

Widener University Delaware Law School

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The Advocacy and Technology Institute: Real-World Training Using Real-World Tools

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THE ADVOCACY AND TECHNOLOGY INSTITUTE

REAL-WORLD TRAINING USING REAL-WORLD TOOLS

By John F. Nivala

With legal advocacy increasingly taking place outside the courtroom and with technology use on the upswing, Widener renews its commitment to preparing lawyers for real-world issues.



The Advocacy and Technology Institute is the new name for the Delaware campus' Trial Advocacy Institute, which was established in 1988. The name change, a result of studies done for the School of Law's strategic plan and its ABA self study, reflects a revamped approach to training our students.

The new approach reflects two things. First, although most of our students will be advocates during their careers, most of that advocacy will occur in settings outside the traditional courtroom. They will be advocating in administrative hearings, during mediation and arbitration proceedings, in negotiations, in public appearances, and in a host of other settings including appellate practice. Although there are advocacy skills and techniques common to all of these, there is also the need to adapt to the particular situation. Past efforts in this area have earned Widener the American Trial Lawyers Association's Gumpert Award, which recognizes outstanding national achievement in the teaching of trial advocacy. The Institute's goal is to continue providing students with fundamental advocacy skills and to stimulate their imagination about applying those skills to the particular forum and their overall objectives.

The new name also recognizes that technology is an integral component to effective advocacy. The School of Law's strategic plan calls for the Institute "to help students and practitioners develop and maintain the skills, knowledge and technology facility essential to practicing law at the highest level of professional responsibility." The Institute was specifically directed to enhance "the role of technology in its mission."

Over the past few years, the Law School has made a significant investment in upgrading the technology available for student and faculty use. Most classrooms now have smartboards and podiums equipped for Internet and DVD use. The Pretrial Methods, Trial Methods and Intensive Trial Advocacy Program courses utilize computer-available texts and materials which permit students to use technology for organizing and displaying the information relied on during the semester and in final presentations. The Law School is committed to maintaining a technology capacity adequate to meet current skills-related needs and to ensuring that the School's capacity keeps pace with reasonably foreseeable advancements.

In spring 2005, the School, with the faculty's endorsement, established the Law and Technology Center under the direction of Professor Richard Herrmann. This Center became the home of the Corporate Counsel Technology Institute, developed a relationship with the National Judicial College, and established a technology "war room" which provides access for students, faculty and visitors to training in pretrial and trial technology skills. Professor Herrmann teaches an introductory course in legal technology and an advanced course in electronic discovery.

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He also is assisting the School in developing new technology-related courses and in integrating technology into the existing advocacy-related courses.

The Advocacy and Technology Institute maintains the School of Law's commitment to providing our students an opportunity to develop the fundamental skills essential to becoming competent and professionally responsible advocates. It will continue to provide students with the opportunity to take courses covering all basic advocacy skills. These courses are presented in a clearly integrated sequence

taught by Institute-selected instructors using approved course materials and outlines. The fundamental courses are Pretrial Methods, Trial Methods (or the Intensive Trial Advocacy Program), Advanced Trial Methods, and Interviewing and Counseling. In addition, students have access to a number of clinical offerings—criminal and civil—which gives them the opportunity to develop further the advocacy skills necessary to represent clients in a variety of settings while also serving community legal needs.

The Institute's coursework combines technology and teaching to produce a dynamic learning experience encompassing a variety of pedagogical techniques. Lectures, discussions and role-playing foster the interactive exchange of information. New texts allow for students to learn from the most updated resources, while students also spend considerable time learning through simulations—exercises designed to illustrate the skills they will need and to show them how to use those skills. Overseeing these simulations are experienced lawyers and judges from all over the country, who volunteer their time. Representing many different areas of practice, they include trial judges, prosecutors, public defenders, defense attorneys and civil litigators.



The Advocacy and Technology Institute presents the Intensive Trial Advocacy Program each year on the Delaware campus, which includes a lecture on trial advocacy. Judge Herbert B. Dixon, Jr., who sits on the Superior Court in Washington, DC, spoke to a large crowd in 2006.

CONVINCING ARGUMENTS



From colleagues to clients to family, Vera Holmes '89 continues to use the advocacy skills she learned at Widener.

In her 14 years with chemical specialties company Hercules Incorporated, Vera Holmes has practiced law in a variety of contexts. As Senior Counsel, she provides legal services to six departments and leadership on a number of fronts, including procurement of goods and services worldwide, handling acquisitions and mergers, and conducting litigation in a variety of matters. Among her accomplishments, she cites managing the pre-trial, trial and settlement of two insurance coverage actions and prosecuting civil antitrust matters that resulted in positive outcomes for Hercules.

Recently, Ms. Holmes has been heavily involved in the negotiation and administration of two major outsourcing agreements and in safeguarding intellectual property as Hercules expands in Asia. Her priorities are those of corporate executives everywhere: bringing shareholders value by ensuring quality, efficiency, safety and environmental responsibility. Of course, limiting liability is crucial, as is client education: “The most difficult part of being in-house counsel is to make our clients understand that our job is to ensure we are protected if the deal goes bad,” she says. “We are often viewed as the obstacle to the consummation of a good business decision. Everyone else has the luxury of only looking at the upside when the deal goes well. Our job is to protect the organization if it goes poorly.”

Ironically, Ms. Holmes considers three years spent away from legal affairs, serving as a business intelligence manager for Hercules, to be of considerable benefit, noting: “Having the opportunity to concentrate on the marketing side of the company—how we identify and produce products that bring value to our customers—allowed me to better understand my role as an attorney.”

Regardless of where her career takes her, Ms. Holmes takes care to maintain the advocacy skills that helped her advance at the outset of her career, in part through her continuing involvement with the Advocacy and Technology Institute. She has experienced Widener’s trial advocacy program from all sides: as a student member of the Intensive Trial Advocacy Program’s inaugural cohort in 1988-1989, as an instructor in the program since 1990, as a team leader on both campuses, and as an adjunct faculty member teaching Trial Advocacy and Pre-Trial Methods.

“The skills developed during that process of deductive reasoning, persuasion and time management are skills that have served me throughout both my career and my life,” Ms. Holmes says.

“Although I rarely appear in court these days, I use those skills every day with my corporate colleagues and clients, and my family,” she adds. “Those skills have also come in handy when trying to convince my husband, a Superior Court Judge, that he should adopt my way of thinking and do what I want.”

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In the Institute’s core courses and in the many advocacy-related electives, the School of Law has reinforced the notion that advocacy is, at its heart, the lawyer’s ability to make a record and then work with the record made. This describes many areas in which students will work, including non-trial procedures. Students may also, by enrolling in these courses, earn an advocacy certificate, which recognizes their achievement in four basic courses, their completion of the advanced courses, and their completion of a directed research project.

The School of Law has recognized the variety of advocacy experiences and has also recognized the persuasive influence of technology in how our students learn and how they will practice. In melding the two, Widener has renewed its commitment to educating our students to be successful lawyers who are professionally skilled, intellectually engaged and technologically prepared. ■



John F. Nivala is Professor of Law and director of the Advocacy and Technology Institute. He teaches and writes in the areas of evidence, civil procedure, land use

planning, professional responsibility, and trial and pre-trial methods.