



# Litigation Review Committee

September 2014

September 11, 2014

8:00 a.m. - 9:30 a.m.

W.R. Peterson Conference Room, McNamara Alumni Center

## LIT - SEP 2014

### 1. Annual Report on Legal Matters

Docket Item Summary - Page 3

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### 2. Resolution to Conduct Non-Public Meeting of the Litigation Review Committee to Discuss Attorney-Client Privileged Matters - Review/Action

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# BOARD OF REGENTS DOCKET ITEM SUMMARY

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**Litigation Review**

**September 11, 2014**

**Agenda Item:** Annual Report on Legal Matters

**Review**

**Review + Action**

**Action**

**Discussion**

*This is a report required by Board policy.*

**Presenters:** William Donohue, General Counsel

## **Purpose & Key Points**

Board of Regents Policy: Attorneys and Related Services requires the Office of the General Counsel (OGC) to report on its activities annually.

This report reviews activities of the OGC during FY2014 and provides the Litigation Review Committee an opportunity to discuss legal developments and trends affecting the University and OGC's performance in providing legal services to the University.

## **Background Information**

The Annual Report on Legal Matters is provided in the September 12, 2014 Board of Regents docket materials.



**Office of the General Counsel**  
**ANNUAL REPORT 2014**

UNIVERSITY OF MINNESOTA  
**Driven to Discover™**

*On the cover:* Weber Music Hall, University of Minnesota, Duluth campus

# **MISSION STATEMENT OF THE OFFICE OF THE GENERAL COUNSEL**

- To safeguard the constitutional authority of the Board of Regents and those who act in its behalf to govern the University effectively.
- To represent the University in adversarial forums zealously and in accordance with the highest standards of integrity and ethics.
- To protect the University's legal interests in all transactions, thereby protecting the investment of the citizens of Minnesota in the University.
- To provide preventive legal services and counsel to University officials so that all the institution's activities comply with the law and with University policies.
- To protect the principles of due process in the University's treatment of faculty, staff, students and other members of the University community.

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## INTRODUCTION

In my first year as General Counsel, the Office of the General Counsel (OGC) continued its tradition of high quality legal representation in transactions, litigation, and advising. In order to assess our clients' satisfaction with our services, I asked the Office of Measurement Services (OMS) to survey our clients and to interview senior leaders. In addition, Human Resources conducted an Employee Engagement Survey, which included OGC. As discussed in more detail below, our clients are very satisfied with our services, OGC employees are engaged and productive, and the results of our legal work have been successful.

Let me first address some transitions in the office. Senior Associate General Counsel Jennifer Frisch was appointed to the Ramsey County District Court bench by Governor Mark Dayton in December 2013. This is a well-deserved honor for Jennifer, who served the University extraordinarily well for many years as a litigator and will now serve the people of Ramsey County as a judge.

There was also a change in leadership in the office. In June 2014 Mark Bohnhorst stepped down as Director of Transactional Law Services. Mark continues his work as the primary counsel for Sponsored Projects Administration and continues to apply his great expertise to the University. I have appointed Greg Brown as the new Director. Greg has been in OGC for 20 years and is a well-known and well-regarded intellectual property attorney. For the past few years, he devoted most of his time to transactional matters involving the Office of Technology and Commercialization (OTC). He will manage a group of legal professionals who work in one of the most dynamic areas of legal practice at the University.

We recruited a new litigator, Tim Pramas. Tim comes to us after a substantial career as an employment litigator with major law firms in the Twin Cities and with a large corporate employer. Tim was appointed by the Minnesota Supreme Court to its Civil Justice Reform Task Force and its Advisory Committee on the Rules of Civil Appellate Procedure. He is an honors graduate of Macalester College and an honors graduate of the University of Minnesota Law School where he was a member of the Minnesota Law Review. He has already won his first case for the University.



In the late fall of 2013, OGC engaged OMS to conduct a client satisfaction survey. OMS surveyed 513 clients and interviewed 13 key clients from the senior leadership group at the University. Of those, 345 of our clients responded to the survey, a 69% response rate, which OMS told me is extraordinarily high.

The results of the satisfaction survey were exceptionally positive, with over 96% percent of respondents agreeing that:

- They are comfortable communicating sensitive information to OGC staff, knowing it will be treated appropriately;
- OGC staff act in the best interest of the University of Minnesota;
- OGC staff provide services ethically and with integrity; and
- OGC staff conduct themselves in a professional manner.

OGC staff get high marks in the area of competence and expertise, accessibility and responsiveness, courtesy, integrity, credibility, and the ability to communicate in a way that is easy to understand. Similarly, the summaries of the interviews of senior administrators showed a very high degree of satisfaction and confidence in the office. The respondents did make helpful suggestions, and we have implemented them in response to the survey.

The other assessment of OGC was the employee engagement survey, conducted by the Office of Human Resources. These results showed that OGC scored well on the two crucial dimensions of commitment and dedication (88% favorable) and effective environment (74% favorable) and at levels that were well ahead of other units at the University (commitment and dedication +15 and effective environment +11). Moreover, the results indicate that OGC staff are committed to excellence and have confidence in OGC's leaders, and that they believe our workplace is collaborative. My colleagues have very positive views of the office, which contributes to a very productive environment.

In 2013-14, OGC continued to provide representation and advice in all areas of the University's immense and varied legal needs. As set forth in detail in this report, the year was marked by signature successes in the transactional areas. Transactional lawyers, who often labor in anonymity, had a spectacular year. Their most promi-



ment accomplishment was the work surrounding the creation of the Ambulatory Care Center, a new building on the Twin Cities campus for the University's clinics and medical enterprise. The transactional lawyers negotiated and worked on a three-party lease, a working arrangement among the parties, and debt guarantees for this \$175 million transaction. All of this work was done inside OGC and was led by the Academic Health Counsel Keith Dunder, Senior Associate General Counsel Dan Piper, and Senior Associate General Counsel Rosalie O'Brien. Similarly, OGC lawyers negotiated agreements for a public-private development project involving the purchase and operation of a Days Inn hotel on the Twin Cities campus. This was a challenging and creative new venture for the University and reflects well on the transactional lawyers.

OGC litigation and labor and employment lawyers represented the University well in contested matters, settling those cases when it was appropriate, and provided advice and representation on employment contracts and employment disputes. Among the highlights this year were the extension and renegotiation of the Gophers' head football coach contract as well as the writing of a contract for the Gophers' new women's head basketball

coach. The litigators who represent the University in a very broad range of legal claims continue to enjoy tremendous success. While we had a disappointing trial result in one employment case this year, OGC won dismissal of a commercial case in which disappointed investors sought over \$800,000 from the University.

The Athletic Compliance Office (ACO) had another good year in dealing with the compliance needs of 25 teams and over 750 student-athletes on the Twin Cities campus. ACO conducted 75 educational sessions with over 2,000 individuals attending. ACO diligently investigated and reported rules violations to the NCAA and Big Ten and submitted appropriate requests for NCAA and Big Ten rule waivers or variances.

Finally, OGC is home to the Records and Information Management Office. Susan McKinney coordinates the work in that office. Susan has developed and maintains a University-wide strategic records management plan. She advises and trains on privacy and records laws. Susan also responds to requests for access to public records under the Minnesota Government Data Practices Act, handling over 400 requests in the past year alone.

We look forward to serving you again this coming year.



William Donohue  
General Counsel

## LITIGATION ACTIVITY

As in past years, the University continued to have a high level of success in contested matters in federal and state courts, in arbitrations and grievances, and before administrative agencies. In matters OGC closed this year that were not settled, the University won 32 and lost 2. Over the past five years, in contested cases that were not settled, the University won 162, lost 14, and achieved mixed results in 6, for an 89% success rate.

Also noteworthy is the size of the financial recoveries that OGC has obtained for the University. While most of our litigation involves defending against claims brought against the University, OGC also brings claims on behalf of the University to protect its rights and interests. Since 1997 OGC has obtained litigation recoveries for the University totaling well over \$580 million, mostly derived from recoveries on patents, with other sums coming from federal tax recoveries and recoveries on securities, contracts, trusts and estates, environmental claims and royalties.

As always, the University was represented in litigation primarily by OGC litigators and paralegals, rather than outside counsel. OGC handled cases across a wide spectrum, including labor and employment matters, personal injury, statutory and constitutional issues, student discrimination claims, and complex commercial dis-

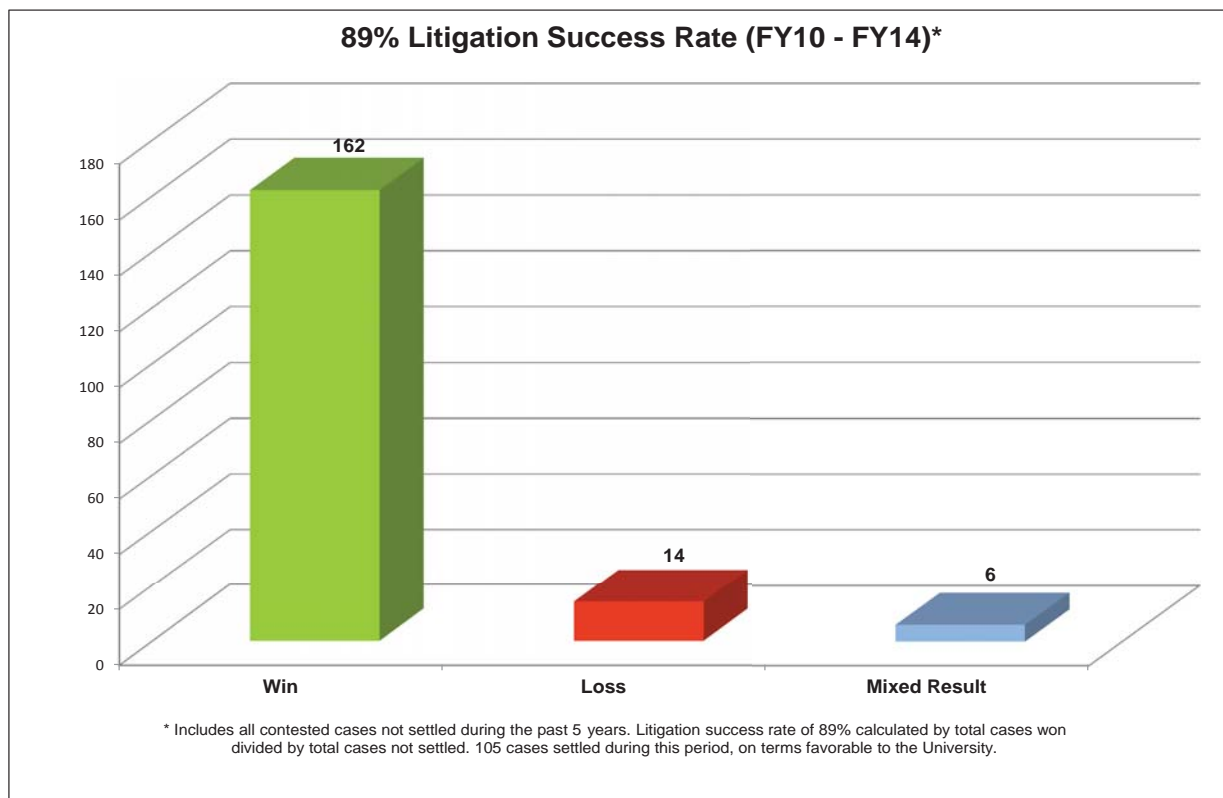
putes. Our legal team is one of the few university legal offices in the country with the capacity and skill to handle substantial litigation matters in-house, resulting in cost-effective and high-quality litigation services with very favorable results.

## COURT CASES

Given its size, extraordinary diversity of activities, and large employment base, the University is perennially subject to claims and litigation, despite continued efforts by OGC and our clients to promote best practices, mitigate risk, and prevent disputes. This year was not different. OGC represented the University in a variety of cases in federal and state district courts. Our practice included strong motion practice, a two-week court trial, and a number of appeals—all successful—before the Minnesota Court of Appeals.

The court cases that were handled in-house by OGC lawyers included the following:

**DEFENDING THE UNIVERSITY'S TECHNOLOGY START-UP ACTIVITIES IN THE FACE OF COMMERCIAL CLAIMS.** OGC successfully defended the University and a University employee in a complex commercial action brought by disappointed investors in a now liquidated biotechnology startup company. VitalMedix was formed to develop and commercialize a drug and therapy developed at the University to treat hemorrhagic shock.



The University had granted the company an exclusive license of its patent rights in exchange for company shares of stock. For many reasons, the company struggled and ultimately became insolvent. The University then terminated the license. Disappointed company investors filed a thirteen-count complaint in state court suing the company, its directors and the University for fraud and misrepresentation. OGC immediately moved to dismiss the suit. The district court dismissed the entire complaint for failure to state a claim, and the investors appealed. The Minnesota Court of Appeals affirmed the dismissal.

**DEFENDING THE PROHIBITION OF GUNS AT VIKINGS' GAMES IN TCF BANK STADIUM.** The Vikings' temporary use of TCF Bank Stadium starting in 2014 has unfortunately generated litigation for the University. OGC is defending the prohibition of weapons from the stadium in a case brought by two police officer organizations against the University, the NFL, and the Vikings in Hennepin County District Court. The police organizations seek an order requiring that off-duty police officers be allowed to carry weapons to Vikings games, which they assert is their right under the Minnesota Citizens Protection Act of 2003. While the case is primarily directed at a recently changed NFL and Vikings policy, it also implicates the Board of Regents Regents Policy: *Possession and Carrying of Weapons*. The court has issued a ruling rejecting the Vikings' argument but has not yet addressed the University's issues.



OGC is defending a ban on weapons in a case involving Vikings' games played at TCF Bank Stadium.

**DEFENDING THE UNIVERSITY AND ITS FACULTY AND ADMINISTRATORS AGAINST EMPLOYMENT CLAIMS.** Employment claims are a constant for a large employer like the University. This year, as always, where claims warranted and were susceptible to a reasonable settlement, OGC worked to bring them to a resolution that avoided the expense, disruption, and uncertainty of trial. Sometimes, however,

cases require litigation, which OGC is always prepared to handle.

In one case, a former civil service scientist has brought numerous claims in both state and federal district court against her former supervisor—a faculty member and cancer researcher—as well as other administrators. The former employee's claims in federal court focus on claimed ownership of work generated during her time in the faculty member's lab. In Hennepin County District Court, she asserts multiple employment-related claims. The cases present complex federal and state law issues involving the University as a public employer. OGC is seeking dismissal of all claims in both actions.

In a disappointing decision in another case, the Hennepin County District Court ruled against the University in a sexual orientation discrimination lawsuit. The suit was brought by the former Associate Head Coach of Women's Golf, who claimed she was forced to quit her job when the Director of Golf refused to allow her to perform key job duties because of her sexual orientation. Following a two-week court trial, the district court ruled for the plaintiff, basing its decision largely on credibility determinations finding it did not credit the testimony of some University witnesses. The Court awarded the plaintiff more than \$350,000 in damages, plus attorney's fees.

**DEFENDING THE UNIVERSITY AGAINST PERSONAL INJURY CLAIMS.**

At an institution this size, accidents happen and personal injury claims are bound to arise. This year OGC represented the University in a number of personal injury cases in state district courts, including claims brought by a pedestrian struck by a University vehicle, a spectator injured at a sporting event at the Duluth campus, a conference attendee injured by a falling coatrack at TCF Bank Stadium, a visitor injured in a fall at the Arboretum, and a student injured by a classroom window that fell on his hands.

OGC also successfully represented the University's School of Dentistry in a dental malpractice claim in Hennepin County District Court arising from advice the plaintiff sought for problems with his dental implants. The University's motion to dismiss was granted, and the dismissal was affirmed by the Minnesota Court of Appeals.

**REPRESENTING THE UNIVERSITY IN CASES BY STUDENTS.** OGC is defending the Medical School in a discrimination lawsuit brought in Hennepin County District Court by a

former medical school student who was dismissed for multiple course failures. The former student alleges disability and national origin discrimination and seeks reinstatement and damages. The case is ongoing. In another matter, the University defended against a claim of sexual orientation discrimination by a student challenging limits on student health benefits for gender reassignment surgery. The University, which has been and remains a leader in expanding these health benefits for students, resolved the claim consistent with its existing plan to expand benefits.



*OGC continues to achieve notable success representing the University in contested matters in federal and state courts.*

## **LABOR ARBITRATIONS, ADMINISTRATIVE HEARINGS AND ADMINISTRATIVE AGENCY CHARGES**

During the past year, OGC attorneys represented the University in 27 labor arbitrations. Three of the cases went to hearing, with one win, one loss, and one mixed result. An additional 6 cases were settled without a hearing, 4 were withdrawn by the union, and the others are pending. One arbitration decision was particularly important for upholding the University's right to assign work and determine qualifications and for making clear that factors in addition to seniority can be taken into consideration when assigning overtime.

OGC also represented the University with respect to 38 civil rights administrative agency charges. Fifteen resulted in favorable findings for the University, and 3 were settled. None resulted in adverse findings against the University. The remaining charges are pending before the agencies. This year saw an uptick in charges filed

by students before the federal Office for Civil Rights. These investigations are particularly time-consuming, as they tend to involve extensive demands for documents and substantial numbers of interviews. OGC manages and coordinates the response for the University.

## **INTERNAL UNIVERSITY PROCEEDINGS AND INVESTIGATIONS**

OGC represents and provides counsel to University officials involved in internal University forums for investigating and adjudicating employee and student disputes. OGC's experience and expertise in the procedures governing these internal forums promotes timely and high-quality case presentation and decisionmaking, serving the interests of employees, students and the institution.

With respect to employee issues, OGC provided legal advice to the University President in carrying out the President's responsibilities as final decisionmaker in cases before the Senate Judicial Committee (SJC), and legal counsel to the Provost in carrying out the Provost's responsibilities as final decisionmaker in employee grievances in the Office for Conflict Resolution (OCR). OGC also provided legal representation and counsel to units responding to employee complaints in the SJC and the OCR. In addition, OGC advised officials and HR professionals in significant investigations of alleged employee wrongdoing, and provided extensive legal support in research misconduct proceedings, conducted pursuant to Regents policy and federal regulations, which are complex and often high-stakes disputed proceedings.

With respect to student issues, OGC provided representation and advice to student behavior committees and administrators on multiple campuses. Of particular importance this year was OGC's work in the area of sexual assault on campus and compliance with new federal standards under Title IX and the Clery Act. OGC also successfully defended a decision on the Morris campus to remove a student who had engaged in threatening behavior in a residence hall. This case was illustrative of the emphasis at colleges and universities around the country on issues of campus safety. OGC also provided counsel to scholastic standing committees and administrators involved in student academic complaints, and advice to the Provost and the Vice President for Academic Health Sciences with final decisionmaking authority in both student discipline and student complaint cases.

Final decisions by University administrators in the University's internal proceedings are subject to direct appeal

late review by the Minnesota Court of Appeals. These cases can raise difficult procedural and substantive legal issues, and legal counsel by OGC helps assure that the decisions accord with the law and withstand judicial review.

## SETTLEMENTS

OGC settled 25 legal claims this year involving payments by the University of \$2,000 or more. Seven of those claims involved payments provided by University insurance, and 18 involved payments by various University units. The total amount of all legal claims paid by the University was \$2,370,108 and individual settlements ranged from \$2,323 to \$950,000. Most settlements involved employment-related claims; the largest settlement was a medical malpractice claim.

OGC brought in \$80,000 in settlement money to the University to compensate for construction-related damages from the Central Corridor Light Rail Transit line. The new Green Line began operating across the Twin Cities campus in June 2014. OGC also negotiated a settlement of a patent infringement matter, which brought in to the University \$327,000 plus the promise of future royalties.

## TRANSACTIONAL ACTIVITY

The University negotiates and enters into thousands of agreements each year. Board of Regents policy requires

OGC to inform administrators of significant or unique legal risks and to ensure that contracts comply with law and University policy. Most contracts are signed with no involvement by OGC staff. These agreements are negotiated by administrators, many of whom have been trained by OGC, and documented on forms prepared by OGC. OGC staff is more directly involved in the University's complex transactions that involve a great deal of money, risk or complexity or a combination of the three. OGC also works on less complicated transactions, striving always to provide prompt, knowledgeable and practical legal advice. This section highlights the most important and interesting transactional work and advice of OGC in 2013-14.

**AMBULATORY CARE CENTER.** Significant changes continue to be made at the Twin Cities Academic Health Center, with substantial involvement and support from OGC. A 330,000 square foot, \$160 million Ambulatory Care Center (ACC) is under construction at 909 Fulton Street on the East Bank of the Twin Cities campus. The ACC is a public-private partnership among the University, Fairview Health Services (Fairview), and University of Minnesota Physicians (UMP). The center will consolidate in one building many outpatient clinics now housed in the Phillips-Wangensteen Building, the Masonic Cancer Center and the outpatient surgery center. Health professionals from Fairview and UMP will provide high caliber patient care in the center. University health professions students will be educated and vital



OGC helped recoup costs of construction-related damages from the new Green Line.



OGC negotiated a three-party lease and a working arrangement among Fairview, UMP, and the University in support of the Ambulatory Care Center.

medical research will be conducted there. Importantly, the University retained control over academic programs and decisions at the center. The University issued bonds to build and finance the ACC and will lease the space to Fairview and to a joint venture formed by Fairview and UMP. The lease payments will pay the University's debt service on the bonds.

The ACC is a culmination of the initiatives conducted over the past few years to strengthen the AHC. This year, through a series of complex multi-party negotiations conducted over many months, OGC negotiated and drafted a Master Agreement setting forth the relationship of the parties in the use and operation of the ACC. Simultaneously, OGC negotiated and drafted two 30-year lease agreements for the space in the ACC, and agreements covering Fairview's and UMP's long-term use of a University-owned parking ramp and the construction and use of a surface lot. OGC also negotiated and drafted guaranties of the debt and acted as bond issuer's counsel. The center is scheduled to open in 2016.

**PUBLIC-PRIVATE PARTNERSHIP WITH UNITED PROPERTIES.** In December 2013, the University entered into a joint venture with United Properties Investment, LLC (UP) to acquire, operate and develop a commercial property at 2407-2425 University Avenue in Minneapolis, on the border of the Twin Cities campus, near the TCF Bank Stadium. The property, which the joint venture entity owns, includes

a 130 room, 54,424 square foot Days Inn Hotel, a 5,352 square foot Tea House Restaurant, and 170 surface parking spaces. The University invested \$1.96 million in the joint venture entity, acquiring a 49% membership interest. It also lent the entity \$8.75 million to fund the real estate purchase. The loan is secured by the land, buildings and fixtures. OGC drafted and negotiated the joint venture, investment and loan documents and worked closely with UP in negotiating and finalizing the terms of purchase and of a new franchise agreement with Days Inn Worldwide, Inc. This complex transaction, involving more than 65 closing documents, allows the University to participate in the future redevelopment of this key property.

## REAL ESTATE

Two lawyers and a paralegal make up the OGC real estate practice group. They work closely with the central Real Estate Office and University departments and units in the University's purchase, sale, lease and use of property. Highlights from the past year include:

- purchase of property at 601-609 1<sup>st</sup> Avenue SW and at 615 1<sup>st</sup> Avenue SW in Rochester, Minnesota, with the property to be used to expand the Rochester campus;
- \$4.3 million purchase of 78 acres of farmland near the Arboretum in Chanhassen, Minnesota, with the land to be integrated into the Arboretum's

holdings and used for horticultural science and environmental research, education, natural resource protection and public recreation; and

- development of form Facility Use and Co-Presentation Agreements for use of the renovated Northrop Auditorium.



Northrop Auditorium reopened in April 2014 after renovation work. OGC developed form agreements for the use of the renovated space.

and smokeless (chewing) tobacco in a nation-wide research study;

- development of the legal structure for a multi-site, 5 year, \$4 million grant to create and operate the National Center for Interprofessional Practice and Education; and

- negotiation with a private donor and a commercial company on a complex multi-million dollar gift and sponsored research agreement for the funding and creation of a center for interfacial science on the Duluth campus.

**TECHNOLOGY COMMERCIALIZATION.** OTC generates millions of dollars each year licensing University-held intellectual property rights. The professionals there rely on OGC to negotiate and draft license agreements, provide advice on contract, securities and corporate law questions, and assist in the prosecution of University-owned patents. Last year, OGC advised OTC on over 200 matters. In addition, OGC:

- re-negotiated the terms of the GlaxoSmithKline Exclusive Patent License Agreement, resulting in a one-time \$4 million payment to the University;

- negotiated and drafted patent, copyright and software license agreements and waivers with 15 start-up companies coming out of the University's Venture Center;
- handled the enforcement and termination of non-performing intellectual property licensees;
- worked with the Venture Center and OTC to plan and create a program to assist and fund early-stage companies that had licensed University-held intellectual property rights and had not raised needed capital; and
- negotiated an agreement with an apple grower in Washington state regarding the development of a new apple variety based on the University's Honeycrisp apple. The agreement includes the assignment of the patent on the new variety to the University, an initial payment to the University in excess of \$300,000, and an ongoing royalty stream from sales throughout the United States and the world.

**PATENTS.** One OGC attorney and a paralegal specialize in patent prosecution. OGC advises on patentability of disclosed inventions, assists in searches for prior art

## RESEARCH AND INTELLECTUAL PROPERTY

The generation of knowledge is central to the University's mission and prestige. Many of the University's most noteworthy activities involve research (and the resulting copyrighted works and patented inventions) conducted by faculty and students on its five campuses. Five OGC attorneys and a paralegal play integral roles here by negotiating research grants and contracts, representing the University in intellectual property transactions, and providing advice and counsel on research and technology transfer matters.

**RESEARCH.** Two OGC lawyers advise faculty and Sponsored Projects Administration (SPA) on several areas relating to research. OGC reviews, negotiates and drafts complex sponsored research agreements and counsels faculty on compliance with federal laws regulating the conduct of research. OGC also gives advice on export control laws that affect research. The following are examples of research matters on which OGC provided essential advice:

- negotiation with the Minnesota Department of Revenue and the Internal Revenue Service on the taxation and use of low nicotine cigarettes



OGC negotiated the license agreement for a new apple variety derived from the Honeycrisp.

references, and reviews and helps prepare responses to office actions to the U.S. Patent and Trademark Office (USPTO). Their service has reduced the University's reliance on outside patent counsel, saving the University thousands of dollars.

**TRADEMARKS.** The University holds rights in hundreds of marks and logos. They are used throughout the system to identify the University and its sports teams and programs. They project and protect the University's image and reputation. They are also used to market products that were originally developed at the University, like SweeTango apples. OGC helps protect the University's rights in these valuable marks and logo by seeking registration for many of them with the USPTO and by formally insisting that others respect the University's federal and state rights. In one significant matter, OGC has been working with the Athletic Department on the Twin Cities campus to protect the football team's recruiting slogan "Brick by Brick" and to prevent another intercollegiate athletic program from registering and claiming an exclusive right to use that slogan. In addition, OGC:

- filed applications with the USPTO to register "Science of (the) Green" for a College of Food, Agricultural and Natural Resource Sciences (Twin Cities) research initiative that addresses the golf industry's need for long-term agronomic, economic and environmental sustainability; and

"flipgrid." for a tool developed by researchers in the Learning Technologies Media Lab in the College of Education and Human Development (Twin Cities) to enable video-based discussion and reflection;

- assisted OTC in seeking registration in the United States and Canada for names of plant varieties; and
- took steps to stop the unauthorized use of University marks and the names of some of its athletic coaches by two sports beverage companies, and the unauthorized use of the University mark "Parents Forever" by another person selling material over the Internet.

**COPYRIGHTS.** Issues and questions concerning the use, development and ownership of copyrighted works are raised with OGC almost each day. OGC regularly advises faculty and students on the need to seek permission to use works or the strength of a claim of a statutory right to use works without permission, like the fair use exception. OGC counsels departments that specially commission the creation of course materials and reviews authorship disputes. OGC also:

- reviewed an authorship dispute involving the Minnesota Multiphasic Personality Inventory-2;
- advised on a copyright infringement allegation made by a former faculty member; and
- negotiated and drafted course development agreements and licenses with University faculty related to MOOCs offered through Coursera.

## CORPORATE AND COMMERCIAL

OGC advises on purchases and sales of goods and services. Two attorneys and two paralegals focus on this practice area. They work closely with the Purchasing and the Internal/External Sales departments. In reviewing agreements to purchase goods and services, OGC advised close to 60 departments and units on over 1,100 matters this past year. In particular, OGC worked on:

- concessions agreements permitting a private company to sell food and beverages at the new University Recreation and Wellness Center on the Twin Cities campus, and another to sell these items at Northrop Auditorium;
- performance agreements to have Cloud Cult perform on the Morris campus, Mac Miller at the Spring Jam on the Twin Cities campus, and Condoleezza Rice to give the 2014 Distinguished Carlson Lecture at Northrop;
- a software license agreement for the Office of Information Technology with Internet2; and



- a courseware development agreement for the College of Education and Human Development (Twin Cities).

## FINANCIAL AND TAX

OGC works closely with the Chief Financial Officer, the Director of Debt Management, and the Office of Investments and Banking (OIB), advising on the terms of agreements with underwriters on debt issuances and with general partners of equity, venture capital and other funds in which the University invests. This year OGC continued its work on the issuance of the Series 2014A Bonds, advised OIB on investments in 12 funds, and advised on the sale of the University's investment in a fund that had been the subject of protracted litigation.

OGC also works with the Tax Management Office on federal limitations on "private use" that are applicable to both the University's issuance of tax-exempt bonds and its receipt of the proceeds of similar bonds issued by the State of Minnesota.

## INTERNATIONAL RESEARCH, TEACHING AND EDUCATIONAL EXCHANGE

The University operates around the world, formally by having an office in a country and less so when its faculty or students undertake research, teaching, or learning projects outside of the United States. OGC advises the Global Programs and Strategy Alliance and its several units (including the Learning Abroad Center, International Student and Scholar Services, the Confucius Institute, and the China Center), as well as other University units. In addition to creating and refining tem-

plates for affiliation agreements between the University and foreign institutions, OGC advised on the terms of a master, system-wide affiliation agreement between the University and the Norwegian University of Science and Technology. Recently, OGC has been working with a University team to establish the University's first representative office in China.

## LEGAL ADVICE AND PREVENTIVE LAW ACTIVITY

OGC devotes substantial resources to advising University clients on matters of law and policy, as well as preventing or resolving disputes before they result in costly litigation. OGC's advice across a broad spectrum of activities helps the University run better and reduces the opportunities for grievances, administrative charges and lawsuits. A few highlights from the past year:

**STUDENT AFFAIRS.** OGC advised University officials on a wide range of issues affecting the legal rights and responsibilities of University students. OGC assisted professional programs in developing or modifying their individual student behavior and performance policies, provided the Disability Resource Center with legal advice on proposed accommodations for disabled students, and negotiated affiliation agreements for placing students in clinical sites as part of their education.

**CAMPUS SEXUAL VIOLENCE ELIMINATION ACT.** OGC worked closely with administrators across the system to ensure that the University was in compliance with new federal requirements under the Campus SaVE Act directed at reducing sexual violence on campus, supporting victims of sexual assault, and providing for fair and equitable procedures for the resolution of sexual assault charges on campus.

**SUPPORTING THE INSTITUTIONAL REVIEW BOARD (IRB).** OGC provided advice and support to the IRB in its role as the committee responsible under federal law and Board of Regents policy for reviewing and acting upon all human subjects research at the University. In response to inquiries about psychiatric research studies involving human subjects, OGC has assisted the IRB in responding to requests for records and has provided legal counsel to IRB panels investigating compliance with human subjects requirements. OGC also prepared or negotiated several IRB authorization agreements with other entities to accept, cede or share IRB responsi-



OGC supports the University's international activities. This photo was taken by UMD student Alex Edwards on a UMD short-term program entitled "Business and Economics in China."

bilities among entities and assisted with the revision of multiple IRB policies to prepare for the IRB's upcoming reaccreditation process.

**LABOR AND EMPLOYMENT.** OGC provides daily advice and counsel to senior administration, labor relations, and human resources professionals on a broad range of labor and employment issues, including recruiting and hiring, discharge and discipline, affirmative action and diversity, reductions in force, workplace violence, background checks, internal investigations, wage and hour law compliance, collective bargaining obligations and contract administration, employee benefits, workers' compensation, negotiation and preparation of settlement agreements, and compliance with federal and state employment law and regulations. OGC also develops and performs training programs on University policies and procedures. This year OGC provided formal legal opinions regarding changes to the state and federal minimum wage requirements and the University's ability to recover duplicative workers' compensation payments. OGC also addressed issues of adjunct faculty organizing at area institutions, the proper handling of paid and unpaid internship programs, and proposed changes to the University's labor code for trademark licensees.

OGC supported the athletics departments on multiple campuses in negotiating contracts and contract extensions for coaches and athletics personnel, including hiring Gophers women's basketball coach Marlene Stollings and extending the contract with Gophers football coach Jerry Kill.

**TRAININGS.** OGC staff delivered trainings across the system on a number of topics, including a day-long training on the data practices act for faculty and administrators at the Morris campus, a presentation in the Medical School on "Data and Research Misconduct" to fulfill a Responsible Conduct of Research continuing education requirement for faculty, a training session called "Legal Issues in Higher Education" as part of the Provost's program for New Chairs and Heads, a training for Extension Volunteer Coordinators called "Managing Volunteer Relationships," and a training called "Handling Residents with Performance Issues" as part of the Medical School Program Director Orientation. OGC also conducted many seminars and informal meetings last year to educate University departments and units on the legal and other concerns in conducting programs and activities outside the United States.

**EXPERTISE IN LAW AFFECTING UNIVERSITIES.** In addition to internal training and presentations, OGC lawyers shared their expertise through presentations at local and national conferences including:

- *Accommodating the Religious Beliefs of Students and Employees on Campus*
- *Getting Your Arms Around Employment Policies: The Good, the Bad, and the Process*
- *Drafting Position Statements to Mitigate EEOC Full-Scale Investigations and Lawsuits*
- *Contemporary Issues in Data Practices*
- *Litigating Constitutional Cases*
- *University Global Support Models and Best Practices First-Inventor-To-File: You Don't Have Time to Make All the Mistakes Yourself: What Can We Learn from Our Colleagues Across the Ocean?*
- *Managing IP Matters: An In-house Perspective*
- *Patent Trolls: The Good. The Bad. And the Ugly*
- *Image and Likeness Litigation: What is O'Bannon Really About?*
- *University Global Support Models: The University of Minnesota Experience and Best Practices*
- *The Policy and Practice of Education Abroad: The Role of Counsel and Other Stakeholders*



OGC assisted in drafting the employment contract of new women's basketball head coach Marlene Stollings.

## ATHLETIC COMPLIANCE OFFICE

ACO reports to the General Counsel. The staff in that office work with all of intercollegiate athletics regarding the National Collegiate Athletic Association (NCAA), Big Ten Conference, and Western Collegiate Hockey Association (WCHA) rules. This includes working with 25 teams and over 750 student-athletes. In addition, ACO works closely with the McNamara Academic Center, Admissions, Financial Aid, and Academic Support Resources on campus. ACO educates players, coaches and staff; develops policy and procedure; monitors and audits NCAA rules compliance; and investigates and enforces violation of these rules.

In 2013-14 ACO conducted over 75 educational sessions regarding rules compliance to units within athletics, across campus, and in the Twin Cities area. Close to 2,000 individuals attended these sessions. In addition, ACO met with every team during the first and second weeks of the fall 2013 semester to review NCAA rules.

ACO also conducted over 14 external and internal audits and monitoring procedures. This was done with the full support of the Athletic Director and the senior staff in the athletics department.

ACO investigated in excess of 50 potential rule infractions in 2013-14 and ultimately submitted reports of 27 violations to the NCAA and Big Ten Conference. Under NCAA guidelines, all of these violations were considered level III or IV infractions. ACO also submitted 38 requests for waivers of either NCAA or Big Ten rules.



The Athletic Compliance Office works with teams and student-athletes to ensure NCAA and Big Ten rule compliance.

## RECORDS AND INFORMATION MANAGEMENT OFFICE

The Records and Information Management Office, which reports to the General Counsel, coordinates the development and implementation of a strategic plan for departmental and University-wide records management; provides advice, training and direction on federal, state and institutional records management requirements; and oversees the collection, use and dissemination of data in accordance with the Minnesota Government Data Practices Act and other state and federal information disclosure laws.

This year the office responded to 410 public record requests for information about University contracts, bids, budgets, salaries, athletics, research, construction, audits and other matters. Most data requests ask for multiple items, and in some cases, the same requester makes numerous data requests. This year, we had numerous requests from Fox 9's investigative team, as well as many requests for information on animal research and human subject research. The Records and Information Management Office works closely with OGC to ensure compliance with legal obligations, with University administrators to gather records and coordinate our responses, and with University News Service to provide efficient service to media outlets. In addition, the office responds to subpoenas for University records and numerous reference requests for University employees.

Each year, the University is required to evaluate and update the public data access policy in accordance with state law. The *Public Access to University Information* policy was updated, and new procedures for requesting information from the University and protecting the rights of subjects of data were added to keep the University in compliance with changes in laws and regulations.

The Records and Information Management Office not only is responsible for the Twin Cities campus, but also works with each of the system campuses. This year, the office held trainings at the Morris and Duluth campuses on records management, data practices and privacy.



OGC and the Records and Information Management Office work closely with University News Service to provide efficient service to media outlets.

The office continues to work with University units to develop tailored records retention schedules and help them clean out files and storage areas while appropriately maintaining institutional records. The University-Wide Records Retention Schedule and the *Managing University Records and Information* policy were updated this year, with new procedures on *Retention of University Records* and *Destruction of University Records* created.

The Coordinator of the Records and Information Management Office, Susan McKinney, CRM, co-chairs the University’s privacy committee, which addresses increasing public concern about privacy protection for electronic and traditional paper-based data; serves as the compliance partner for privacy; and is a member of the Enterprise Data Management and Reporting (EDMR) committee.

## USE OF OUTSIDE COUNSEL

The total sum paid from OGC’s budget to outside counsel for FY14 was \$1,388,562. This amount constitutes a slight decrease from FY13 spending, which is primarily due to lower costs related to patent enforcement. Total outside counsel legal expenditures incurred by the University during this fiscal year were \$4,640,296, a majority of which was related to insurance defense and patent and technology commercialization matters. This amount constitutes a small decrease from FY13 overall expenditures.

Board of Regents policy requires OGC to carefully manage the cost of all outside counsel retained to provide

legal services to the University. While professional qualifications are the foremost criteria we use to select outside counsel, OGC also seeks attorneys who provide reasonable rates and demonstrate economical use of attorney and staff resources. We routinely request and receive discounted hourly rates from our outside counsel. OGC typically requires written budgets from outside counsel on matters that may incur substantial fees, and strictly enforces the University’s expense limitations and payment policies. This includes the management of counsel performing patent services for the University. A considerable amount of time is devoted to the selection and oversight of a wide variety of patent counsel who provide patent prosecution services to OTC.

The use of in-house counsel is far more economical for the University, as costs per hour for comparable legal services performed in-house are approximately 50% less than those of outside counsel. In addition, and beyond the issue of cost, the quality of legal services the University receives is enhanced by OGC’s comprehensive knowledge of the University’s unique structure, operations, strategic priorities, and mission. This fund of knowledge reduces costly preparation time that would be needed by outside counsel less familiar with the University and provides more focused counseling tailored to the unique issues facing University clients. Routine feedback from our clients suggests that OGC provides high quality legal services on a level at least equal to that provided by leading private firms.



OGC has its offices in the McNamara Alumni Center.

# BIOGRAPHICAL NOTES

## GENERAL COUNSEL

**WILLIAM P. DONOHUE.** Bill was appointed as General Counsel, the University's Chief Legal Officer, in May 2013. He is responsible for providing legal counsel and representation for the University including the Board of Regents, the President, Deans and all other University officials. He is also responsible for administration of the OGC and oversight of the Athletic Compliance Office.

Bill has served in the Office of the General Counsel (OGC) since 1982. For many years he served as the primary litigator representing the University in state and federal courts. From the early 1990's to 2013 he served as the Director of Litigation and Deputy General Counsel, during which time he continued to represent the University, but was also responsible for overall administration of the OGC and the supervision and direction of all University litigation by OGC litigators and outside lawyers.

Prior to coming to OGC, Bill was on the staff of the Minnesota Attorney General. Bill is a graduate of Carleton College, and received his law degree cum laude from the University of Minnesota in 1974. He is a lecturer in the College of Education and Human Development and has for many years taught *The Law and Post-Secondary Institutions* to graduate students. He is also a member of the NACUA Annual Program Committee and a frequent presenter at their Annual Conference on topics involving employment law, athletics and coach contracts. For six years (2008–2014) he was also a member of the Minnesota Lawyers Professional Responsibility Board, which is responsible for oversight of the professional ethics requirements for attorneys.

## DEPUTY GENERAL COUNSEL

**TRACY M. SMITH.** Tracy has served in the OGC since 1994. In 2013, she became Deputy General Counsel. She practices in litigation and provides advice in the areas of student affairs, employment, privacy and data practices. Prior to coming to OGC, she served as law clerk to Judge Max Rosenn, United States Court of Appeals for the Third Circuit. Tracy was also an Assistant Attorney General for the State of Minnesota. She is a cum laude graduate of Georgetown University and received her law degree magna cum laude from the University of Minnesota in 1988, where she was articles editor of the Minnesota Law Review and a member of the Order of the Coif.

## DIRECTOR, TRANSACTIONAL LAW SERVICES

**GREGORY C. BROWN.** Greg joined OGC in 1991 and is Director, Transactional Law Services. His primary areas of practice are technology transfer, copyright, intellectual property, and business matters. Prior to coming to the University, he practiced at the law firm of Leonard, Street and Deinard. Greg graduated from the University of Michigan Ross School of Business and its Law School. He is an Adjunct Professor at the University of Minnesota Law School and teaches a seminar on Intellectual Property Transactions.

## OGC ATTORNEYS

**DONALD M. AMUNDSON, SENIOR ASSOCIATE GENERAL COUNSEL.** Don joined OGC in 1996. He is a member of the Transactional Law Services Group, and focuses his work on international and general business matters, as well as external sales issues. Prior to joining OGC, Don practiced law at Dorsey & Whitney and worked as in-house counsel for several corporations. Don graduated with a baccalaureate degree summa cum laude from St. Olaf College and received his law degree cum laude from the University of Minnesota in 1980.

**BRENT P. BENRUD, SENIOR ASSOCIATE GENERAL COUNSEL.** Brent joined OGC in 2005. He practices in the areas of labor, employment and litigation. Before joining OGC, Brent was a shareholder in the law firm of Stettner, Miller and Cohn, P.C., in Denver, Colorado. He represented public school districts, community colleges and school-related professional organizations in a variety of labor, employment, litigation and school law matters. Brent received his B.A. magna cum laude in 1989 from Luther College, in Decorah, Iowa and his J.D. cum laude from the University of Minnesota Law School in 1992.

**MARK A. BOHNHORST, SENIOR ASSOCIATE GENERAL COUNSEL.** Mark has served in the OGC since 1992. From 1992 to 2000, his practice focused on civil litigation, including health science and research matters. Since 2001, Mark has been part of the Transactional Law Services Group; his practice focuses on research contracts and compliance. From 2011 to 2014, Mark also served as Director of the Transactional Law Services Group. Prior to joining OGC, Mark was the litigation coordinator for Southern Minnesota Regional Legal Services. He is a graduate of the University of Chicago, received his law degree magna cum laude from the University of Minnesota Law School in 1975, and served as law clerk to U.S. District Judge Earl Larson.

**GARY L. BRISBIN, SENIOR ASSOCIATE GENERAL COUNSEL.** Gary joined OGC's Transactional Law Services Group in 2006. His practice is focused primarily on general commercial matters, especially purchasing, software and telecommunications. Before joining OGC, Gary was General Counsel of McQuay International and before that Director of Legal Affairs, Strategic Development, and Community Relations at Cummins Power Generation. He received a B.S. with high honors from the University of Minnesota College of Education in 1971, and a J.D. cum laude from the University of Minnesota Law School in 1979.

**SHELLEY CARTHEN WATSON, SENIOR ASSOCIATE GENERAL COUNSEL.** Shelley joined OGC in 1999. Her practice is primarily devoted to providing advice, counsel, and training in labor relations and employment issues, as well as defense of the University in collective bargaining and internal grievance arbitrations, and administrative matters before the EEOC, Minnesota Department of Human Rights and Department of Labor. Prior to coming to the University, Shelley was a partner with the law firm of Robins, Kaplan, Miller & Ciresi, where her practice focused on business litigation and employment counseling and litigation. The former Deputy Commissioner of the Minnesota Department of Human Rights, Shelley also served as Executive Director of the Hennepin County Bar Association and Hennepin County Bar Foundation. An honors graduate of Macalester College, she received her law degree from Northwestern University School of Law in 1985, where she was a member of the Jessup International Moot Court Team, that twice won the Regional Competition and reached the International Semifinals. Shelley recently served as a member of the Board of Directors of the National Association of College and University Attorneys (NACUA), and is a recipient of their First Decade Award that recognizes university attorneys who have been NACUA members for 10 or fewer years and have made "a significantly innovative contribution, or provided outstanding service, to the association and to the practice.

**KEITH A. DUNDER, ACADEMIC HEALTH CENTER COUNSEL.** Keith has served as Academic Health Center Counsel, and formerly the University's Hospital Counsel, since 1990, and practices in the areas of health care law and tort litigation. He is a former member of the Governing Council of the Health Law Section of the Minnesota State Bar Association and former co-chair of the Medical-Legal Committee of the Hennepin County Bar Association. Keith graduated cum laude from the University of Minnesota Law School in 1978. He served as an associate and partner at Mahoney, Doherty & Mahoney, and as a partner at Rossini & Dunder, where he concentrated in litigation and health care law.

**ARNIE H. FRISHMAN, SENIOR ASSOCIATE GENERAL COUNSEL.** Arnie joined OGC in 1998. He is a member of the Transactional Law Services Group whose primary areas of practice involve sponsored research and technology transfer. Prior to coming to OGC, he was an associate with the law firm of Dorsey & Whitney. He is a summa cum laude graduate of the University of the South at Sewanee and recipient of a post graduate Watson Fellowship for study in Europe. He received his law degree from Columbia University School of Law in 1992, and a master's in Education from Harvard University in 1988. During his sabbatical in Israel in 2007, Arnie practiced with the law firm of Pearl, Cohen, Zedek, Latzer in the field of patent licensing and software development and was admitted to the Israel Bar.

**ROSALIE W. O'BRIEN, SENIOR ASSOCIATE GENERAL COUNSEL.** Rosalie joined OGC's Transactional Law Services Group in 2004. Her practice includes financing, investment, tax, and regulatory matters, trademark protection and infringement prosecution and defense; complex business transactions; the gifting process; and supporting University Libraries and Museums and University Extension. Before coming to the University, she was a partner practicing corporate law in the St. Louis office of Sonnenschein Nath & Rosenthal. Rosalie also practiced law with firms in Chicago, Illinois and Richmond, Virginia, and is a certified public accountant. She earned her B.S.

in accounting from the University of Illinois, with college honors and high distinction in accounting, and her J.D. in 1987 from Northwestern University School of Law, where she was a member of the Law Review. Before embarking on her legal and accounting career, Rosalie was a violinist in the Milwaukee Symphony Orchestra.

**DANIEL A. PIPER, SENIOR ASSOCIATE GENERAL COUNSEL.** Dan joined OGC in December 2011. He practices in the areas of real estate and construction law. Prior to joining OGC, Dan was an attorney at Fredrikson & Byron, P.A. in Minneapolis. He received his B.A. summa cum laude from Saint Olaf College in 1999 and his M.B.A. from Carlson School of Management in 2003. In 2006, Dan received his J.D. magna cum laude from the University of Minnesota Law School, where he served as a Managing Editor of the Minnesota Law Review and was a member of the Order of the Coif. Dan also served as a law clerk to Chief Justice Lorie S. Gildea on the Minnesota Supreme Court.

**TIMOTHY J. PRAMAS, SENIOR ASSOCIATE GENERAL COUNSEL.** Tim is a skilled and seasoned civil trial attorney who possessed over 20 years of experience, both at law firms and in-house, at the time he joined the OGC in 2014. His practice is devoted primarily to litigation. Since 2010 Tim has served as a Legal Writing Instructor at the University of Minnesota Law School. He is also an active member of the Minnesota E-Discovery Working Group and co-chair of its Sub-Group on Cost-Effective Review Technologies. The Minnesota Supreme Court appointed Tim to its Civil Justice Reform Task Force and its Advisory Committee on the Rules of Civil Appellate Procedure. Tim graduated with honors from Macalester College where he won many intercollegiate debate tournaments as a member of Macalester's debate team. He graduated with honors from the University of Minnesota Law School in 1993 and was a member of the Minnesota Law Review.

**PAUL B. SAVEREIDE, SENIOR ASSOCIATE GENERAL COUNSEL.** Paul joined the OGC in 2012. He is a member of the Transactional Law Services Group and practices in the area of intellectual property, predominantly patent matters. Prior to joining OGC, Paul practiced patent law for over 20 years. He served as in-house counsel at Chiron Corporation and Cargill, Inc., and was in private practice at Dorsey & Whitney; Patterson, Thunte, Skaar & Christensen; and Viksnins Harris & Padys PLLP. Paul graduated from Saint Olaf College with a Bachelor of Arts degree. In 1991 he received both a Ph.D. in Cell and Developmental Biology and his J.D., cum laude, from the University of Minnesota.

**BARBARA L. SHIELS, SENIOR ASSOCIATE GENERAL COUNSEL.** Barbara has served since 1983, including past service in the University Hospital Counsel's Office. Her practice focuses on health sciences research, including human and animal subject regulations, conflict of interest, academic misconduct, and student issues. Barbara recently served as a member of the board of directors of the National Association of College and University Attorneys. She is a summa cum laude graduate of Gustavus Adolphus College and received her law degree cum laude from the University of Minnesota in 1983.

**BRIAN J. SLOVUT, SENIOR ASSOCIATE GENERAL COUNSEL.** Brian joined OGC in 2003 and practices primarily in the area of litigation. Before joining OGC, he was a partner in the law firm of Hinshaw & Culbertson in Minneapolis, and an associate with Popham Haik. He received his law degree magna cum laude from the University of Minnesota Law School in 1993, where he served as an Associate Editor of the Minnesota Law Review and was a member of the Order of the Coif. Brian also served as a law clerk on the Minnesota Supreme Court.

**ELIZABETH C. ZAMZOW, SENIOR ASSOCIATE GENERAL COUNSEL.** Beth joined OGC in September 2010. She practices in the areas of real estate and construction law. Prior to joining OGC, Beth was an attorney at Fredrikson & Byron, P.A. in Minneapolis. She received her B.A. summa cum laude from St. Cloud State University in 1990 and her M.A. magna cum laude from Miami University in Oxford, Ohio in 1993. She served as a Note and Comment/Research Editor of the Minnesota Law Review at the University of Minnesota Law School, where she received her J.D. magna cum laude in 2001. Beth is certified as a Real Property Specialist by the Minnesota State Bar Association and has been selected as a Rising Star by Minnesota Law & Politics.

## **ATHLETIC COMPLIANCE OFFICE**

**J.T. BRUETT, DIRECTOR.** J.T. was named Director of Compliance at the University of Minnesota in September 2007. He previously acted as an Assistant and an Associate Director of Compliance at Minnesota since November 2001. Previous to that, J.T. was an Assistant Baseball Coach at the University of Illinois at Chicago for four years and had a brief stint in the compliance office. He is a former baseball student-athlete at the University of Minnesota and for eight years was a professional baseball player with the Minnesota Twins, Cleveland Indians and Kansas City Royals. He earned his undergraduate degree from the University of Minnesota and Master's degree in Sport Administration from the University of Illinois at Chicago.

**JEREMIAH CARTER, ASSOCIATE DIRECTOR.** Jeremiah started his employment with the Athletic Compliance Office in October 2013, coming from the National Collegiate Athletic Association (NCAA) where he worked in various positions within Academic and Membership Affairs since September 2007. Previous to that he was a graduate assistant in the University of Minnesota football program. Jeremiah is a former Gopher football student-athlete where he received his Bachelor of Arts degree and a Masters of Education graduate degree.

**JAMES PRASKA, ASSOCIATE DIRECTOR.** Jim joined the Athletic Compliance Office in October 2001. Previously, he worked as the Student Accounts Manager at the College of St. Catherine and, prior to that, worked in Student Accounts at Hamline University, both in St. Paul. He had interned in the Athletic Compliance Office from 1997-1999. He graduated with a bachelor's degree from Wartburg College in Waverly, Iowa and received his master's degree in Public Administration from Hamline University. Jim's primary duties involve all aspects of coordinating and processing athletic scholarships for the Intercollegiate Athletics Department.

**ANDREA SMITH, ASSOCIATE DIRECTOR.** Andrea joined the Athletic Compliance Office in August 2009, coming from the University of the Pacific where she was the Assistant Director of Compliance. Andrea spent 2006 as an intern in the U of M's Athletic Compliance Office while she attended Law School. She received both her bachelor's degree in Sport Studies and master's degree in Sports Management from the University of Minnesota where she competed for the Gopher softball team. She also obtained her J.D. from the University of St. Thomas School of Law.

**ANDREW NELSON, COMPLIANCE COORDINATOR.** Andrew became a member of the Athletic Compliance Office in October 2011, coming from the University of Colorado where he was an intern in the Compliance Office. He has also held a compliance intern position at Iowa State University. He received his bachelor's degree in Political Science at the University of Iowa and his J.D. from the University of Denver Sturm College of Law.

## **RECORDS AND INFORMATION MANAGEMENT OFFICE**

**SUSAN MCKINNEY, COORDINATOR.** Susan has been the Coordinator of Records and Information Management since 1995. She previously served for ten years as the Director of Records Management at the University of Florida. Susan received her M.A. in History with an archival, museum and editing studies concentration from Duquesne University in 1982, and Certification in Records Management in 1993. Susan has served as President and Chair of the Board of ARMA International, a professional association of over 11,000, and is currently the newsletter editor for the Twin Cities ARMA Chapter. She also serves as host of the records management listserv, and is an internationally known speaker on records management issues.



## **ADMINISTRATIVE STAFF**

### *Director of Administration*

Karen Wagner

### *Senior Paralegals*

Robert Amos

Elizabeth Anderson

Kathy Bitterly

Mary Ford

Diane Krawczynski

Beverly Moe

Sherry Popowski

Molly Rosen

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Page 10: Students at Great Wall of China, Photograph provided by Alex Edwards, University of Duluth Student

Page 11: Marlene Stollings, Photograph provided by Jeff Keiser, Department of Intercollegiate Athletics

Page 13: Data Practices and New Service Presentation Slide, Image provided by Chuck Tombarge, University News Service



# BOARD OF REGENTS DOCKET ITEM SUMMARY

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**Litigation Review**

**September 11, 2014**

**Agenda Item:** Resolution to Conduct Non-Public Meeting of the Litigation Review Committee to Discuss Attorney-Client Privileged Matters

Review     Review + Action     Action     Discussion

*This is a report required by Board policy.*

**Presenters:** William Donohue, General Counsel

## **Purpose & Key Points**

To consider a resolution to conduct a non-public meeting of the Litigation Review Committee to discuss attorney-client privileged matters.

## **Background Information**

The Litigation Review Committee reviews litigation matters and obtains legal advice regarding specific University actions and their legal consequences.



## RESOLUTION

WHEREAS, based on advice of the General Counsel, the Board of Regents Litigation Review Committee has balanced the purposes served by the Open Meeting Law and by the attorney-client privilege, and determined that there is a need for absolute confidentiality to discuss litigation strategy in particular matters involving the University of Minnesota;

NOW, THEREFORE, BE IT RESOLVED, that in accordance with Minn. Stat. § 13D.01, Subd. 3 and 13D.05 Subd. 3(b), a non-public meeting of Litigation Review Committee be held on Thursday, September 11, 2014 at 8:00 a.m. in the William R. Peterson Conference Room, 600 McNamara Alumni Center, for the purpose of discussing attorney-client privileged matters including the following:

- I. Patent infringement claims
- II. *Minnesota Police and Peace Officers Association and Police Officers Federation of Minneapolis (MPPOA) v. National Football League, Minnesota Vikings Football, LLC, and Regents of the University of Minnesota*
- III. West Bank ground contamination claims
- IV. Prescription drug insurance claims
- V. *Kathryn Brenny v. University of Minnesota*