Adapting skills education to changes in the practice of law

It’s not enough for Peter T. Hoffman that clinical and skills classes have become a vibrant and important part of legal education. Hoffman, a professor of law and director of the skills program at Elon, is pushing for more.

“Today’s problem is that the clinical and skills courses are failing to adapt to the many changes occurring in the practice of law,” Hoffman wrote in a recent New York Law School Law Review article. “It should not be difficult for us, as legal educators, to remedy this problem, but it requires us to be aware of the existence of the problem and to take the necessary steps to bring our courses into the present to reflect how law is actually being practiced.”

Both in his scholarship and in the programmatic innovations he is advancing at Elon, Hoffman advocates courses that prepare students for today’s world of legal practice, including the rise of alternative dispute resolution (ADR), the increasing importance of depositions, changes in e-discovery and courtroom technology, and the increasing use of focus groups to test the persuasiveness of case theories and themes. Hoffman suggests that more law schools consider courses on mediation advocacy to better prepare students for their roles in the world of ADR. He also encourages clinical and skills faculty to stay informed about changes in law practice and to incorporate new knowledge into course content.

“I love talking to lawyers. I think lawyers tell better stories than anybody else,” he says. “I enjoy talking to them about what’s going on in the practice of law.”

To stay current in the legal field, Hoffman also relies on an international network of contacts through his work as program director for the National Institute for Trial Advocacy (NITA). He was recently named a NITA Legend. He has taught litigation in 17 countries and 38 states.

Published widely on the importance of clinical and skills training to prepare students for the practice of law, Hoffman is the co-author of the largest-selling book on deposition practice, The Effective Deposition: Techniques and Strategies That Work. His latest article, – Teaching Theory Versus Practice: Are We Training Lawyers or Plumbers? – will soon be published in the Michigan State University Law Review.

“Our primary goal is to teach students the skills they’ll need when they’re in practice,” Hoffman says. “A second goal is to teach students how to take the doctrinal theory they’re learning in other classes and apply that to solve the problems of clients.”

Before coming to Elon in 2011, Hoffman was director of the Blakely Advocacy Institute and director of clinical legal education at the University of Houston. The challenge of creating a new program at a law school that’s receptive to change — and in a beautiful state as well — proved irresistible. As part of an effort to stay current on new approaches to law practice internationally, Elon recently set up links with law schools overseas for faculty and student exchanges. One faculty member teaches in Australia, and Hoffman has represented Elon as a teacher in Mexico City, Kyoto, Belfast and the Federated States of Micronesia.

“This is not a place that’s afraid to try new things to improve legal education,” he says. “If it’s a good idea, they’re willing to try it.”
Bringing clarity to securities regulation

In a time when the United States often seems to be torn apart by partisan battles over the role of the federal government, law professor Tom Molony is focusing on more pragmatic questions about government regulation of the securities markets.

“My research has focused on very technical and narrow aspects of the law, but incremental change is important,” says Molony, whose specialty is corporate and securities law.

Two of Molony’s recent articles consider the scope of Rule 10b-5, which prohibits fraud in the purchase or sale of securities. “Beyond the Target Market: Product Advertising and Rule 10b-5’s ‘In Connection With’” will be published in volume 61 of the Cleveland State Law Review, and “Making a Solid Connection: A New Look at Rule 10b-5’s Transactional Nexus” will appear in volume 53 of the Santa Clara Law Review. Molony’s aim in both articles is to provide clarity for the courts about the limits of federal securities anti-fraud regulation.

“I think there is a lot of confusion about where to draw the line,” he says. “The U.S. Supreme Court has given little guidance. My goal is to give courts a way to think about the reach of Rule 10b-5.”

Not only does Molony seek to bring clarity to complex law and policy, he also argues for practical reforms to the 2010 financial reform. In his article, “Still Floating: Security-Based Swap Agreements After Dodd-Frank,” published in 2012 by the Seton Hall Law Review, Molony argues for a change in the reform law.

“The ‘security-based swap agreement’ concept is fraught with problems,” Molony wrote. “When Congress enacted Dodd-Frank, it should have recognized these problems and erased the ‘security-based swap agreement’ concept from the federal securities laws.”

One of the functions of the legal academy is to assist elected officials and other decision-makers in understanding the implications of the legislation they are considering, Molony said. That has become difficult as financial markets have become more complex.

“What concerns me is that members of Congress may not have a complete understanding of what legislation actually does,” Molony says. “The Dodd-Frank financial reform was over 2,000 pages long, and I spent a lot of time trying to understand a narrow portion of it. Members of Congress just don’t have the time, or they don’t take the time, to understand complex pieces of legislation.”

In addition to scholarly work and teaching at Elon, Molony regularly authors “Business Law Updates” for the quarterly publication of the North Carolina Bar Association (NCBA) Business Section. In the last two years, Molony also has delivered the “North Carolina Business Law Update” at the joint annual meeting of the Business Law, Corporate Counsel and International Law and Practice Sections of the NCBA.

With professional experience as a certified public accountant prior to law school and law practice experience as a shareholder and associate with Robinson, Bradshaw & Hinson, P.A. in Charlotte, N.C., where his practice focused on corporate and commercial law, Molony enjoys the challenge of easing students into complex concepts and seeing them gain confidence in taking on difficult subjects.

“I like the classroom experience. I enjoy getting students to engage in discussions,” he says. “I also really like having the time to think more deeply about legal issues than I would have been able to in law practice.”
Asking the question, “Should we make crime impossible?”

While growing up, Michael Rich was, by his own admission, a nerdy kid who was interested in science fiction, particularly the works of Ray Bradbury. As an associate professor of law at Elon, his most recent research has taken him into an area that only Bradbury and other futuristic writers could foresee.

Advances in technology are making it possible for the government to prevent people from committing such crimes as driving drunk, stealing copyrighted material or even committing sex offenses. In a provocative *New York Times* opinion column (“The Perfect Non-Crime” Aug. 6, 2012) and an article in the *Harvard Journal of Law and Public Policy* (“Should We Make Crime Impossible?” forthcoming), Rich offers an analytical framework for policymakers who, as a result of emerging technologies, are being forced to decide whether making criminal conduct impossible is a proper government function.

“To me, the big question that this ultimately raises is the government’s role in interacting with individuals,” he says. “Is the government about providing services and merely influencing conduct or is it allowed to take on a bigger role and foreclose conduct entirely?”

Challenging the status quo and venturing into some of law’s grayer areas has long been of interest to Rich. He started his career at the Cincinnati law firm of Vorys Sater Seymour & Pease LLP, where he worked on white-collar criminal cases, government fraud litigation and civil rights litigation. As a young lawyer, Rich was fascinated by the behavior of whistleblowers and criminal informants. They benefit society, but are often disliked for what is seen as their acts of betrayal.

“I think they are complex figures. Few of them are purely heroic. At the same time, they are people who choose to go down an unpopular road, but they convince themselves, accurately or not, that they’re doing it for the common good,” he says.


Prior to joining Elon, Rich served as an assistant professor of law at Capital University Law School. He has been at Elon since 2010 and teaches evidence, criminal law and criminal procedure.

“My professional experience taught me that lawyers need to be ready to be challenged and to be ready to explain themselves in the face of those challenges,” he says. “So I require a lot of my students in class. They need to be ready to answer questions and they need to be ready for their first answer to give rise to further inquiry.”

What Rich thought would be a one-time article about the implications for society in preventing crime has blossomed into a new area of study in what he believes could be an emerging field. He is at work on a second article that will expand on questions raised in his recent *Harvard Journal of Law and Public Policy* article.

“It’s a relatively new thing,” he says. “That’s made it kind of fun and exciting, to feel like I’m not retreading on ground that’s already been worked on.”
Building a strong legal communications and research program

Buried within the ceases and desists, the whereass and heretofores of any ponderous legal document is a clear thought trying to get out.

As an associate professor of law and director of the legal method and communication program at Elon, Catherine Wasson’s job is to make sure law students leave the school able to research thoroughly and write clearly.

“To watch how a student’s mind works, to be able to reach different kinds of learners, to see them ‘get it’ and participate in the process of becoming a lawyer – I never get tired of that,” she says.

Wasson has taught legal writing for 20 years. Since she came to Elon in 2008, she has assembled a cohesive team of six full-time professors who help students learn how to find, understand and use the law to solve problems and prepare them for the rigors and professional obligations of law practice. Professors John Flynn, Keith McCrickard, Tom Noble, Robert Parrish and Patricia Perkins embrace Elon’s commitment to engaged learning, sharing their innovative teaching techniques at regional and national conferences and bringing a practical approach to their teaching in a variety of other courses, from Family Law and Prisoner’s Rights to Negotiation and Business Drafting. In addition, Janet Keefer, a former journalist with CNN and dean of the journalism school at Drake University, works as a writing specialist with students.

One of the more challenging parts of Wasson’s job, she says, is designing a curriculum that will allow students to make the transition from law school to the legal field with ease.

“Writing and thinking go hand-in-hand,” Wasson says. “The more students engage with the writing process, the deeper their understanding of a subject becomes and the better they are able to communicate that understanding to others.”
Catherine Dunham, Steve Friedland and Michael Rich provide analysis of the John Edwards trial

In 2012, Catherine Dunham, associate dean for academic affairs and professor of law, Steve Friedland, professor of law and senior scholar, and Michael Rich, associate professor of law, provided public analysis of the campaign finance fraud case against former U.S. Senator and presidential candidate John Edwards.


Henry Gabriel advances international commercial law

A U.S. delegate to the United Nations Commission on International Trade Law, Professor of Law Henry Gabriel represented the United States at the 2011 and 2012 commission meetings on electronic commerce at the U.N. Center in Vienna, Austria. An elected member of the Governing Council since 2002, Gabriel presented papers on securitization in agricultural finance and risk management of global navigation satellite systems at two symposia of the International Institute for the Unification of Private Law (UNIDROIT) in Rome, Italy. At the request of the U.S. Department of State, Gabriel gave three presentations at both the 2011 and 2012 meetings of the State Department Advisory Committee on Private International Law. This year, Gabriel was elected a Fellow of the European Law Institute and re-appointed to the American Bar Association International and Domestic Policy Advisory Group. He participated in international and national law revisions and gave six presentations relating to UNIDROIT in San Diego, Washington D.C., Rome, Italy and Beijing, China.

Scott Gaylord offers public analysis of judicial selection and First Amendment issues


Helen Grant and Heather Scavone broaden conversation in immigration law community

On May 22, 2012, Elon Law’s Humanitarian Immigration Law Clinic hosted a second annual Immigration Law Seminar, organized by Professor of Law and Faculty Director of the clinic Helen Grant and Clinical Practitioner-in-Residence Heather Scavone. The conference, designed for immigration attorneys, scholars and law students, featured presentations by representatives of two nonprofit organizations,
Human Rights First and the Immigration Center for Women and Children, as well as representatives of the Guilford County Public Defender’s Office and U.S. Citizenship and Immigration Services. Since its establishment in January 2011, the Humanitarian Immigration Law Clinic has assisted more than 950 clients. In July 2012, the clinic co-hosted an event with the Department of Homeland Security, which examined immigration scams occurring through the unauthorized practice of immigration law and methods for engagement with U.S. Citizenship and Immigration Services. Scavone also spoke at the Creighton University School of Law conference on “Effective Representation of Asylees and Refugees.”

**Margaret Kantlehner advances engaged learning programs**

Associate Professor of Law and Director of Externships, Wills Drafting Clinic and Elder Law Clinic, Margaret Kantlehner was instrumental in the establishment of the Elder Law Clinic at Elon Law and in the creation of a partnership between the law school and The Washington Center for Internships and Academic Seminars that enables law students to enroll in externships with federal government offices and nonprofits in the nation’s capital. Kantlehner now directs both the Wills Drafting Clinic and the Elder Law Clinic at Elon. Chosen to participate in the Georgetown Law 2012 Summer Institute for Clinical Law Teaching, Kantlehner’s article, “Before Elvis Leaves the Building: Drafting a Will for a Client of Diminishing Capacity,” was the cover story of the North Carolina State Bar Journal Summer 2012 edition.

**David Levine engages Congress and the Obama administration on IP law, technology and trade**

In tandem with his scholarship, Associate Professor of Law David S. Levine co-authored two letters to Congress in 2011, signed by hundreds of legal scholars, opposing the PROTECT IP Act (PIPA) and the Stop Online Piracy Act (SOPA). The letters argued that the legislation undermined U.S. leadership in supporting and defending free speech and the free exchange of information on the Internet. Levine also co-authored a 2012 letter to U.S. Trade Representative Ron Kirk, signed by 32 legal academics, calling for public access to U.S. negotiating positions related to the Trans-Pacific Partnership Agreement (TPP). After speaking at the 13th round of TPP negotiations, Levine wrote a Slate.com article, “The Most Important Trade Agreement That We Know Nothing About,” which called for more transparency among negotiators.

**Faith Rivers James cultivates lawyer-leaders**

Professor of Law Faith Rivers James, recently named director of leadership programs at Elon Law, cultivated the professional development of several alumni by engaging them in opportunities to present at conferences and to write for professional publications. Rivers James invited three alumni to speak about leadership education in law schools at the 2012 Conference on Law and Leadership. She also co-authored an article about leadership in the legal profession by alumnus Collin Cooper L’12 that was published in The Young Lawyer, a magazine of the American Bar Association Young Lawyers Division. In her recent St. Louis Public Law Review article, titled, “Engaging Law Students in Leadership,” Rivers James writes, “The new challenge of legal education is preparing civic-minded lawyers to assume leadership roles in their communities, law firms, the legal profession, and in the public square.”
John Alexander
Distinguished Leadership Coach-in-Residence

Essays, Chapters and other Works in Compilations

David M. Crowe
Professor of History, Elon University;
Professor of Legal History, Elon University School of Law

Books

Essays, Chapters and other Works in Compilations

Book Reviews


Leary Davis
Founding Dean and Professor of Law Emeritus

Journals

Eric M. Fink
Associate Professor of Law

Journal Articles

Steven I. Friedland  
Professor of Law and Senior Scholar

Books


Journal Articles


Henry Gabriel  
Professor of Law

Journal Articles


Essays, Chapters and other Works in Compilations


Book Reviews


Scott W. Gaylord  
Associate Professor of Law

Journal Articles


Andrew J. Haile
Associate Professor of Law

Journal Articles


Peter Toll Hoffman
Professor of Law and Director of the Skills Program

Books

Journal Articles

Faith Rivers James
Professor of Law and Director of Leadership Programs

Journal Articles

Margaret Kantlehner
Associate Professor of Law and Director of Externships, Wills Drafting Clinic and Elder Law Clinic

Journals


Howard Katz
Professor of Law

Journal Articles
David S. Levine
Associate Professor of Law

Journal Articles

Essays, Chapters and other Works in Compilations

Kathleen A. McLeod
Associate Dean for Library and Information Services and Associate Professor of Law

Book Reviews

Thomas J. Molony
Associate Professor of Law

Journal Articles

Michael L. Rich
Associate Professor of Law

Journal Articles

Alan Woodlief
Associate Dean for Administration, Associate Professor of Law and Director of the Moot Court Program

Books
Elon University School of Law prepares students to be exceptional lawyers through a rigorous core curriculum, including a leadership program that equips students to address regional, national and global challenges, in an environment that emphasizes innovative teaching and an array of field-based experiences. Student learning is enriched through a close association with the faculty, who provide global perspectives and a commitment to innovative teaching, scholarship and service. Students benefit from regular interaction with leaders in law, business and civic life, including members of the law school’s advisory board, chaired by a former adviser to four U.S. presidents, and including two former N.C. governors, three former Chief Justices of the N.C. Supreme Court and the Chair of the American Red Cross. Students engage the law through clinics, externships, moot court, mock trial and field-placement programs, as well as a preceptor program through which more than 50 attorneys serve as mentors to law students from the start of their law school experience.