of Outsourcing Legal Services*, **Louisville Bar Briefs**, August, 2008 (Vol. 8, No. 8)

G. Giesel, *Client Responsibility for the Torts of the Client's Lawyer*, **Louisville Bar Briefs**, June, 2008 (Vol. 8, No. 6)

G. Giesel, *When the Criminal Client Intends to Commit Perjury*, **Louisville Bar Briefs**, February, 2008 (Vol. 8, No. 2)

G. Giesel, *Required to Report the Misconduct*, **Louisville Bar Briefs**, November, 2007 (Vol. 7, No. 11)

G. Giesel, *The Saga of the Selective Waiver Doctrine*, **Louisville Bar Briefs**, August, 2007 (Vol. 7, No. 8)

G. Giesel, *Nonrefundable Fees: The Substance, Not the Label, Matters*, **Louisville Bar Briefs**, May, 2007 (Vol. 7, No. 5)

G. Giesel, *Agreements that Restrict an Attorney's Practice*, **Louisville Bar Briefs**, February, 2007 (Vol. 7, No. 2)

G. Giesel, *Restrictions on an Attorney's Right to Practice*, **Louisville Bar Briefs**, November, 2006 (Vol. 6, No. 11)

G. Giesel, *Multijurisdictional Practice: A Changing Landscape*, **Louisville Bar Briefs**, August, 2006 (Vol. 6, No. 8)

G. Giesel, *Business Transactions with Clients*, **Louisville Bar Briefs**, May, 2006 (Vol. 6, No. 5)

G. Giesel, *Ethics and Hourly Billing*, **Louisville Bar Briefs**, February, 2006 (Vol. 6, No. 2)

G. Giesel, *Ethical Issues and the Nonlawyer Employee*, **Louisville Bar Briefs**, November, 2005 (Vol. 5, No. 11)

G. Giesel, *Abuse of Process and Wrongful Use of Civil Process*, **Louisville Bar Briefs**, August, 2005 (Vol. 5, No. 8)

G. Giesel, *The Lawyer-Witness Rule*, **Louisville Bar Briefs**, May, 2005 (Vol. 5, No. 5)

G. Giesel, *Truth or Consequences*, **Louisville Bar Briefs**, February, 2005 (Vol. 5, No. 2)

G. Giesel, *Inadvertent Disclosure: A Cautionary Tale of a Speakerphone and a Voicemail Message*, November, 2004 (Vol. 2, No. 11)

G. Giesel, *Judges Profile: The Honorable Boyce F. Martin, Jr.*, **The Federal Lawyer**, p.18 (Jan. 1998). 2 PAGES

reprinted in **Bar Briefs, the Louisville Bar Association publication, in 1998.

Presentations at Scholarly Conferences

Courts and Duress: The "Conflict and Confusion," International Contracts Conference, February 24-25, 2006, Fort Worth, TX (Attended, Presented, and was part of a Panel Discussion)

Other Presentations

Mock Contracts Class, U of L Ultra L.E.A.D. Program, November 20, 2009

Teaching Professional Responsibility, Meeting with a Delegation of Mexican Lawyers and Judges, April 28, 2008

The Importance of Law School Rankings, The Law Club (local group of lawyers and judges), April 23, 2008

Continuing Legal Education Presentations

What's New in Professional Responsibility, **LBA & Litigation Section**, September 11, 2009.

Recent Developments in Professional Responsibility, **LBA**, May 19, 2009.

Recent Developments in Professional Responsibility, Jefferson County Women Lawyers Association, May 14, 2009.

Developments in Professional Responsibility, Twelfth Annual Estate Planning Institute, April 24, 2009.

Ethics Issues Relating to Employee Lawyers, Temporary Lawyers, and Outsourcing of Legal Services, U of L CLE: Should Lawyers Use Independent Contractors to Handle Client Affairs?, April 10, 2009

Ethics Update: Recent ABA Opinions on Outsourcing and Representing Multiple Clients, Estate and Tax Seminar sponsored by Stockyards Bank, October 30, 2008

Overview of the Pro Bono Ethics Rules, LBA Pro Bono CLE, October 24, 2008

Ethics Update: The ABA's New Formal Opinion on Outsourcing of Legal Services and Nonlegal Support Services, LBA IP Section Brown Bag, September 23, 2008

The Ethics of Rule 3.3, Video Presentation for the Office of the Public Defender, May 20, 2008.

Recent Developments in Legal Ethics: Mass Tort Settlements, Metadata, and Other Topics, LBA Annual Spring Ethics CLE, May 16, 2008.

Recent Developments in Legal Ethics: Mass Tort Settlements, Metadata, and Other Topics, Jefferson County Women Lawyers Association, May 8, 2008.

Recent Developments in Legal Ethics: Mass Tort Settlements, Metadata, and Other Topics, Eleventh Annual Estate Planning Institute, April 25, 2008.

Recent Developments in Legal Ethics: Mass Tort Settlements, Metadata, and Other Topics, KBA 18th Annual Issues for Corporate House Counsel CLE, April 16, 2008.

Professional Responsibility Issues for Small Firm Practice, LBA Solo/Small Firm Section, September 11, 2007

High Profile Professional Responsibility: Hewlett-Packard Pretexting and the Duke Lacrosse Fiasco, LBA, May 11, 2007.

Recent Developments in Professional Responsibility: Hewlett-Packard Pretexting and the Duke Lacrosse Fiasco, Jefferson County Women Lawyers Association, May 10, 2007.

Recent Developments in Professional Responsibility: Hewlett-Packard Pretexting and So Long Nifong, Tenth Annual Estate Planning Institute, April 27, 2007.

Hewlett-Packard, Duke Lacrosse, and Other Ethics-Packed Current Events, **KBA 17th Annual Issues for Corporate House Counsel CLE**, April 18, 2007.

The Hewlett-Packard Affair: Lawyer Ethics and Deception, **GE Legal Post Leadership Conference**, March 5, 2007.

Recent Issues in Professional Responsibility, **Kentucky Defense Counsel Annual Seminar**, October 20, 2006.

Recent Developments in Professional Responsibility, **LBA**, May 26, 2006.

The Multijurisdictional Practice of Law, **Legal Netlink Alliance**, May 12, 2006.

Issues in Professional Responsibility, **Jefferson County Women Lawyers Association**, May 11, 2006.

Developments in Professional Responsibility, **Ninth Annual Estate Planning Institute**, April 28, 2006.

General Ethics Update with Professor Grace Giesel, **LBA and In-House Counsel Section**, November 22, 2005.

Annual Ethics Seminar, **Jefferson County Women Lawyers Association**, May 12, 2005.

Developments in Professional Responsibility, **Eighth Annual Estate Planning Institute**, April 29, 2005.

Ethical Issues for In-House Attorneys, **The 15th Annual Issues for Corporate House Counsel Seminar, KBA Corporate House Counsel Section**, April 15, 2005.

Attorney Ethics: Issues of Confidentiality and Unauthorized Practice, **Kentucky Paralegal Association**, October 29, 2004.

Recent Developments in Professional Responsibility, **LBA Appellate Law Section**, May 24, 2004.

Annual Ethics Seminar, **Jefferson County Women Lawyers Association**, May 13, 2004.

Recent Developments in Professional Responsibility: Issues of Interest to In-House Counsel, **Aegon USA Lawyers Conference**, May 4, 2004.

Developments in Professional Responsibility, **Seventh Annual Estate Planning Institute**, April 23, 2004.

Recent Developments in Professional Responsibility: Issues of Interest to In-House Counsel, **LBA In-House Counsel Section**, June 5, 2003.

Recent Developments in Professional Responsibility, **Jefferson County Women Lawyers Association**, May 8, 2003.

Developments in Professional Responsibility, **Sixth Annual Estate Planning Institute**, April 25, 2003.

Ethics: A Review of Ethics Rules Applicable to the Practice of Investing in Clients, **LBA: Back to Law School—What You Thought You Learned and What's New**, November 22, 2002.

Ethics, **Brandeis Inns of Court**, November 19, 2002 (MODERATOR ONLY).

Ethics, Taking an Equity Interest in Your Start-Up Client and What Can Attorneys Do When the Client Fails, **UK CLE: Computer and Technology Law Institute**, November 1, 2002.

Recent Developments in Professional Responsibility, **Jefferson County Women Lawyers Association**, May 16, 2002.

Recent Developments in Professional Responsibility: Issues of Interest to In-House Counsel, **LBA In-House Counsel Section**, May 10, 2002.

Recent Developments in Professional Responsibility, **Fifth Annual Estate Planning Institute**, April 26, 2002.

Sexual Misconduct, Multiple Client Conflicts and Issues in Negotiations, **Louisville Bar Association**, June 5, 2001

Sexual Misconduct, Multiple Client Conflicts and Issues in Negotiations, **Jefferson County Women Lawyers Association**, May 10, 2001

Ethics Issues in Appellate Practice, How to Avoid the Pitfalls of Appellate Practice: Appellate Ethics CLE, May 1, 2001

Professional Responsibility in an Estate Planning Practice, **Fourth Annual Estate Planning Institute**, April 20, 2001

Ethics-Conflict of Interest, **Annual Winter Meeting, Council of School Board Attorneys**, February 23, 2001

Ethics: Selected Professional Responsibility Issues for the Poverty Lawyer, Poverty Law in Kentucky: Landlord/Tenant Tax and Probate Issues, June 7, 2000

Ethics, **Carl A. Warns, Jr. Labor and Employment Law Institute**, May 26, 2000
(MODERATOR)

Issues in Professional Responsibility, **Jefferson County Women Lawyers Association**, May 11, 2000

Amanda Kumar's Case-- Professional Responsibility Issues, **Louis D. Brandeis School of Law Homecoming**, October 2, 1999

Amanda Kumar's Case Professional Responsibility Issues, **Women Lawyers Association of Jefferson County**, May 13, 1999

Contemporary Problems in Professional Responsibility, **Louis D. Brandeis School of Law Homecoming**, October 24, 1998

Confidentiality in a Technological Age, part of **Professionalism in Administrative Law, National Association of Hearing Officials**, October 19, 1998

Legal Ethics, the Internet and Electronic Communication, **Intellectual Property Section of the Louisville Bar Association**, May 22, 1998

Current Events in Professional Responsibility, **Women Lawyers Association of Jefferson County**, May 14, 1998

Legal Ethics, the Internet and Electronic Communication, **Technology Section of the Louisville Bar Association**, April 21, 1998

In-House Counsel vs. Outside Bank Counsel: Professional Responsibility and the Unauthorized Practice of Law Considerations in Determining What Inside Bank Counsel Can Do, part of **Legal Issues for Financial Institutions, UK/CLE**, April 3, 1998

Professional Responsibility, the Attorney-Client Privilege and the Rendering of Business Advice, part of **Business Law CLE, Louisville Bar Association**, June 10, 1997

Professional Responsibility, the Attorney-Client Privilege and Business Advice, part of **Recent Developments in Professional Responsibility, Women Lawyers Association of Jefferson County**, May 8, 1997

Professional Responsibility and Multi-state Practice, part of **Recent Developments in Professional Responsibility, Women Lawyers' Association of Jefferson County**, May, 1996

Ethical Issues Regarding Lawyers' Use of Technology, part of **Managing in the Era of Corporate Reorganization and Other Changes: Effective Use of Technology, In-house and Outside Counsel, KBA Corporate House Counsel Section Annual**

Seminar, April 17, 1996

Ethics and Technology--Threats to Confidentiality, part of **Back to Law School Ethics and Technology Seminar, University of Louisville School of Law, October 27, 1995**

Furniture May Have Ears--Inadvertent Disclosure, part of **Ethical Issues Faced by the Business Lawyer, Louisville Bar Association, May 31, 1995**

The Squeal Rule Debate, part of **Recent Developments in Professional Responsibility, Women Lawyers Association of Jefferson County, May 11, 1995**

Discharge of In-House Counsel, part of **Issues for Corporate Counsel, Kentucky Bar Association, March 10, 1995** (I prepared the materials but did not present it.)

Developments in Substantive Criminal Law, part of **Criminal Law and Procedure Update, Louisville Bar Association, October 28, 1994**

Ethical Implications of Kaye, Scholer, part of **Back to Law School Seminar, University of Louisville School of Law, October 7, 1994**

Kaye, Scholer--Ethical Implications, part of **Recent Developments in Professional Responsibility, Women Lawyers' Association of Jefferson County, May 12, 1994**

Insurance Law Update, part of **Tort and Insurance Law Update, Louisville Bar Association, April 20, 1994**

Discharging House Counsel: Ethics and Employment Termination Issues for Lawyers as Employees and Employers, **1993 Labor and Employment Law Institute, May 20, 1993**

Attorney Speech and The Organization as Client, parts of **Selected Problems in Professional Responsibility, Women Lawyers Association of Jefferson County, May 13, 1993**

1993 Sixth Circuit Judicial Conference, April 1993

--Session Leader for Workshop on Long Range Goals of the Federal Judiciary

Discharge of In-House Counsel and Related Attorneys, parts of **Selected Problems in Professional Responsibility, Women Lawyers Association of Jefferson County, May 14, 1992**

Moderator, **Ethics Section, 1991 Labor Law Institute. June 1991**

Ethics in the Nineties: Selected Changes in the Rules of Professional Conduct, **Louisville Bar Association, November 29, 1989**

Formal Ethics Opinions Authored

I researched the issues and drafted the following opinions that were adopted by the KBA Ethics Committee and Board of Governors.

1. KBA E-415 (2000)
Topic: Civil Domestic Violence Orders
Published in *Kentucky Bench and Bar* (July 2000)
2. KBA E-414 (2000)
Topic: Child Support Enforcement
Published in *Kentucky Bench and Bar* (July 2000)
3. KBA E-413 (2000)
Topic: IOLTA Accounts of Master Commissioners
Published in *Kentucky Bench and Bar* (July 2000)
4. KBA E-412 (2000)
Topic: Partner of Prosecutor Representing Criminal Defendants
Published in *Kentucky Bench and Bar* (July 2000)
5. KBA E-411 (2000)
Topic: Contingency Fee for Appeal of Domestic Relations Matter
Published in *Kentucky Bench and Bar* (May 2000)
6. KBA E-410 (1999)
Topic: Insurance Defense Representation Issues
Published in *Kentucky Bench and Bar* (January, 2000)
7. KBA E-409 (1999)
Topic: Attorney's Knowledge that Insurer is Sending Bills to Auditor
Published in *Kentucky Bench and Bar* (January, 2000)
8. KBA E-408 (1999)
Topic: Attorney as Real Estate Agent
Published in *Kentucky Bench and Bar* (November, 1999)
9. KBA E-407 (1999)
Topic: Public Advocacy Employee
Published in *Kentucky Bench and Bar* (July, 1999)

Professional Affiliations and Service

1. Kentucky Supreme Court Mass Tort and Class Action Committee (2007-)

2. Kentucky Bar Association Ethics Committee (Chair: June 1998-June 2000; Vice Chair June 2000-June 2004)
3. Member of Merit Selection Panel for Bankruptcy Judge—Western District of Kentucky (Spring 2002 & 1998-1999)
4. Delegate and Life Member of the Sixth Circuit Judicial Conference since 1990
5. Planning Committee Member for the 1993 Sixth Circuit Judicial Conference
6. Member of the Joint Steering Committee for the Sixth Circuit Task Forces on Gender and Racial/Ethnic Fairness--Task Force Inactive due to Funding Reductions (early 1990s)
7. American Bar Association
8. Kentucky Bar Association (Admitted to practice 1985)
9. 1991 Kentucky Bar Association Convention CLE Committee
10. Louisville Bar Association
11. Dean's Representative to Louisville Bar Association Board of Directors Meetings 1996-2000
12. Louisville Bar Foundation Fellow (2007-)(based on contribution)

Law School Service (2000 to present)

2009-10

Dean's Advisory Committee
Faculty Recruitment Committee (Chair)
Self-Study Committee
Alumni Relations Liaison
CLE Committee
Personnel Committee

2008-09

Dean's Advisory Committee
Faculty Recruitment Committee (Chair)
Alumni Relations Liaison
Faculty Excellence Committee
CLE Committee
Personnel Committee

2007-08

Dean's Advisory Committee
Community Relations Committee (Chair)
Alumni Relations Liaison
Faculty Excellence Committee
Economic Welfare Committee
Search Committee for Career Services Assistant Dean
CLE Committee
Personnel Committee

2006-07

Community Relations Committee (Chair)
Decanal Search Committee
Alumni Relations Liaison
Curriculum Committee (part of Fall 2006)
Faculty Excellence Committee (Spring 2007)
Faculty Enterprise Committee (Chair)
Personnel Committee

2005-06

Decanal Search Committee
Alumni Relations Liaison
Economic Welfare Committee (Chair)
Professionalism & Public Service Committee
Faculty Enterprise Committee
Governance and Personnel Policies Committee
Personnel

2004-05

University Awards (Chair) (Fall 2004)
Curriculum Committee
Economic Welfare
Faculty Enrichment
Alumni Relations Liaison
Personnel
Decanal Review Committee (Fall 2004)
Probation and Reinstatement (Spring & Summer 2004 only)

2003-04

Sabbatical, Fall 2003
Curriculum Committee (Spring 2004)
Alumni Liaison
Personnel Committee
KBA Ethics Committee (Vice Chair)
Reinstatement (alt) (Spring 2004)

2002-03

Curriculum Committee (Chair)
Recruitment Committee for Chair in Entrepreneurship
Alumni Relations Committee (Chair)
Personnel Committee (Presenter of Candidate)
KBA Ethics Committee (Vice Chair)

2001-02

Curriculum Committee (Chair)
Alumni Relations (Liaison)
KBA Ethics Committee
Personnel Committee

2000-01

Extramural Review Committee (Chair)
Awards Committee
Alumni Relations Committee (Chair)
Personnel Committee
KBA Ethics Committee Chair until June 30, 2000 and Committee Member
since then
Career Resources Committee

1999-2000

KBA Ethics Committee Chair
Law School Representative to Louisville Bar Association Board of
Directors
Continuing Legal Education Committee
Personnel Committee
Faculty Recruitment (entrepreneurship position)

General

Informal Advisor to all students but especially first-year students
Informal Advisor to students interested in judicial clerkships
Attendance at miscellaneous law school activities and functions

University Service

University Distinguished Service Committee (Spring 2009 & Spring 2010)
University Selection Committee for Distinguished Teaching Faculty Award
(Spring 2007)
University Selection Committee for Outstanding Scholarship, Research &
Creative Activity Award (Spring 2007)
University Teaching Awards Committee (2006-07; 2000-2001)
Fringe Benefits Committee (1991-2004)
Provost Search Committee for Mitch McConnell Chair in Leadership

(Spring 1999)
Provost Search Committee for Associate Provost for Institutional
Accreditation (Spring 1998)
Commission on the Status of Women--Faculty Pay Equity Study (1997-
1999)
Faculty Senate (1994-1998)
University Redbook Committee (1994-1998)
Chair, 1997-98
Co-Chair, 1995-96
Executive Committee of Faculty Senate (1994-95, 1995-96)
Ad Hoc Group to Evaluate University Unit Documents (1995-96)

Student Appeals Board (1989-97)
"Women and the Practice of Law," presentation to Undergraduate
Sociology Class, January, 1996

Community Service and Involvement

Law Club (2006-present; Secretary 2009-2010)

Yale Alumni Schools Committee (continuing)

Member of the Board of Directors and Recording Secretary of the Cabbage
Patch Settlement House, Inc. (1988-92)

January 20, 2010