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Summer 2008

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**LAW JOURNAL**

Volume 32

Summer 2008

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The *Southern Illinois University Law Journal* (ISSN 0145-3432) is published quarterly by students by the Southern Illinois University School of Law. The subscription rate is \$30.00 per year and \$8.00 per issue. The Survey issue is available for \$12.00. Back issues are available for \$12.50 back to vol. 3, \$15.00 for vols. 1 and 2. Bound set through vol. 15 for \$575.00. Address requests for back issues to William S. Hein & Co., Inc., 1285 Main Street, Buffalo, NY 14209-1987. Editorial offices are located at 251 Lesar Law Building, Southern Illinois University School of Law, Carbondale, IL 62901. If a subscriber wishes to discontinue a subscription, notice to that effect be sent to the Business Manager; otherwise, it is assumed that continuation of the subscription is desired.

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**LAW JOURNAL AWARDS**  
Southern Illinois University Law Journal  
For the School Year of 2007-2008

**Best Casenote Award**

This award is presented to the author of the published casenote which scored the highest in a blind ranking by the previous year's Editor in Chief.

RYAN STRAW

**Best Comment Award**

This award is presented to the author of the published comment which scored the highest in a blind ranking by the previous year's Editor in Chief.

LUKE DESMET

**Best Casenote and Comment Editor**

This award is presented to the best casenote and comment editor based on facts such as quality of editing, dedication, ability to work with staff authors, evaluations by staff authors and the number of articles edited that were selected for publication.

CRAIG RUNYON

**Best Articles Editor**

This award is presented to the Articles Editor who made the most significant contribution to the Law Journal based on factors such as: number of hours dedicated to Law Journal activities, the difficulty and importance of projects undertaken and the quality of editing.

JENNIFER WALSH

**Outstanding Service**

LUKE DESMET

JESSIE MAHR

**Journal of Legal Medicine Award**

This award is presented to the author of the best published  
Journal of Legal Medicine article as selected by the  
Editor of the Journal of Legal Medicine.

LEVI BURKETT

**Legal Medicine Perspectives Award**

AMBER GRAY

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Southern Illinois University  
For the School Year of 2007-2008

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TROY RASMUSSEN

**Al H. and James A. Chesser Endowed Scholarship**

DIANE REGAN

**Arthur Lockwood Beneventi Award**

MATTHEW GRAN

**August L. “Gus” Fowler Scholarship**

The scholarship is given to a student in good standing from Southern Illinois with preference to Marion or Williamson County.

ANNA PENDER

**Bessie Engram Community Service Award**

This award is presented for outstanding community service.

DUNCAN OJWANG

**Beth and Darin Boggs Scholarship**

MIKE SCHMIDT

**Charles D. and Fairy B. Neal Fellowship**

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DANIEL DYKSTRA

MICHAEL PARENTEAU

ERIC RAKESTRAW

**Class of 1977 Rewards of Challenge Scholarship**

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**Class of 1999/ RSD Memorial Scholarship for Sean M. Dempsey**

MARSHA CASCIO

**Consumer Protection Award**

ELLA YORK

**David C. Johnson Scholarship**

MELISSA PERRIS

**Delos L. Duty Scholarship**

This scholarship, established in memory of Mr. Delos Duty, a well known Williamson County attorney, is awarded to an entering student for outstanding achievement.

ANTHONY SEBASTIAN

**Donny J. Schmeder Memorial Scholarship**

KYLE OEHMKE

**Edgar O. & Bonnie Zimmer Scholarship**

ELLA YORK

**Edward L. Welch Labor Law Award**

JEFFREY WRIGHT

**Frank Bietto Memorial Scholarship**

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**Garwin Family Foundation Scholarship**

SUMI REBEIRO

DAVID SLADE

**Gilbert Family Memorial Scholarship**

This scholarship is presented to second year students from Southern Illinois who demonstrated service to the law school.

JOSHUA GARRISON

KIM LITHERLAND



**Harold W. “Hank” Hannah Ag Law Scholarship**

DESIREE KING

**Health Law Contribution Award**

The award is given to the student with strong academic achievement who intends to practice health law.

ANDY ROSZAK

**Hiram H. & Rosalee Lesar Scholarship**

TIMOTHY O’HERN

**Howard B. Eisenberg Client Service Award**

MEL BLADE

**Joe & Irene Dell’Era Scholarship**

This scholarship is awarded to a law student with proven academic excellence to help defray the student’s cost of a legal education.

JOHN LUKEMAN

MARK PHILIPP

LUKE STAFFORD

**John A. Maher Scholarship Prize**

MICHAEL DARFLINGER

**Joseph O. Downey Memorial Scholarship**

JOSHUA HUMBRECHT

**Judge James Foreman Scholarship**

MISTY EDWARDS

**Judge James O. Monroe Award**

LEVI BURKETT

**Judge Richard E. Richman Ethics Award**

REGINA MORELAND

**Judge Richard E. Richman Endowed Scholarship**

The scholarship was established by Lois Richman to recognize a student who embraces the ideals of character, verbal skills, humanity and compassion.

KYLE OEHMKE

**Julius A. & Norma H. Johnson Scholarship**

MELODI GREEN

**Lincoln's Inn**

MICHAEL BAGGETT, LEVI BURKETT

MELISSA CURRAN, LUKE DE SMET

AMBER JERALDS

**Lowell H. Jacobson Scholarship Nominee**

The scholarship is awarded competitively to a student from one of the law schools within the Seventh Circuit to recognize personal commitment and achievement.

MISTY EDWARDS

**Madison County Illinois Bar Association Scholarship**

MICHAEL OLTMANN

**Max Turner Memorial Scholarship**

LEVI BENNETT

**Moot Court Awards**  
Chief Justice—WADE SHIMER

**Appellate Division**  
Associate Justice—GREG ODOM II  
BRADY BARKE  
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GLENN KATAYAMA  
JENNIFER KELLY  
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JAMIE MCCARTHY  
JOSEPH ROARK  
TIMOTHY TING  
NICK WILLIAMS

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DAVID BENNEY  
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JOE BACZEWSKI & MICHAEL WURL

**Best Oralist**  
ANDREW RANKIN  
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**Intramural Champions**  
JOE BACZEWSKI & MICHAEL WURL

**Intramural Second Place Team**  
BRIAN HARVEY & SETH HICKS

**National Association Of Women Lawyers Award**

This award is presented to a third year student demonstrating academic achievement and motivation and who also shows promise to contribute to the advancement of women in society.

AMBER JERALDS

**Order of Barristers**

This award is based on advocacy and brief writing skills through law school appellate moot court and mock trial programs.

BRADY BARKE, NATALIE GREGORY

GLENN KATAYAMA, JASON LEONARD

JAMIE MCCARTHY, GREG ODOM II

JOSEPH ROARK, WADE SHIMER

TIMOTHY TING

**Pat Caporale Scholarship Prize**

MISSY CURRAN

**Phi Delta Phi Award**

This award is given to the students with the highest grades in Professional Responsibility or Legal Ethics.

MICHAEL DARFLINGER

JAMES THOMPSON

JENNIFER WALSH

**Phi Kappa Phi National Honor Society**

The Society Nominates students who represent the top 10% of their class in recognition of superior scholarship.

ADAM AHNE, MISTY EDWARDS  
JOSHUA HUMBRECHT, KATHRYN HURIE  
CLARK MILLS, PATRICK MCGRATH  
KYLE OEHMKE, DAVID SLADE  
ROWAN THEMER, MICHAEL WURL  
ELLA YORK  
CHRISTOPHER BLAESING, LUKE DESMET  
DAVID FOX, AMBER JERALDS  
JESSIE MAHR, JOHN PERSELL  
JASON POHREN, ROSANNIE TROCHE  
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**Public Interest Award**

MARSHA L. CASCIO, RICHARD DYER  
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**Ron E. Osman Endowed Scholarship**

The scholarship, made possible by the generosity of local attorney, Ronald Osman, is given to a student from Union or Williamson county based on financial need

MEGAN ORSO

**School of Law Dean's Club Scholarship**

JONATHAN HART

**School of Law 25<sup>th</sup> Anniversary Scholarship**

LAURA ROBERTSON

**School of Law Alumni Association Scholarship**

MATTHEW MAJERNIK

STEPHANIE SCHMITT

**Scott H. Nichols Memorial Endowed Scholarship**

DANIELLE JOHNSON

**Senior Class Award**

PROFESSOR PAUL MCGREAL

**Thurgood Marshall Award (BLSA)**

This award is given to the Black Law Student Association to present to an outstanding student.

TIONN FAMBRO

**Women's Bar Association Award**

The School of Law nominates two students each year, based on outstanding scholastic achievement, involvement in school activities and personal qualities, to compete for this award.

MISTY EDWARDS

SARA RAHEB

**Women's Bar Foundation Public Interest Scholarship Nominee**

MARSHA CASCIO

## FOREWORD

I am pleased to present the 2008 Hiram H. Lesar Survey of Illinois Law, which has been published every summer since 1984. In 1984, the Illinois State Bar Association joined forces with the Southern Illinois University School of Law Journal to produce high quality articles geared toward the practice of law. The focus of the Survey of Illinois Law is to provide articles of analytical quality written by judges and practicing attorneys about recent changes in the laws of Illinois in order to provide guidance and assistance to those practicing law in Illinois.

I would like to take this chance to thank all of the people who made this issue a possibility. First, I would like to thank all the authors who took their valuable free time and wrote great articles in such a short amount of time, especially those authors who have written multiple years in a row. It was their time and dedication that made this issue possible. I would also like to acknowledge Michelle Clark, the Editor in Chief for the 2009 Survey of Illinois Law issue, who took the project over at a critical stage and made sure it was complete. Lastly, I would like to acknowledge Frank Houdek, SIU Law Journal advisor, and Susan Williams, Business Manager, for their ongoing support, guidance, and effort that make this journal possible. And finally, the hard work and dedication of the SIU Law Journal staff should be recognized.

It is my hope that this issue offers guidance and practical applications of the recent changes in the law. Thank you to the Illinois State Bar Association for their support of the project, and thank you to you, the reader, for taking the time to support this project. The issue is a great resource for the legal community and is made possible by you.

Jessie M. Mahr  
Editor-in-Chief  
Survey of Illinois Law

