

# INTRODUCTION TO THE CENTRAL STATES LAW SCHOOLS ASSOCIATION 2008 CONFERENCE

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On October 24-25, 2008, the Southern Illinois University (SIU) School of Law had the honor of hosting the annual conference and business meeting of the Central States Law Schools Association (CSLSA). CSLSA is a regional organization of law schools dedicated to providing a supportive forum for discussion and collaboration with respect to scholarly activity by law school academics across legal disciplines. To that end, CSLSA hosts an annual meeting and conference each year to bring legal scholars together to share their completed works and works in progress.

Traditionally, the annual CSLSA conference has been a forum for legal scholars, especially more junior scholars, to present working papers or finished articles on any law-related topic in a relaxed and supportive setting where junior and senior scholars from various disciplines are available to comment. More mature scholars have an opportunity to test new ideas in a less formal setting than is generally available for their work. Both find the cross-disciplinary comments especially helpful in thinking about their topics in new ways.

While CSLSA is a regional organization, participation from academics outside the Midwest region is welcome. This year's conference at SIU drew more than thirty scholars from many different law schools around the country including Akron, Capital, Case Western, Cleveland State, Dayton, Hamline, Howard, Kansas, Louisville, Michigan State, Nebraska, North Dakota, Northern Kentucky, Texas Wesleyan, and Toledo. The presentation topics represented a broad range of disciplines including criminal law, constitutional law, international law, civil procedure, corporations, intellectual property, tax law, energy law and employment law. Three of the papers presented at the 2008 CSLSA Conference are included in this issue.

First, Tamara Lawson from St. Thomas University School of Law considers the issue of gender and its interplay with prosecutorial discretion. Ms. Lawson suggests that the Office of the Prosecutor is one of the most important offices within the legal system because it is empowered with the discretionary ability to decide how and for whom justice will be served. The prosecutor essentially serves as the initial judge and jury of all cases, deciding

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which cases go to a judge or jury with almost no judicial remedy available to undo the prosecutor's discretionary charging decisions. Ms. Lawson discusses the shift toward gender neutralizing laws and policies that have dramatically increased enforcement of crimes against women that had once been neglected as insignificant or even private, not public, punishable matters. In addition, she points out that the inclusion of women as both police officers and prosecutors has helped to erode old stereotypes and fostered increased prosecution of sexual assault and domestic violence cases. Her article considers the reasons underlying these changes in the legal system, both nationally and internationally, and suggests some future directions.

Second, Bruce Ching, a visiting Assistant Professor at Valparaiso University School of Law, presented his article on "Attorney Referral, Negligence, and Vicarious Liability," dealing with the issue of whether an attorney who makes a referral to another attorney may be liable for the client's loss when the attorney accepting representation commits malpractice. According to Mr. Ching, state courts have used three different approaches to deal with such situations in the past: (1) no liability for negligent referrals; (2) liability only when there is fee-splitting; or (3) liability under ordinary negligence analysis. Mr. Ching suggests courts analogize to the business judgment rule to best balance the concern for protecting attorneys who make appropriate referrals, while still allowing claims based on negligent referrals. He also advocates the use of theories of breach of fiduciary duty and undue influence to provide courts with familiar frameworks to evaluate liability.

Third, Andrew Torrance, from Kansas University, and his co-author, Dr. William M. Tomlinson, from the University of California, Irvine, have conducted empirical research and are writing a series of articles on a patent simulation system utilized to discern the inventiveness that patent law promotes. One part of their work focusing on "expert" users of the patent system is included herein. The authors set out to test certain assumptions underlying patent systems, in particular, the idea that inventive activity will be spurred by the prospect of patent protection, leading to the accrual of greater societal benefits than would be possible under non-patent systems. Professors Torrance and Tomlinson decided to test this hypothesis by simulating the behavior of inventors and licensees, in particular, and society, in general, under conditions approximating patent and non-patent systems. In this article, they describe a multi-user interactive simulation system ("The Patent Game") that they used to test hypotheses of individual and societal benefits. Testing consisted of the variation of incentives for activities such as invention, licensing, and infringement by creating a simplified model of the inventive process, as well as networking together multiple users so they could interact through this system. The article sets forth the results observed when "expert"

users played The Patent Game by comparing rates of innovation, productivity, and social utility in both patent systems and open innovation systems. The article concludes with some possible implications of the results generated thus far and some ideas for future research.

As stated above, these papers represent just a sampling of the very interesting and diverse range of scholarly presentations from the 2008 Annual CSLSA Conference. For more information about CSLSA, including information about the next annual meeting and conference, please visit [www.cslsa.us](http://www.cslsa.us).