



Boyd Briefs: September 5, 2013

Another great week at Boyd. I want to plug a terrific event coming to the law school: the 3rd Annual Public Interest Law Film Festival on September 19-20. This film festival will feature award-winning filmmaker Melissa Young talking about her film, *Shift Change*, and will close with an award to civil rights leader Ruby Duncan. The theme of this year's festival is, "Economic Injustice: Global, National & Local Challenges & Opportunities" and will focus on economic issues facing workers, businesses and communities as the nation comes upon the fifth anniversary of the Great Recession and the 50th anniversary of the War on Poverty. This annual event at Boyd is free and open to the public and is co-sponsored by the UNLV History Department, the Women's Research Institute of Nevada (WRIN) at UNLV, the UNLV Department of Film, and the Legal Aid Center of Southern Nevada. For a detailed schedule and to RSVP, see law.unlv.edu/PublicInterestFilmFestival2013.

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FACULTY SPOTLIGHT: Ann McGinley

Ann McGinley has been an intellectual leader of the Boyd School of Law since she joined the faculty in 1999. She is highly productive, and her work in the fields of torts, employment law, and gender studies is highly regarded and frequently cited.

One of the more than dozen publications that she has published since 2012 is *Cognitive Illiberalism, Summary Judgment, and Title VII: An Examination of Ricci v. Destefano*. In this article, Professor McGinley explains how a recent Supreme Court decision about employment law suffers from a common psychological fallacy: although we can appreciate that others' perceptions are products of their experience, culture, political commitment, and socioeconomic position, we tend to think that our own perceptions are instead some objective truth. Professor McGinley joins an important cadre of scholars who have used the term "cognitive illiberalism" to describe the threat that unconscious biases pose to enforcement of basic principles of liberal neutrality.

In *Ricci v. Destefano*, the Supreme Court heard a reverse-discrimination case filed by white firefighters (who did well on a promotional exam) against the City of New Haven. The City discarded the results of the exam that it had drafted and administered after those results revealed a negative disparate impact on minority applicants. But in avoiding that *disparate impact* on minority applicants by throwing out the test, the

City thereby inflicted *disparate treatment* on the plaintiffs. In the lower courts, the City prevailed on a summary judgment motion. But the Supreme Court reversed the summary judgment for defendants, holding that a good faith belief that the testing created an illegal disparate impact on racial minorities was insufficient as a defense to a disparate treatment claim that arose as a result of the City's overt use of race to throw out the test results.

Summary judgment brings the dangers of cognitive illiberalism into relief because the legal question on such a motion is whether "a reasonable jury could conclude x." And Professor McGinley's article persuasively reveals the cognitive bias manifest in the Court's opinions. The antidote to cognitive illiberalism is simple to state, even if difficult to practice: humility; individuals should engage in a sort of mental-second-guessing-of-oneself before concluding what others do or should think.



STUDENT SPOTLIGHT: Perry Friedman

How many of us have been swept up in the poker craze of the last 10 years? We sit and watch players win bracelets on ESPN World Series of Poker (WSOP) broadcasts and say "I could do that." Well the fact of the matter is... we probably can't. But Perry Friedman, a second-year student at the Boyd School of Law, did.

Perry took home the jewelry in the 2002 WSOP \$1,500 Limit Omaha Hi-Low Split-8 or Better event. He has cashed and made the final table at many other WSOP events, and his career earnings in poker are substantial.

But playing the game is only one aspect of Perry's success in poker. He has been active and successful in the development of gaming software and technology in a variety of ventures. No doubt both the B.S. in Mathematical and Computational Science and the M.S. in Computer Science he earned at Stanford University have served him well in his poker endeavors, both on the felt and at the programmer's keyboard.

And so the question hangs in the air... with all that you've accomplished in the worlds of poker, gaming, and computer technology, why law school, Perry? Perhaps the answer lies in the inscription in a book, a cherished gift, he was given by Hoover Institute Fellow Thomas Sowell back in his freshman year: "To Perry Friedman, who understands the necessity – and the cost – of thinking."

And so how are things going at Boyd, Perry? "Boyd Law provides me with the unique opportunity to expand my horizons in the classroom, while being able to be involved in the gaming industry right here in the local community, " he replies. "I can't think of any other law school that provides such a great opportunity."



ALUMNI SPOTLIGHT: Adriana G. Fralick '03

Adriana Fralick had indications early on that she would grow up to be an attorney. "In first grade, I cut the straps off my backpack because I wanted to carry it like a briefcase," says Adriana. She adds chuckling, "But it became clear to me that I was destined for law when on the first day of middle school I showed up in a suit and all my friends were wearing jeans and T-shirts."

Adriana graduated from UNR with a BA in Speech Communications — something she credits for helping her get first place in Boyd's Client Counseling Competition. "I do believe it helped, but so did working with personal injury clients daily. I went to law school with the plan of opening up my own personal injury law firm since I had worked with personal injury firms since high school." However, the family-friendly public service sector appealed to Adriana, who started a family while in law school. She is now the Executive Secretary to the State Gaming Control Board and Nevada Gaming Commission, a position that serves as a quasi court clerk for both bodies and as liaison to the gaming industry. "A few years ago, I realized how global the gaming industry had become and wanted very much to be a part of it. Nevada is known around the world as the 'gold standard' in gaming regulation. Had I known I would end up in gaming, I would have taken gaming law classes. We are fortunate to have Boyd's premier gaming law program."

Adriana credits many of the Boyd professors for her success in state government. "I had an excellent foundation in constitutional law, ethics, and administrative law, which helped me tremendously during my public tenure." Prior to gaming, Adriana served as Assistant General Counsel for the Nevada Public Utilities Commission, General Counsel to the Nevada Commission on Ethics, and General Counsel to Nevada Governor Jim Gibbons.

Adriana lives in Reno with her husband David (DMD '06), their two children Katie and Peter, and their desert tortoise Egg.