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A Killer Issue

*Desmond Moot Court Competition focuses on battered woman’s syndrome*

A team of two second-year law students emerged as the victor in the fifth annual Charles S. Desmond Moot Court Competition.

K. Jill Barr and Carla Goldstein, competing in their first Desmond competition, were named the winners by a five-person panel of judges. The 130 competitors were arguing the case of an abused wife who had killed her husband as he slept. At issue: the admissibility of expert testimony concerning the so-called "battered woman’s syndrome," and the admissibility of a confession the woman made to police at the hospital to which she and her husband were taken.

"It was a cutting-edge kind of problem," said third-year student Martha Snell, director of the 80-member Moot Court Board. "We try to pick a problem where the law hasn’t been decided yet and it’s more of a general gray area.

"The attorneys (volunteers who judge the competition’s preliminary rounds) like it because they can get a sense of what’s new in the field, what’s happening. It’s an education for them, too. And the competitors like it because it gives them a chance to argue policy, not just case law."

Goldstein said the choice of problem made the competition attractive to her.

"I don’t know how compelled and interested I would have been to stay up until 3 in the morning reading about insurance law (by comparison)," she said. "It was a good deal of work. But talking to each other about the battered-woman case was really interesting."

In the final round, Goldstein and Barr were behind in the standings by five one-hundredths of a point, so they were forced to argue "off-brief" — that is, the opposite side of the issue from the one for which they had prepared their brief. Their opponents, the eventual runners-up, were Michelle Parker and Michael Culp.

Final rounds of the competition, held in late October, were judged by five individuals prominent in Western New York legal circles: Dean David B. Filvaroff; Matthew J. Jasen, retired state Court of Appeals judge and now a practitioner with the firm Jasen & Jasen; and from the Appellate Divi-
sion of the state Supreme Court, Justices John H. Doerr and John J. Callahan, and M. Dolores Denman, presiding justice.

"It's a wonderful experience for young people to appear before a real court and be asked questions and be able to think on their feet and to be able to answer those questions responsively," Denman said.

The winning team, she said, "was just really well prepared. Carla Goldstein was really outstanding, I thought. The minute she got on her feet, I knew she was going to be a winner. She had such a presence."

Barr said that as the competition progressed, the judges "were more sticklers for issues, and they really knew the issues."

She also said the butterflies the team experienced in the early stages eventually disappeared.

"If you're comfortable speaking in front of people, that's half the battle," Barr said.

Goldstein recalled watching the 1990 competition in amazement. "I remember at the time I sat there and thought, my God, I would never put myself through that pain," she said. "It just looked so hard."

"And you can feel the pain, because it's very scary, but there's something dynamic about it, too. You're on your feet. It's like any sort of sport or game — the moment matters.

"So much of the legal experience is talking and arguing and advocating in an oral fashion. I thought it would be good to push myself through that fear. I may as well start, and do it in a place where the stakes weren't real, where someone's life isn't at stake."

Moot court, said Board Chairman Snell, is "something that you can't get anywhere else in law school. It's oral advocacy, plain and simple. Attorneys have to do that every day, either on the phone or in the courtroom."