the Writing Life: Highlights From Some Recent And Upcoming Publications By UB Law Faculty

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The writing life
Highlights from some recent and upcoming publications by UB Law faculty

UB Law faculty members are doing their part to fill the bookshelves, briefcases and backpacks of law scholars and students nationwide. Several have books or significant articles either hot off the presses or ready for publication this year. It is a development that goes far in strengthening the Law School’s reputation in academic circles. Some highlights:

Professor Guyora Binder has two books coming out this spring. Aspen is publishing a fourth edition of Criminal Law, by Binder and two co-authors. Since the 1996 third edition, Binder said, they have “completely redone the handling of rape and theft offenses, and added treatments of lots of very high-profile recent cases like the Oklahoma City bombing case, the World Trade Center bombing case, the nanny case and the Kevorkian case.” The book, he noted, sets criminal law doctrine in social, historical and policy contexts, interweaving statutory and case materials with journalistic coverage. It is the second most popular criminal law casebook in U.S. law schools.

Binder also has co-authored, with Robert Weisberg, Literary Criticisms of Law, published in February by Princeton University Press. Eight years in the making, the book is the first to offer a comprehensive examination of the emerging study of law as literature. Says advance publicity copy: The authors “present lawyers as literary innovators, who creatively interpret legal authority, narrate disputed facts and hypothetical fictions, represent persons before the law, move audiences with artful rhetoric, and invent new legal forms and concepts.”

Critics have praised the book. “Literary Criticisms of Law shows what can happen when two shrewd law professors take the time and have the theoretical sophistication to master the wide variety of today’s state-of-the-art literary criticism,” wrote Professor Brook Thomas of the English Department at the University of California at Irvine. “This absorbing book both maps efforts in the last two decades to understand law as a kind of literature and makes a compelling case for the most productive way to do so. Avoiding the twin traps of radical skepticism and moralizing sentimentality that have snared even some of the best work in the field, Binder and Weisberg demonstrate how law shapes culture and vice versa.” Robin West of Georgetown University Law Center called it “a very impressive book. Each chapter contains numerous original, sweeping, and, for the most part, convincing arguments about large swathes of current legal intellectual history. As the first and only attempt so far to synthesize and assess this interdisciplinary field, the book will be extremely useful to many scholars in the humanities and social sciences.”

Professor Dianne Avery and co-author Robert Belton last year published the sixth edition of Employment Discrimination Law: Cases and Materials on Equality in the Workplace (West Group). The casebook is designed for use in upper-level courses on the subject, and is now being used by teachers at 22 law schools, she said.

The new edition adds material on sexual harassment law and the Americans with Disabilities Act, as well as current scholarship on discrimination issues. “An enormous portion of the litigation in federal courts comes under federal anti-discrimination law,” she said. “This is an extremely important topic, and it’s something students are interested in.”

In addition, Avery said, the authors prepared a statutory supplement and a 218-page teacher’s manual. They are now preparing a case supplement, to be published in the fall. Part of the challenge, she said, was simply to keep current; “We had sent the final manuscript in May 1998, then the Supreme Court came out with decisions in three important sexual harassment cases. We had to pull an entire chapter and redo it.”

Open Court Publishers will release Professor David Koepssel’s book The Ontology of Cyberspace: Law, Philosophy, and the Future of Intellectual Property in September. It is an examination of the legal nature of “computer-mediated phenomena,” discussing whether such creations as a piece of software should enjoy protection under copyright law, patent law or some third alternative. “At this point it is an ontological problem,” Koepssel said.

His contention: “All manmade objects intentionally produced are expressive objects. There is no good reason to distinguish between things like machines and things like novels.” And he notes that patentability may not be a primary consideration in the new world of cyberspace — “open-source products” that are distributed rapidly and can be changed by the users are the ones that tend to succeed in the marketplace. “Often the speed of inno-
A new chapter
Ellen M. Gibson reflects on 15 years at the helm of the Law Library

Associate Dean Ellen M. Gibson has retired, ending a 15-year tenure as director of the Charles B. Sears Law Library during which legal publishing and research underwent dramatic changes.

But dealing with tough changes was never an obstacle for Gibson, who came to the Law Library in 1973, worked part time as a reference librarian, then — with small children and a job to attend to — decided to enroll in UB Law School. She graduated in 1980 magna cum laude — no small achievement.

Students and alumni accustomed to seeing Gibson steady at the helm of the O’Brien Hall institution may not know that she had a children’s radio show in the early 1970s on WBFO-FM — “back in its free-wheeling days,” she said — or that she hosted a chamber music program, “Music for Friends,” also on WBFO. Or that she spent three years doing pension and estate work for a Buffalo law firm before then-Dean Thomas Headrick called to say the law library needed a new director, and would she consider returning to library science?

The decision was wrenching. “It was a big decision to give up something I had worked so hard to achieve,” Gibson said. But she made the move, joining the library as associate director in 1983 and becoming its director in 1984.

Among the concerns was making law students feel that the library — which is open to the public as well was their own. Gibson arranged for locks to be installed in the carrels and conference rooms, ensuring students a private place to work when they needed one. “It was pretty annoying to them not to have a place to take a study group,” she said. “It ended up to be almost like running a small hotel.”

Another innovation was the Mercury document delivery system, in which faculty members can call or e-mail to request particular documents, and “whatever it is they want just shows up on their desk,” Gibson said. “They absolutely love it,” she reports. “We just cut out all the middlemen.

And as a bonus, the faculty’s research assistants, instead of being gofers, can actually do some research.”

Members of the public, she said, have presented the library staff with their most emotional moments. “When you are dealing with people’s issues of family, it is heartbreaking sometimes,” Gibson said. “Lay people come in because they have a problem with a neighbor, or divorce and custody questions, or school board or zoning questions. We get a lot of immigration issues. Small businesses come in looking for help with their environmental compliance. People become convinced they want to understand these legal questions, and they are bound and determined to see it through.”

Gibson’s teaching career included research courses in tax law and environmental law. She also team-taught a course in advanced legal research, and trained students in the use of the Lexis/Nexis and Westlaw online services.

In October she was awarded the SUNY Chancellor’s Award for Excellence in Librarianship. She also received the Anthony Grech Award from the Association of Law Librarians of Upstate New York.

One truisms about librarians in retirement has proved true in Gibson’s case: She has joined a book group. She is also on the WBFO advisory board, chairs the Niagara Frontier Chapter of the Adirondack Mountain Club, volunteers as a tutor at a West Side Buffalo school — and needs a big budget for hiking books. She is continuing her piece-by-piece conquest of the Appalachian Trail. Next up: backpacking through a 300-mile section in Virginia.