

Message from the Co-Chairs

by Carol V. Rose and Cynthia Counts

Recent U.S. Supreme Court decisions serve to remind us that law plays a key role in shaping public policy with regard to the First Amendment, the Internet, telecommunications, and intellectual property. In *Bartnicki v. Vopper*, for example, the U.S. Supreme Court addressed the tough legal issues that arise when the rights to free speech and privacy collide. In *Tasini v. The New York Times*, the Court began to explore the legal challenges posed by evolving information technology. Meanwhile, Congress continues to debate legislation related to privacy and telecommunications, while government regulatory bodies become increasingly active in enforcing and implementing new laws in these areas.

Women media lawyers throughout the country are involved in every aspect of these legal and public policy debates. You need only peruse the forthcoming 2001-2002 *WICLS Directory* to get an idea of the breadth of legal practice that falls under the umbrella of "Women in Communications Law." Career paths of *WICLS* members range from in-house media counsel to lawyers in government, academia, law firms, public interest groups, insurance firms, publishing houses, and beyond. Women in communications law are litigators, regulators, deal-makers, and scholars.

The common denominator of the attorneys listed in the *WICLS* directory is that we have made and continue to create unique paths in the legal profession. It is a rare woman professional – lawyer or otherwise – who has climbed the career ladder in a "traditional" manner. After all, the entry of women into the legal profession is a relatively recent "tradition" in itself. Each of us is breaking new ground. Add to that the responsibilities that many of us have for our aging parents, our children, and our communities, and you will find a directory of remarkable achievers.

The *WICLS* is a forum in which we hope that you can look beyond your immediate horizons to a nationwide network of women in communications law. In this issue of the *WICLS* newsletter, we continue our custom of profiling prominent *WICLS*

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COMMENTARY

More than Part-Time

by the Women's Bar Association of Massachusetts

This year roughly six out of ten people receiving college degrees and more than half of incoming law students are women. By virtue of their sheer numbers, women will play an increasingly important role in firms' ability to recruit and retain a talented labor pool. Yet, women in most law firms confront a system and environment designed in large part for full-time attorneys who, if they have children, have spouses who stay at home. The result is that while overall attrition is at an all-time high, attrition among women attorneys is particularly high in firms where women feel there are not

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ABA Forum - Women in
Communications Law
Subcommittee Newsletter

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Calendar of Events

September 12-13
2001 Libel Conference,
Alexandria, VA

November 7
LDRC Annual Dinner
New York, NY

November 8-9
PLI Communications
Law Conference
New York, NY

February 15-17
ABA Forum on
Communications Law
(Meeting of WICLS)
Boca Raton, FL

Woman To Watch

Jane Kirtley

by Tamsen Love

During her distinguished career, Jane Kirtley has been a beat reporter, a practicing attorney, and an Executive Director of the Reporter's Committee for Freedom of the Press. Now she can add journalism professor to that list.

In August of 1999, Kirtley became the Silha Professor of Media Ethics and Law at the University of Minnesota's School of Journalism and Mass Communication. "I always had it in the back of my mind to go into academia," she says. "I was an adjunct professor at American University and kept my portfolio up."

She finds the position at the University of Minnesota especially attractive because it allows her to concentrate on her particular areas of interest. "It is unusual to have a Media Law and Ethics professor at journalism schools," she says. "That's part of what made the job so appealing—I can focus on media law without having to teach introductory courses."

Kirtley teaches undergraduate and graduate courses on topics ranging from general media law to internet law to privacy issues. She recently designed a course on comparative media law focusing on the United States and the European Union. Each student in the class represented a particular country and was required

to give presentations on various media law topics affecting that country.

In her new position, Kirtley also serves as Director of the Silha Center for the Study of Media Ethics and Law.

The Silha Center was established in 1984 through an endowment by Otto and Helen Silha to study the mass media's legal rights and ethical responsibilities in a democratic society. The Silha Center organizes and promotes a variety of programs, including a lecture series, symposiums,

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I believe in.*

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Message from the Co-Chairs

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members as "Women to Watch." This issue features Michelle Worrall Tilton, the co-founder and Executive Vice President, Claim Counsel of First Media Insurance Specialists, and Jane Kirtley, the Silha Professor of Media Ethics and Law at the University of Minnesota's School of Journalism and Mass Communication, and formerly the Executive Director of the Reporter's Committee for Freedom of the Press.

We also are reprinting an excerpt from a Report of the Employment Issues Committee of The Women's Bar Association of Massachusetts, entitled, "More Than Part Time: The Effect of Reduced-Hours Arrangements on the Retention, Recruitment, and Success of Women Attorneys in Law Firms." This study of part-time arrangements in law firms was spearheaded by a group of senior women attorneys of the Women's Bar Association of Massachusetts. It offers a systematic review of a question that many of us may frequently ask ourselves: why are so many senior women associates

and partners leaving law firms because they cannot balance their family responsibilities with the billing requirements of law firms? Why are many women leaving law firms even when they are, as the report states, "committed to practicing law and among the 'best and brightest' attorneys in their firm"? A complete copy of the WBA report is available at the WBA Web site: www.womensbar.org.

This issue of the *WICLS* newsletter also includes our "Women on the Move" section, where our members have a chance to post professional announcements, an update on the Boca Raton conference highlights, and a calendar of upcoming media law events.

This is a great time to be a woman in communications law. We encourage you to get more involved in *WICLS* by e-mailing Carol Rose at crose@hillbarlow.com or Cynthia Counts at ccounts@mindspring.com.

Special thanks to the Media and Entertainment Group at Hill & Barlow, in Boston, for providing layout and design assistance and expertise for this issue of the W.I.C.L.S. Newsletter.

Jane Kirtley

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forums, and workshops. It funds research by faculty members and graduate students. It also serves as a resource for journalists and scholars on ethical and legal issues involving the media.

Kirtley is enjoying her new role as a professor. She "love[s] teaching" and is "learning how to have fun with it." Nevertheless, she sometimes looks back on her days as Executive Director of the Reporter's Committee "somewhat wistfully."

"In many ways, it was the best job in the world,"

she says. "I got to do all First Amendment law. As far as legal work goes, it was as pure as it gets. I was incredibly privileged to be there."

Under Kirtley's leadership, the Reporter's Committee blossomed into an effective, credible and notable organization. In the years before Kirtley took over, the organization's reputation had apparently suffered. Someone told her that having the Reporter's Committee's name on an amicus brief was "poison." "My main goal was to raise the standing of the organization," she says.

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Jane Kirtley

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She accomplished this and much more. Under her leadership, the Reporter's Committee began publishing guidebooks and other essential resources for practicing journalists. Kirtley is particularly proud of the First Amendment Handbook the Reporter's Committee put out. "It became a very useful tool for journalists working in emerging democracies," she says.

Indeed, international work is becoming one of Kirtley's main interests. She got involved in international work while at the Reporter's Committee and has been able to continue her involvement in her new position. She has lectured on media issues in countries such as the Czech Republic, Chile, Poland, Russia, Mongolia, China and Argentina.

As if all this didn't keep her busy enough, Kirtley also devotes time to pursuing her main research interest—privacy issues. She serves on the boards of numerous organizations, including the Freedom Forum First Amendment Center, the SDX Foundation, the Minnesota Chapter of the Society of Professional Journalists and several publications. She participates in panels and seminars, continues to work on amicus briefs, and authors a regular column for the *American Journalism Review*.

But her main purpose at the moment is passing on her knowledge and ideals to a new generation of journalists and attorneys. She notes that while she teaches in the School of Communications, a number of her best students are planning to go to law school. Indeed, she hopes one day to be able to offer her courses to law students at the University of Minnesota.

Whether they go on to be journalists or lawyers, however, Kirtley is happy to be able to influence and inspire her students. "I feel like I am cultivating a new generation to carry on the standards of journalism I believe in," she says.

Woman To Watch

Michelle Worrall Tilton

by Jill Meyer Vollman, *Frost Brown Todd LLC*

Creativity. Determination. Humor. By relying on those three qualities, Michelle Worrall Tilton has found success. The co-founder and Executive Vice President, Claim Counsel of First Media Insurance Specialists, Inc., Tilton has advanced to - indeed created for herself - a challenging role that allows her to utilize all of her talents for a cause at the very core of her being.

A lawyer and journalist by training, Tilton's previous work at Media Professional Insurance brought her back in touch with the media values and issues that had once drawn her to reporting. Though it was not until her work with media insurance that she "really understood the role of insurance and how important it is so that the media can *really* publish."

After almost a decade at Media Professional Insurance, Tilton sought a new challenge. She joined Rodger Rudkin to start First Media, a media insurance company, where she wears a variety of "hats," allowing her to develop her many talents. In addition to performing the claim work she traditionally performed, Michelle has added an array of new tasks to her daily routine, from policy drafting and fine tuning, to marketing, to administrative decision-making, to - in the earlier days of First Media - learning how to service her own fax machine. Describing herself as a "people person," Tilton finds satisfaction in meeting regularly with her clients and outside counsel, in lieu of working strictly from the office, and welcomes the different challenges that every new day brings.

So how did a woman who was "dragged, kicking and screaming to law school" find her passion in the

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law? "When you're a journalist, you're always looking to right a wrong ... to represent the little person ... to help those who had been oppressed." In the media insurance business she has found a way to "help society" and truly "do good" with her career, even though she is not the reporter "doing the writing." "Once I started handling media liability, everything started falling into place because I suddenly felt 'OK now I am representing the greater good... even though there may be some mistakes in the article, they are serving the greater good.' ... In terms of what I thought was right and wrong, everything felt right."

When you have a mentor, it's possible for you then to mentor other people ... and those mentor relationships are really, really important.

Tilton is quick to point out that she has "been blessed with having wonderful mentors," beginning with her father, Larry Worrall. Tilton began her work under her dad's close watch at Media Professional and, at the end of 1999, her father joined her as a partner in First Media. Her immense appreciation of "him as a talented lawyer and business person" began early in her work with him as he taught her to make her claims perfect and to scrutinize her work. "I didn't realize how important that was to me until he sold the company and left. ... I realized how important it was to have a mentor."

Tilton recognizes that "when you have a mentor, it's possible for you then to mentor other people ... and those mentor relationships are really, really important." She is troubled somewhat by the lack of female mentors for young female lawyers in law firms

and does her share to reach out to young women through regular bar association and committee involvement.

In reflecting generally on women in the media, Tilton believes there "still are not enough women practitioners. ... I always like giving business to women lawyers ... we communicate well." Tilton finds women are effective in not "letting egos get into the way of how the cases are handled," staying objective, and not "playing games." What she sees, however, is a lack of women with established private practices who are available for her to work with. She acknowledges that many women slow down for different reasons during their careers, and mostly for quality of life reasons, but sees that often resulting in women not getting to do the work they want to do and, being seen on a "different track."

As far as her own work, Tilton is most proud of the high level of service that First Media provides: "One thing we really pride ourselves on is our service here - efficiency and prompt turn around on claims." She attributes the ability to perform at such a high level on the vast amount of experience they have in handling media liability claims. Having experience in handling such claims since 1960, "it's rare there's something that we have not seen before, we've pretty much seen it all." She quickly adds that the good service represents the multiple layers behind it - a good product, the technology, and the "wonderful, loyal employees who go above and beyond every day." With these values at its core, the company has expanded and, in addition to its business in the United States, now is the biggest media liability insurer in Canada.

The last few years have brought not only great career challenges and success for Tilton, they also have brought her a very special personal addition. Tilton's one-year old son Jacob (who she describes as

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Michelle Worrall Tilton

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the “center of our universe”) has changed her in “very profound ways that I did not expect.” For one thing, Jacob has made his mother a better attorney who will settle for nothing less than “tough, challenging work” to keep her apart from him, working full-time. “When I’m at the office, I’m focused totally on work.” When it’s time to go home, Jacob gets his parents’ undivided attention. Tilton, however, looks forward to the days when Jacob is older so

Women lawyers are very effective in not letting egos get into the way of how the cases are handled, staying objective, and not playing games.

that she can have him in the office with her. Allowing employees to bring in their kids when the need arises is common at First Media and an “atmosphere she certainly wants to encourage.”

Success, says Tilton, is “all about accountability.” She has established accountability in her career by realizing “there’s not one way to do things and, if you’re creative enough, you’ll find a way that will work for you,” by pure determination, and a good dose of humor to “keep on going” when the going gets tough. Tilton offers these mentoring words for all women: “Never be afraid to expand your personal boundaries by trying something new and don’t fear failure. If you’re afraid of failing, you will. Meet challenges head on and you will eventually find success at life and the workplace. Keep expanding ... or you’ll find you’ve failed to grow and failed to live.”

Michelle Tilton obviously is not afraid. Her success is a testament to the wisdom of her own words.

WOMEN ON THE MOVE

- **Kristen E. Fligel** has joined the Chicago office of *McBride Baker & Coles* as an associate in the firm’s Entertainment Law and Business and Transactions practice groups. Fligel’s entertainment practice involves working with film production companies, documentary film producers, authors and screenwriters to organize and obtain financing for corporations and limited liability companies, and counseling of clients in the daily operation of their business enterprises.
- **Melanie A. McMullen** has joined the Kansas City, MO office of *Lathrop & Gage L.C.*, as of counsel, concentrating her practice in cable television, broadband and telecommunications regulatory matters. Prior to joining the firm, McMullen directed regulatory and governmental affairs for Time Warner Cable’s Kansas City division for nine years, where her responsibilities included cable franchising, pole attachment issues, public affairs and coordination of merger and acquisition activity in the division. She is president of the Kearney-Holt Regional Recreational District’s Board of Directors and a member of the Central Exchange’s Women at the Leading Edge Class of 2000.
- **Carol V. Rose** has joined the recently-expanded Media and Entertainment Group at *Hill & Barlow* in Boston, which now includes *The Hill & Barlow Agency*, the largest literary and entertainment agency in New England. In addition, Rose has been named a Vice-Chair of the Media Law and Defamation Torts Committee within the Tort and Insurance Practice Section.
- **Laurie M. Ruskin** is now Of Counsel with the Boston law firm of *Sweder & Ross LLP*, continuing her business litigation practice, and developing her own media law and First Amendment practice.

HIGHLIGHTS FROM WICLS MEETING IN BOCA RATON

Boca Raton, Florida, was the site of our latest gathering of the Women's Subcommittee of the Forum on Communications Law. Led by co-chairs Cynthia Counts and Carol LoCicero, WICLS members gathered to share their insights about how the group can best work to promote women media lawyers. Here are a few highlights:

Directory of Women in Communications Law

The subcommittee will soon distribute its 2001-2002 Directory of Women in Communications Law. This directory serves as a tool for members to keep in touch and to share information, contacts, and expertise with each other.

The deadline for updating or including your name in the 2001-2002 WICLS Directory is September 20, 2001. To do so, please contact Teresa Ucock at tucok@staff.aba.net.

WICLS Internet Committee

WICLS this year has created an Internet LISTSERV to enable our members to share information on-line about upcoming events, announcements, or important legal developments with one another. In the coming year, we hope to develop a WICLS Web page that will provide ready on-line access to the WICLS directory and copies of the WICLS newsletter.

If you are interested in helping with the Web site, please contact Carol Rose at crose@hillbarlow.com.

Newsletter Committee

The newsletter's purpose is to provide information to members about the activities of the subcommittee and other topics of interest to women in communications law. Several members volunteered to assist in this effort by donating articles and ideas to the newsletter.

If you have suggestions or want to volunteer to assist with future newsletters, please contact Carol Rose at crose@hillbarlow.com.

Mentoring Committee

WICLS continues to offer a mentoring services for our members, and encourages senior WICLS members to volunteer to serve as mentors to junior WICLS members.

If you are interested in taking advantage of the WICLS mentoring program, please contact Cynthia Counts at ccounts@mindspring.com.

Social Committee

Look for future announcements regarding a fun cocktail party and guest at the next Boca conference.

If you are interested in being involved in the social committee, please contact Guylyn Cummins at gcummins@graycary.com.

New Officers

WICLS elected Carol Rose and Cynthia Counts to serve as co-chairs of WICLS for the 2001-2002 term.

More than Part-Time

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sufficient structural means to enable them to balance work and family. Effective part-time policies and practices can go a long way toward mediating this experience.

In the past decade, law firms, like other employers, have responded to changing demographics in the labor force by adopting policies that offer some opportunities for reduced-hours arrangements. Virtually all of the law firms that responded to the WBA survey reported that they offer part-time arrangements or would consider offering them if requested. While properly formulated policies are necessary, they are not sufficient. Written part-time policies do not by themselves create a work environment that supports and fosters loyalty and growth in attorneys seeking to balance meaningful careers and family responsibilities. Implementation efforts and changes in attitude and firm culture are at least as important as the policies. Firms that respond to the needs of the ever-increasing number of women in the work force will be better able to compete for critical talent than those that remain inflexible either in their policies or through their practices or corporate cultures.

Findings

- (1) Opportunities for reduced-hours arrangements are necessary to attract and retain a talented labor pool.
 - Ninety percent of Respondent Firms have some type of policy for reduced-hours arrangements.
 - All but one Respondent Firm with more than 150 lawyers had a written part-time policy. Seventy-one percent of firms with 100 to 150 attorneys have written policies, and 50% of firms with twenty-five to ninety-nine attorneys have written policies. Fifteen percent of all Respondent Firms with fewer than twenty-five attorneys have written policies.
- The number of attorneys with a reduced-hours arrangement continues to rise. In particular, there has been a notable increase in the number of part-time partners since 1996.
- Ninety percent of Respondents with a reduced-hours arrangement reported that their firm's willingness to provide the opportunity to work a reduced-hours schedule has affected their decision to stay at the firm.
- (2) The existence of a policy is an important step, but is not by itself sufficient to create attorney satisfaction or to stem attrition.
 - Women constitute approximately 28% of all attorneys at Respondent Firms. They constitute approximately 40% of all attorneys leaving the firms.
 - Almost forty percent of all full-time and part-time attorney Respondents who left their firm between 1996 and 1998 reported that their firm's policies or approach toward reduced-hours arrangements affected their decision to leave. Thirty percent of these Respondents had never worked part-time.
 - Most women who work part-time and leave their firm do not leave the profession. They leave to work in smaller firms, in-house positions, or for the government.
 - Over one-third of Respondents reported that they believed that, as a result of law firm cultural factors, reduced-hours schedules are

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detrimental to one's career.¹

- Many of the Respondents felt that their firm's attitudes and behavior towards attorneys with a reduced-hours arrangement was indicative of how the firm felt towards women generally.

(3) Major sources of dissatisfaction expressed by attorneys with a reduced-hours arrangement include (1) lack of institutional support from law firms for reduced-hours arrangements, (2) deterioration of professional relationships within the firm, and (3) adverse career consequences.

- Sixty-one percent of all Respondents who worked part-time reported that no one at their firm had worked with them to develop their part-time work arrangement.
- Almost 80% of lawyers with a reduced-hours arrangement reported that no one at their firm met with them on a regular basis to discuss how their reduced-hours arrangement are working for them or the firm.
- Thirty to forty percent of attorneys at every level of seniority reported that their relationships with partners and associates deteriorated after they adopted a reduced-hours schedule.
- The most commonly identified adverse impact was partners' apparent skepticism regarding the professional commitment of attorneys with a reduced-hours arrangement, regardless of the attorney's level of seniority.
- More than 25% of Respondents felt that their skills or they as professionals were devalued after they began a reduced-hours schedule.

- Forty-three percent of Respondents reported that their substantive work assignments had been affected as a result of their reduced-hours arrangement.
 - Those in the most specialized practices suffered the least adverse impact on their work assignments. Litigation attorneys reported the greatest incidence of involuntary adverse changes in their practice after adopting a reduced-hours arrangement.
- (4) Well-integrated part-time policies and practices can reduce attrition and increase loyalty among the firm's attorneys.
- There are a significant number of attorneys who have remained at their firm with a reduced-hours arrangement for a long period of time. Many senior associate Respondents and virtually all of the partner Respondents with a reduced-hours arrangement had been at their firm longer than the average full-time associate usually is.
 - Twenty-eight percent of all part-time attorneys in Respondent Firms are partners. The average period of time that partner Respondents with reduced-hours arrangement have had such an arrangement is seven years.
 - The vast majority of women who work part-time and leave their firm because of the firm's part-time policy stay in the profession but go to work for legal employers whom they perceive to be more family friendly.

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¹ These findings parallel a recent ABA study in which 46.1% of women attorneys reported that they believed reduced-hours arrangements were likely to have an adverse effect on one's career. Terry Carter, *Paths Need Paving*, ABA JOURNAL, at 35 (Sept. 2000). That same study reported

that in 1983, 81% of women felt it was realistic for women to combine the roles of lawyer and parent successfully, while in 2000 that figure has dropped to 64.5%. In 1983, 78% of men thought it was realistic for to combine roles successfully, while in 2000 only 68.2% thought so. *Id.*

Recommendations

Recommendations for Part-Time Policies

- Formalized policies regarding reduced-hours arrangements should explicitly reflect the firm's actual practices, but should permit reduced-hours arrangements to be as individualized as possible within the policy parameters.
- Attorneys with a reduced-hours arrangement should not automatically be disqualified for partnership track, formally or informally.
- Wherever possible, firms should avoid setting limitations on the duration of reduced-hours arrangements.
- Firms should not require that attorneys work full-time for a specified period of time before being eligible for a reduced-hours arrangement.
- Part-time attorneys who exceed the agreed-upon schedule should be compensated accordingly. If bonuses are based on the number of hours in excess of the target, the bonus should not be prorated.

Recommendations for Implementation and Practices

- In practice, schedules should be as flexible as the workflow permits.
- Do not assume that multiple commitments mean less commitment. Just as full-time attorneys can be committed to multiple cases or deals, part-time attorneys can be committed to their work and clients while also being committed to their family and home.
- Reinforce that all attorneys – partners and associates alike – must be respectful of part-time attorneys' schedules.
- Ensure that attorneys with a reduced-hours arrangement receive adequate mentoring by

attorneys who are respected, in a position to be helpful to the part-time attorney's career, and supportive of reduced-hours work arrangements.

- Do not assume that an attorney with a reduced-hours arrangement is not interested in firm administration or in any particular type of work or assignment.
- Do not assign attorneys with a reduced-hours arrangement small units of projects while giving their colleagues greater responsibility.
- Do not encourage, condone, or ignore disparaging remarks or jokes regarding reduced-hours arrangements or attorneys with such an arrangement.
- Provide a forum for regular feedback concerning the firm's part-time policies and practices.
- Do not forget the big picture. If an attorney provides responsive client service, "face time" may not be that important.
- Do not ignore the potential asset that senior attorneys who have or have had a reduced-hours arrangement represent.
- Capitalize on the benefits that part-time attorneys offer; do not apologize for speculative or imagined drawbacks. For example, many clients may prefer having their work done by a reduced-hours attorney who handles fewer cases or deals rather than by a full-time attorney who is juggling double that amount of cases or deals.
- Consider the needs of part-time attorneys in scheduling and formulating firm-wide or departmental social events.

The previous is the Executive Summary of the Report of the Employment Issues Committee of the Women's Bar Association of Massachusetts, entitled, *More than Part-Time: The Effect of Reduced-Hours Arrangements on the Retention, Recruitment, and Success of Women Attorneys in Law Firms*. © 2000 WBA. A copy of the complete report is available on-line at: www.womensbar.org.