

THE MCA DOCKET

THE NEWSLETTER OF THE NEW YORK LAW SCHOOL MOOT COURT ASSOCIATION

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2007 Robert F. Wagner National Labor & Employment Law Moot Court Competition



(from left): Wagner Co-Chairs Gena Kaufman and Jen Cohen join National Champions Susan Lumetta and Sean Caruthers

The New York Law School Moot Court Association was proud to host the 31st Annual Robert F. Wagner Labor & Employment Law Moot Court Competition from March 7 through March 11, 2007. The Wagner Co-Chairs—Jen Cohen and Gena Kaufman—expanded what is already the nation's largest entirely student-run moot court competition this year, drawing over 40 schools from across the country to New York Law School. For the second consecutive year, Michigan State University College of Law emerged as National Champions, defeating Northern Kentucky University, Salmon P. Chase School of Law in the final round. The distinguished final round bench recognized Sean Caruthers from the Michigan State team as the Best Final Round Oral Advocate. Caruthers was also the Second-Best Preliminary Round Oral Advocate, and the Michigan State team earned awards for the Best Preliminary Round Team and the Second-Best Petitioner Brief.

This year's compelling fact pattern—written by Shlomit Aroubas and Jeff Smodish—posed the question of whether the Supreme Court's holding in *Desert Palace, Inc. v. Costa* in 2003 had effectively established a single analytical framework for both mixed-motive and single-motive employment discrimination cases brought under Title VII of the Civil Rights Act of 1991. Competitors were also required to argue whether the Act creates a requirement that an employee's agreement to submit a Title VII claim to binding arbitration must be "knowing and voluntary" in order to preclude the re-adjudication of claims in federal courts. Both issues are currently the subject of complicated Circuit Court splits that remain unresolved by the Supreme Court.

The formidable final round bench included the Honorable Ronald Gilman, United States Court of Appeals for the Sixth Circuit; Pico Ben-Amontz, Esq., the New York Deputy Commissioner of Worker Protection; Ronald Cooper, Esq., General Counsel of the United States Equal Employment Opportunity Commission; the Honorable Gerald Lebovits, New York City Civil Court, Housing Part; and Richard Matasar, Esq., Dean and President of New York Law School. The occasion marked the last Wagner Competition in which Judge Lebovits will participate as Faculty Advisor to the NYLS Moot Court Association. The final round was webcast live on March 11, 2007 and is available on demand from the Wagner homepage at <http://www.nyls.edu/pages/315.asp>.

The final results of the competition are as follows:

- **National Champions:** Michigan State University College of Law;
- **Finalists:** Northern Kentucky University, Salmon P. Chase School of Law;
- **Best Final Round Oral Advocate:** Sean Caruthers, Michigan State University College of Law;
- **Best Preliminary Round Team:** Michigan State University College of Law;
- **Best Preliminary Round Oral Advocate:** Kathleen Dodd, University of Tennessee School of Law;
- **Second-Best Preliminary Round Oral Advocate:** Sean Caruthers, Michigan State University College of Law;
- **Best Petitioner Brief:** Loyola University Chicago School of Law;
- **Second-Best Petitioner Brief:** Michigan State University College of Law;
- **Third-Best Petitioner Brief:** Stetson University College of Law;
- **Best Respondent Brief:** Northern Kentucky University, Salmon P. Chase School of Law;
- **Second-Best Respondent Brief:** University of San Francisco School of Law;
- **Third-Best Respondent Brief:** Texas Wesleyan University of Law.

The event's fantastic success was largely due to the extensive participation of over 200 judges and practitioners who judged the preliminary and advanced rounds. If you are interested in judging next year, please email wagnermoot@nyls.edu for more information.

New York Law School Moot Court Association Achievements: 2006–2007

The New York Law School Moot Court Association congratulates our members for their outstanding achievements so far in the 2006-2007 academic year. In only 12 competitions, our teams have advanced to the Quarter-Final rounds seven times, Semi-Finals twice, and earned one National Championship. In addition, our members earned four oralist awards and two brief awards. Please join us in recognizing these outstanding accomplishments and thanking our members for continuing the MCA's tradition of excellence. Accomplishments in 2006-07 competitions include:

- **American Bar Association National Appellate Advocacy Competition**
Regional Quarter-Finalists. The team consisted of Ericka Fowler and Peter Hanschke. The team was coached by Jenny Cheung.
- **Association of the Bar of the City of New York National Moot Court Competition**
Competed with distinction. The team consisted of Katie Smith and Alyssa Preston. The team was coached by Helen Pustel.
- **Chicago Bar Association Moot Court Competition**
Team I: National Champions; Best Respondent Brief; Third-Best Brief. The team consisted of Rachel Einbund and Leigh Sutton. The team was coached by Jenny Cheung.
Team II: National Quarter-Finalists. The team consisted of Kerona Samuels and Holly Stiles. The team was coached by Shlomit Aroubas.
- **John Marshall International Moot Court Competition in Information Technology and Privacy Law**
International Quarter-Finalists; Best Oral Advocate (Marie Bonitatibus); Third-Best Oral Advocate (Carolyn Klos). The team consisted of Marie Bonitatibus and Carolyn Klos. The team was coached by Christian Gonzalez and Jeff Smodish.
- **Pepperdine University School of Law National Entertainment Law Moot Court Competition**
National Quarter-Finalists; Second-Best Preliminary Round Oral Advocate (Gena Kaufman). The team consisted of Gena Kaufman and Jonathan Lutzky. The team was coached by Jen Cohen.
- **Phillip C. Jessup International Law Moot Court Competition**
Competed with distinction. The team consisted of Erin Efland, David Galan, Shahab Ghalambor, and Michael O'Connell. The team was coached by Shlomit Aroubas and Aaron Miner.
- **Southern Illinois University School of Law National Health Law Moot Court Competition**
National Quarter-Finalists. The team consisted of Natalie Amar and Brandon Walters. The team was coached by Jose Gomez and Brian Francolla.
- **Tulane University Mardi Gras Sports Law Invitational Moot Court Competition**
National Quarter-Finalists. The team consisted of Alyss Gunther and Christopher Miller. The team was coached by Carolyn Klos and Jeff Smodish.
- **University of California, Los Angeles National Sexual Orientation Law Moot Court Competition**
National Semi-Finalists. The team consisted of Anna Mikhaleva and Sharon Sorkin. The team was coached by Christian Gonzalez.
- **University of San Diego Criminal Procedure Moot Court Competition**
Team I: National Quarter-Finalists. The team consisted of Kate Tagert and Cole Young. The team was coached by Aaron Miner.
Team II: Competed with distinction. The team consisted of Shahab Ghalambor and Jordan Goldsmith. The team was coached by Louisa DeRose.
- **Whitter Law School Juvenile Law Moot Court Competition**
National Semi-Finalists; Second-Best Oralist (Lauren Angelo). The team consisted of Lauren Angelo and Carla Warsaw. The team was coached by Marie Bonitatibus.
- **William B. Spong, Jr. Invitational Moot Court Tournament, College of William and Mary**
Team I: Competed with distinction. The team consisted of Karlton Jarrett and Laura Seidl. The team was coached by Jessica Dolfman.
Team II: Competed with distinction. The team consisted of Dina Cohen and Samir Patel. The team was coached by Katie Smith.

A Message from the Wagner Co-Chairs

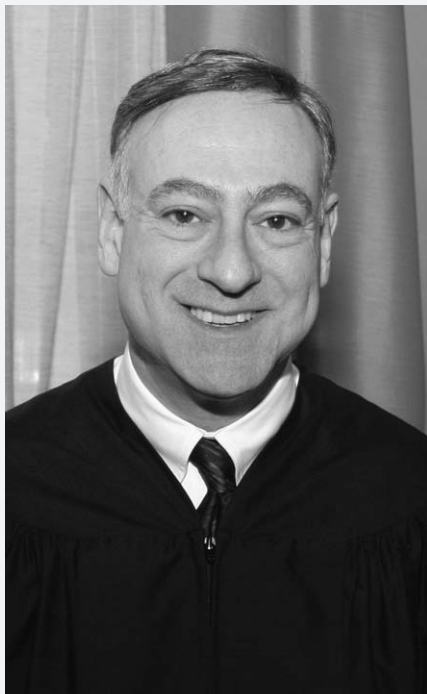


(from left): Wagner Co-Authors Jeff Smodish and Shlomit Aroubas, and Wagner Co-Chairs Gena Kaufman and Jen Cohen

It has been an honor and privilege to serve as Co-Chairs for the nation's largest student-run moot court event, and we are proud to host the only national competition dedicated exclusively to labor and employment law. We would like to thank our distinguished Final Round Bench; the New York Law School faculty, staff, and administration; and the entire Moot Court Association for their help and support in preparing for the Robert F. Wagner National Labor and Employment Law Moot Court Competition. We congratulate the competitors and wish you all the best of luck!

Jen Cohen and Gena Kaufman
2007 Robert F. Wagner Competition Co-Chairs

Good-bye from Judge Gerald Lebovits



After 18 lucky years at New York Law School—15 as the Moot Court Faculty Advisor—it's time to retire. My time at NYLS will end this academic year 2007.

The 2006-2007 Moot Court team has asked me to write few words about my experience. This is how I'd sum it up: My years as Moot Court's cheerleader have been wonderful. I leave NYLS with the best memories.

My memories will last a lifetime. I recall each Froessel, each Wagner, each intermural competition. I'll always remember every one of my students. We shared special moments: Victories, defeats, hours of preparation, and effort and hard work. Moot Court was the formative experience for my students. For me, too. What we learned can never be taken from us. The friends we made will be ours until we die.

Moot Court made us care about ourselves, about our Moot Court team, about our NYLS. We were rewarded in return. I hear it all the time. I know it's true. Moot Court was the best thing we did in law school.

Through Moot Court I honed the skills that turned me into a lawyer, and then a judge. I honed the same skills my students learned: Teamwork, writing, speaking, researching, and substantive law. Even more than that, I was given the chance to work with the best: My students. The Moot Court team was and will always be the "A" team.

It was my privilege and honor to work with you. I was blessed to have been given the opportunity. I'll miss all of you so very much. Thank you.

Editor's Note

Judge Gerald Lebovits has taught at New York Law School since 1989 as an Adjunct Professor of Law and was the NYLS Moot Court Faculty Advisor from 1992 until 2007. Every student of his recalls him as a gifted, extraordinary teacher—selflessly devoted to his students and to his beloved NYLS.

In addition to Moot Court, he taught first-year legal writing (once), the first-year legal-research component (once), Advanced Writing Skills for Lawyers (once), Drafting Judicial Opinions (three times), and Memorandum and Brief Writing (25 times). He was also the Mock Trial advisor for 12 years.

At Moot Court, Judge Lebovits revamped the Charles W. Froessel Intramural Constitutional Law Moot Court Competition and Robert F. Wagner Labor and Employment Intermural Moot Court Competition into what they are today. In fact, he revamped the entire structure of NYLS Moot Court into what it is today.

Today and during his entire tenure, the Moot Court Board has remained an independent, student-run honors society. That was Judge Lebovits's contribution. He led by example; his students exemplified. He taught; his students thrived.

His students thrived to the point that, under his guidance, NYLS Moot Court won 79 first-place awards in intermural competition: Championships and awards for Best Briefs and Best Oralists. As a part-time professor, Judge Lebovits set the pace. No U.S. law school but NYLS can boast such Moot Court successes under the advisorship of a part-time professor.

Having won the Best Speaker and Best Brief in his law school's equivalent of the Froessel, he was destined to work with NYLS Moot Court. He taught law, as a teaching assistant, at the age of 20, a year before he went to law school, and he taught law every year, all year, while he was in law school. That made him destined to be a great teacher at NYLS.

He became the Moot Court advisor after two successive, unanimous Moot Court Executive Boards petitioned Dean Simon in 1991 and Dean Wellington in 1992, in writing, to appoint him. The Executive Boards gave Judge Lebovits signed and framed copies of their petitions. The petitions are the first thing you see on the wall as you walk into Judge Lebovits's chambers.

For his work at NYLS, the student body elected Judge Lebovits the "Adjunct

Professor of the Year" for 1993-1994, the only year in memory that a vote of that kind was taken. In 1994, the Moot Court Board named its Best Brief awards in the Froessel the "Gerald Lebovits Best Brief Award." In 2000, NYLS honored him with a Lifetime Achievement Award for Moot Court. Over the years, the students have given him 23 plaques.

On April 23, 2007, NYLS will host a tribute to Professor Gerald Lebovits. We hope you will join the 2006-2007 Moot Court Board to thank him for his tireless dedication in making us the best lawyers we can be. It will be our opportunity to say thank you and farewell.

SAVE THE DATE

The New York Law School
Moot Court Association
will host a reception to honor

**Judge Gerald Lebovits
on April 23, 2007.**

For details, please call
212.431.2175, or e-mail
mootcourt@nyls.edu.

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The MCA DOCKET is a publication of the Moot Court Association at New York Law School. For more information, please contact:

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