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REPRESENTING CHILDREN WHO CAN'T OR WON'T DIRECT COUNSEL: BEST INTERESTS LAWYERING OR NO LAWYER AT ALL? — *Barbara A. Atwood* — 381

Child advocacy groups argue with increasing force that children's lawyers should function as traditional, client-directed attorneys. Consistent with this trend, the American Academy of Matrimonial Lawyers recently revised its standards for representation of children to flatly oppose the appointment of lawyers for children who lack capacity to direct counsel. This Article questions the Academy's stance and contends that the professional role of an attorney is sufficiently flexible to encompass the representation of children who are unable or unwilling to provide coherent direction for counsel.

THE POLITICS OF LEGAL ETHICS: CASE STUDY OF A RULE CHANGE — *Lynn A. Baker* — 425

Despite its obvious importance to the content and legitimacy of a state's rules of legal ethics, the process by which these rules are made has received little scholarly attention. This Article undertakes a case study of the 2005 amendments to the Texas ethics rule governing referral fees and fee sharing among attorneys as a window through which to explore some larger questions about state supreme courts' regulation of the legal profession: what are (and should be) the goals and purposes of the process by which states' rules of legal ethics are made; and how might that rulemaking process be (re)structured in order best to achieve those goals and purposes?

LAWYERS' PROFESSIONAL AND POLITICAL NETWORKS COMPARED: CORE AND PERIPHERY — *John P. Heinz* 455

This Article compares networks of relationships among elite lawyers and other advocates found in research conducted over a period of more than thirty years in varying professional and political contexts. One vein of scholarship argues that political networks are hierarchical, with a densely connected core of elites surrounded by more peripheral players. Other research found network structures with empty centers—a "hollow core." A third group of research found some lawyers in central, mediating roles—that is, hierarchical structures with "go-betweens" in the core. This Article compares these several findings and offers possible explanations for the differences among them.

THE JURISPRUDENTIAL TURN IN LEGAL ETHICS — *Katherine R. Kruse* 493

This Article chronicles the paradigmatic shift in legal ethics from a moral philosophical approach to a jurisprudential one. This Article critically examines the emerging uses of jurisprudential theory and argues that jurisprudential theory presents an attractive alternative to moral theory in legal ethics because it provides a rubric for limiting lawyers' no-holds-barred partisan manipulation of law that springs directly from the lawyer's professional duties rather than competing with them. It critiques the two major schools of thought in the "jurisprudence of lawyering," and questions the common framework within each jurisprudential school, which assigns lawyers a role as case-by-case lawmakers, suggesting that this framework imposes an inappropriately lawyer-centered focus on assessments of the legitimacy of law that more properly belong to clients.

THE CONTINUING LACK OF GUIDANCE ON PROFESSIONAL RETENTION IN BANKRUPTCY AND ITS POTENTIAL IMPACT ON CORPORATE DEBTORS' RETENTION OF ADEQUATE LEGAL COUNSEL — *Matthew L. Warren* 533

This Article analyzes the continuing uncertainty surrounding the requirements of the Bankruptcy Code and state ethical codes with respect to a chapter 11 debtor's retention of legal counsel. The Article suggests that the current approach to the application of each set of rules is inconsistent and untenable, particularly with respect to large corporate debtors and the attorneys they have sought to retain. The Article also suggests that some of the inconsistency and confusion may arise from what Professor Ted Schneyer has described as the conflict between "internal" rules (such as state ethical codes) and "external" rules (such as the Bankruptcy Code). The Article then discusses several courses of action that have been suggested for remediating this uncertainty and looks to why those courses of action have not been taken.

FESTSCHRIFT *(CONT.)*

ON FURTHER REFLECTION: HOW "PROFESSIONAL SELF-REGULATION" SHOULD PROMOTE COMPLIANCE WITH BROAD ETHICAL DUTIES OF LAW FIRM MANAGEMENT *Ted Schneyer* 577

This Article questions the traditional lawyer regulation regime that took shape when solo practice was the norm and its adequacy to promote ethical compliance in today's law firms and other lawyer workplaces, which require extensive management. Although the ABA's Model Rules of Professional Conduct recognized this in 1983 by requiring law firm "partners" to make reasonable efforts to ensure compliance with the rules by both firm lawyers and staff, this Article argues that three features of the traditional regime make it hard to enforce these broad duties of management sufficiently to encourage the implementation of sound ethical infrastructures. It then considers how to make enforcement more effective and concludes that the most promising reform, suggested by recent regulatory reforms in Australia, would be more proactive, management-based regulation.

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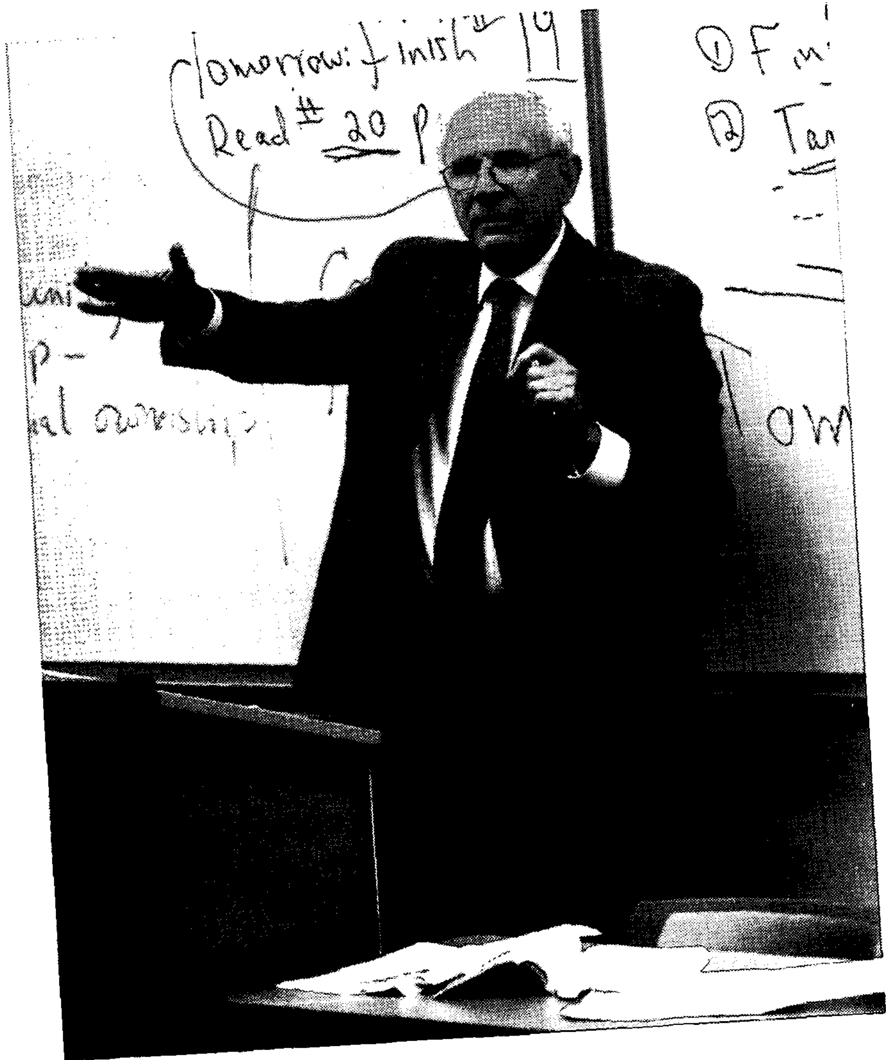

Professor Ted Schneyer

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