

**Office of the
General Counsel**

Annual Report 2015



UNIVERSITY OF MINNESOTA
Driven to DiscoverSM

On the cover: Wind Turbine on University of Minnesota Morris 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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Letter from the General Counsel



2014-15 was a dramatic year in the Office of the General Counsel (OGC), starting with a series of extraordinary achievements in the first half of the year and then an explosion of activity caused by the beginning of the Office for Civil Rights' investigation into gender equity in Gopher Athletics, the AAHRPP Panel Report and the Office of Legislative Auditor's Report. Throughout the year

the lawyers in OGC continued to provide representation and advice to the University in all areas of this large and sprawling institution.

There were two important administrative changes in OGC that were of significant note. First, JT Bruett, the longtime director of athletic compliance, became the director of academic counseling for the athletics program. JT successfully ran the compliance program for seven years. I have appointed Jeremiah Carter as the interim director while we conduct a search. Jeremiah has been with the Athletic Compliance Office for two years and also worked for six years at the NCAA. Second, OGC has agreed to take on responsibility for the new position of Clery compliance coordinator for the University. We have begun the search for this important position.

As we discuss in this report, in the fall of 2014 OGC recovered \$21.6 million for the University as a result of litigation that was authorized by the Board of Regents Litigation Review Committee. However, perhaps the most important event of the year on the litigation side was the initiation of a claim by the University for patent infringement against the four largest wireless carriers based on patented technology invented at the University by Professor Georgios Giannakis and his colleagues. The lawsuit is currently pending in federal district court in Minnesota and is the largest effort to date by the University to enforce the intellectual property rights of the University and to protect the intellectual property created by our faculty at the University. In addition, OGC has provided representation in a large number of legal claims ranging from slip and falls to discrimination claims and contract claims. Virtually all of this representation is done by OGC's "in-house" lawyers. The quality of our representation in litigation is still one of the hallmarks of the office, and we have had a great deal of success over a long period of time.

The transactional practice of OGC also had a very solid year attending to literally hundreds of University transactions ranging from intellectual property to real estate transactions. Among the highlights this year are the following:

- *Flipgrid™ Asset Purchase Agreement.* The College of Education and Human Development designed and developed Flipgrid, which is a video content presentation platform used primarily in K-12 classrooms, but with applications in post-secondary education and outside of education services. Transactional lawyers from OGC successfully negotiated for and advised the college, the Office of the Vice President for Research and the Office for Technology Commercialization to effectuate the sale of the software programs for several million dollars.
- *Sleeping Beauty License Agreement.* Lawyers from OGC successfully advised and negotiated on behalf of the Office for Technology Commercialization for the transfer of license agreements to MD Anderson Hospital in Texas. The license was for intellectual property owned by the University as a result of the work of College of Biological Sciences Professor Perry Hackett.
- *Minnesota Global Inc.* The Board of Regents authorized the University to create this wholly owned subsidiary to operate many of the University's overseas programs. OGC lawyers created the documents that established this entity, which will simplify and improve our oversight of overseas programs.

Finally, I would also like to highlight the legal work done by OGC with respect to the First Amendment. As you will recall, in the fall the Vikings played the Washington football team. As a result of the "nickname" of the Washington team, the game spurred the largest demonstration in the U.S. against the use of Native American nicknames by NFL teams. The demonstration was preceded by literally weeks of controversy about our contract with the Vikings, the First Amendment rights of all parties, and varying claims with respect to all of these matters. Thankfully, the demonstration—because of the efforts of lawyers, administrators and the parties—took place in a peaceful manner that honored First Amendment rights as well as the contractual rights of the Vikings with respect to the use of our stadium.

The Athletic Compliance Office had another good year in dealing with the compliance needs of 25 teams and over 750 student-athletes on the Twin Cities campus. The office conducted 75 educational sessions with over 2,000 individuals attending. It 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 also 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 410 requests in the past year alone.

We look forward to serving you again this coming year.



William P. Donohue
General Counsel



Entrance signage to the University of Minnesota Twin Cities Campus

LITIGATION ACTIVITY

This year the University's success rate remained high in contested matters in federal and state courts, in arbitrations and grievances, and before administrative agencies. In matters OGC closed that were not settled, the University won 42 and lost 2. Over the past five years, in cases that were not settled, the University won 181, lost 15, and achieved mixed results in 4, for a 91% success rate.

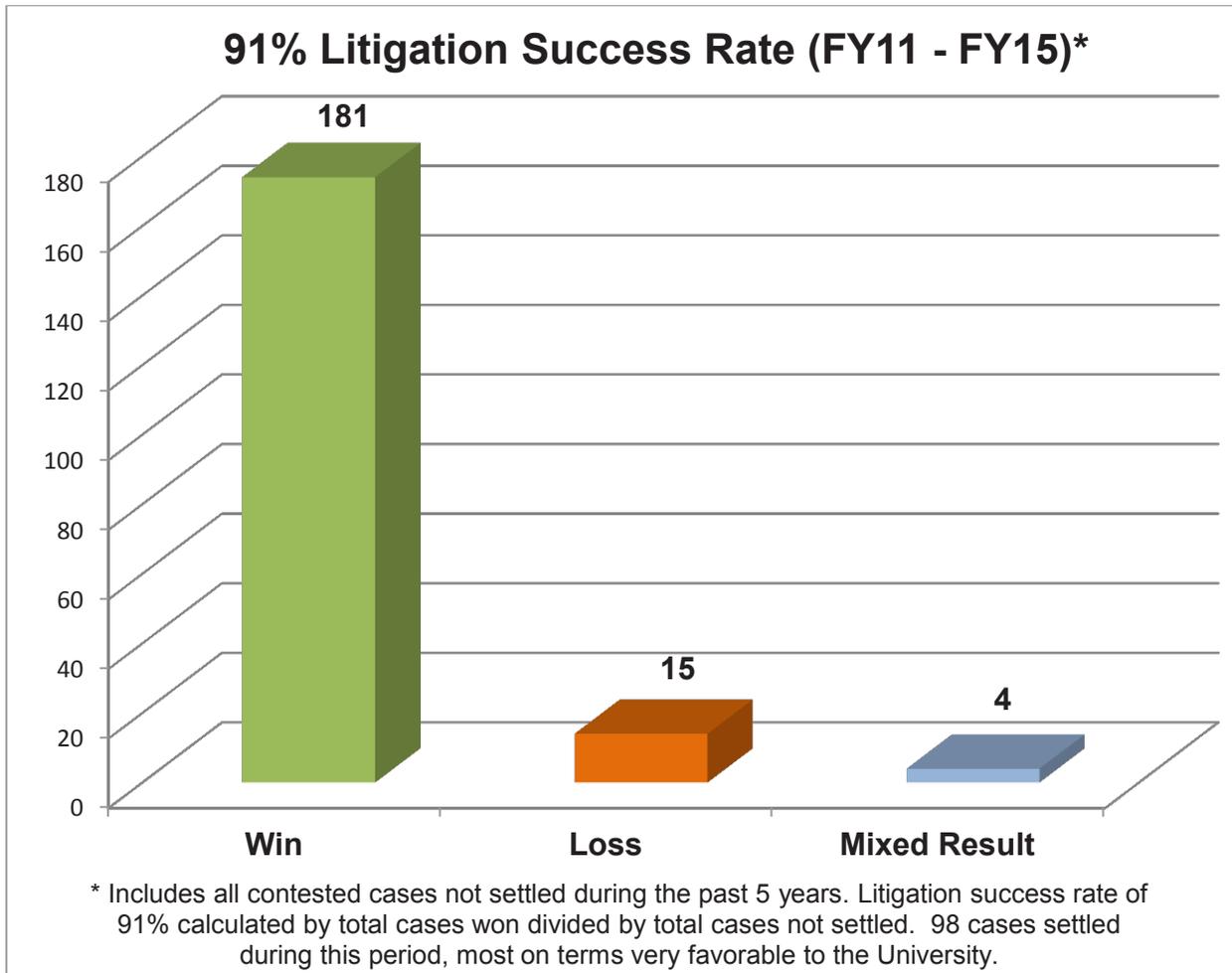
While most of our litigation involves defending the University and its employees against claims, OGC also brings claims on behalf of the University to protect its rights and interests. This past year was an exceptional year in that regard. OGC recovered \$21.6 million for the University on contested claims. Since 1997, OGC has obtained litigation recoveries for the University totaling over \$600 million. Most of this sum has derived from recoveries on patents, with other sums coming from federal tax recoveries, and recoveries on securities, contracts, environmental claims, trusts and estates, and royalties. In addition, this year, with representation by a leading intellectual property law firm, OGC launched patent infringement cases against the four largest wireless

service providers in the U.S., seeking to enforce the University's patents in the field of 4G LTE technology. These cases seek fair compensation to the University and the inventors for the discoveries developed here.

As always, with few exceptions where special expertise or extensive resources are required, the University was represented in litigation 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, and student discrimination claims. 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 regularly subject to claims and litigation, despite continued efforts by OGC and our clients to promote best practices, mitigate risk, and prevent disputes. This year OGC directly represented the University in a variety of cases



against it in state and federal district courts. Importantly, OGC not only defended the University in court cases, it also affirmatively pursued the University's interests in litigation.

PROTECTING THE UNIVERSITY'S INTERESTS IN PATENTED DISCOVERIES.

The most significant court cases financially this year were the four patent infringement lawsuits brought by the University against Verizon, AT&T, Sprint and T-Mobile in federal district court in Minnesota. OGC retained the national law firm of Fish & Richardson to represent the University in these large and complex cases. The



OGC managed the launch of four patent infringement cases against the leading 4G LTE wireless service providers.

cases assert infringement of University patents that cover wireless communications innovations developed by University Professor Georgios Giannakis and his co-inventors to improve network reliability and speed.

The innovations are important aspects of the 4G LTE service that all four companies use and promote to their millions of customers nationwide. Professor Giannakis holds an endowed chair in wireless communications, is the director of the University's Digital Technology Center, and is an internationally recognized expert in signal processing, communications, and networking. Professor Giannakis has received millions of dollars in public-sponsored research funding, including from the National Science Foundation and the U.S. Army, which have supported cutting-edge research in wireless communications and related fields at the University.

The lawsuits seek a fair royalty for the use of technology developed by University inventors through University research. The cases were filed in November 2014, and the litigation remains in its early stages.

DEFENDING THE UNIVERSITY AGAINST EMPLOYMENT CLAIMS.

As we reported last year, OGC represents the University as well as a professor and administrators in three federal and state court cases brought against them by a former employee. The plaintiff, a former civil service scientist, claimed violation of copyright against her former supervisor—a University cancer researcher—arising out of the work generated in the faculty member's lab. She also asserted numerous claims against the faculty member and other administrators who participated in managing the plaintiff's employment and complaints. Through vigorous motion practice, OGC achieved dismissal of most of the claims this year and is seeking judgment on the remaining claims. The copyright claims, in particular, presented complex legal and constitutional issues, which OGC successfully brought to conclusion in the University's favor. This case is a strong example of the University and OGC standing behind faculty and administrators who are sued because they were doing their jobs.

This year OGC also represented the University in court cases brought by former employees asserting whistleblower, Fair Labor Standards Act, discrimination, due process violations and other claims. Unfortunately, employment suits like these are virtually impossible for a large employer to eliminate entirely. The cases can arise out of any of our campuses, and OGC provides representation and support to administrators across the system in responding to these challenges.

PROTECTING OUR FACULTY RESEARCHERS.

University researchers who engage in research opposed by interest groups are occasionally targeted for attacks via social media campaigns, oppressive records requests, or other means. This year, two Medical School faculty members



OGC acted to protect University Medical School researchers harassed because of their work.

who use animals in their research on hearing loss and the reduction and prevention of drug abuse were targeted by protesters with illegal picketing at their home. The protesters also took photos of the researchers and their home and posted the photos and the researchers' address on social media. The protesters vowed to continue picketing their home until the faculty members were forced to move out of their neighborhood. OGC sought and obtained a harassment restraining order against the picketers to keep them a safe and reasonable distance from the researchers' home. The pickets have since stopped.

DEFENDING THE UNIVERSITY AGAINST CLAIMS BY STUDENTS. We reported last year that OGC was defending the Medical School in a disability and national origin discrimination lawsuit brought in Hennepin County District Court by a former medical school student. We are happy to report that in June of this year, following extensive discovery, OGC obtained summary judgment for the University on all of the plaintiff's claims. The plaintiff is appealing to the Minnesota Court of Appeals.

OGC also represents the University in a lawsuit by a former graduate student who claims the University did not appropriately respond when she reported that she had been sexually harassed by a non-University employee at a research site in Alaska. OGC has moved for summary judgment on the claims, and a decision on that motion is pending.

PURSuing THE UNIVERSITY'S INTERESTS IN BANKRUPTCIES. OGC also protects the University's interests in bankruptcy cases, asserting proofs of claim to recover the University's fair share of proceeds and opposing debt discharges where appropriate.

LABOR ARBITRATIONS, ADMINISTRATIVE HEARINGS AND ADMINISTRATIVE AGENCY CHARGES

During the past year, OGC attorneys represented the University in 20 labor grievances. Four went to hearing. Overall, the University prevailed on 13 cases, settled 2, and lost none. Five remain pending.

In two labor matters involving the denial of promotion to full professor, we successfully defended the University's right to establish the criteria for promotion and general guidelines as to the necessary amount of publications post-tenure, as well as our practice of evaluating, at all levels of review, the substantive and quantitative academic publishing record of applicants from the time they received tenure to the time of their application for promotion. We also successfully defended UMD's process for determining qualified icemakers, as well as

its longstanding practice of assignment of overtime for icemakers.

OGC also represented the University with respect to 43 civil rights agency charges. Fourteen resulted in favorable findings, 1 resulted in an unfavorable finding, and 4 were settled. Others are pending.

One highly publicized and important agency matter is the Title IX investigation by the Office for Civil Rights (OCR) regarding gender equity in Gopher Athletics. OGC is managing the University's response to and participation in that investigation. Before OCR



OGC is helping Gopher Athletics assure gender equity for student-athletes.

initiated its investigation, the University had already commissioned its own external gender equity review of Gopher Athletics. With cooperation and financial support from Gopher Athletics, OGC retained a nationally recognized Title IX expert to perform a comprehensive equity review. Having that expert's work performed is helpful in responding to the OCR's investigation and in assisting the University in charting a course for the future in Gopher Athletics.

INTERNAL UNIVERSITY PROCEEDINGS AND INVESTIGATIONS

OGC represents and provides counsel to University officials involved in internal 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 decision making, serving the interests of employees, students, the institution, and the community.

OGC provided extensive assistance and counsel in several academic and research misconduct proceedings conducted pursuant to Regents' policy and federal regulations. University administrators responsible for these complex and often high-stakes and intensely

disputed proceedings depend heavily on OGC to assist them through the process. Of particular note this year was OGC's support to the University's Institutional Review Board (IRB) in three high-profile investigations of complaints of research misconduct in connection with the broader inquiry into human participant research protection at the University. OGC provided advice to the IRB and the vice president for research on legal issues, and helped the IRB perform thorough, thoughtful and objective investigations while under tremendous public scrutiny.

OGC advised units, hearing panels and appellate decision makers in a number of employment disputes in internal forums. OGC lawyers represented administrators in grievance hearings in the Office for Conflict Resolution where employees were represented by counsel, and advised the Provost as the final decision maker in those cases.

With respect to student issues, OGC provided representation and advice to student behavior committees and administrators on multiple campuses. OGC lawyers assisted with a number of sexual assault cases, and also provided representation and advice to scholastic standing committees and administrators involved in student academic complaints, as well as advice to the Provost regarding student appeals.



OGC recovered \$9.1 million to remediate environmental contamination around the West Bank's Elmer Andersen Library and Minnesota Library Access Center (MLAC).

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

The most significant feature of settlements this year was the amount of money OGC recovered for the University in contested matters. OGC achieved settlements totaling \$21.6 million in payments to the University. One highlight was the settlement of claims against the former property owner for environmental contamination on the West Bank. After years of dispute, OGC—through threat of a lawsuit—convinced the former property owner to mediate the claims in December 2014. We achieved a favorable settlement requiring the payment of \$9.1 million to the University to reimburse for past and anticipated future remediation costs and fairly allocating ongoing risks related to contamination on the property.

As for claims against the University, OGC settled 11 legal claims this year involving payments by the University of \$2,000 or more. The total paid by the University in settlements was \$1,741,946. Over \$1 million of that sum was a negotiated settlement of the judgment and fees in the Brenny case—a sexual orientation discrimination case in which the Hennepin County District Court ruled against the University the previous year. The remaining \$700,000 in settlements resolved employment, discrimination, and personal injury claims, with individual payments ranging from \$7,000 to a high of \$250,000. The University paid nothing in medical malpractice claims this year. Of the 11 claims settled, 7 were paid by University insurance, and 4 involved payments by various University units.

TRANSACTIONAL ACTIVITY

The lawyers and paralegals in OGC advise University faculty, staff and students, and colleges, departments and units on commercial transactions. We provide counsel on intellectual property, real estate, construction, sales, and corporate and securities laws and rules. We also help craft University policies, procedures and practices intended to protect the University's property, to advance the University's interests, and in some instances, streamline its operations.

This year OGC's transactional law group began a multi-year project to identify and modify or eliminate ineffectual contracting policies and practices. A goal of the project is to simplify and speed up the negotiation of agreements that would not benefit in all instances from

particularized legal involvement and review. We intend to encourage academic departments and administrative units to negotiate and enter into agreements—after OGC offers training and provides needed agreement templates and checklists—with no or minimal legal review. The group made immediate progress. It changed the process for negotiating and entering into agreements to rent hotel rooms.

The University enters into hundreds of agreements each year to rent hotel rooms for University activities around the world. OGC lawyers and a paralegal, working with University departments and units, historically negotiated and documented each of these agreements with hotel companies. This year the transactional law group scrutinized its review and approval process. It found that only a few of the terms in these agreements were negotiated and contested and that the agreements rarely obligated the University to pay large amounts or presented material risks to the University. The group concluded that some University departments and units, with proper training, could negotiate these agreements without OGC involvement. Under authority granted in the Board of Regents Policy: *Legal Review of Contracts and Transactions*, the group authorized selected departments and units that had demonstrated knowledge and competence to enter into hotel rental agreements without having to obtain OGC review and approval. In reviewing the policy change later in 2015, the group learned that agreements were being concluded faster and departments and units were much happier with the additional authority and independence. In reviewing agreements, the group also learned that departments and units had successfully negotiated and documented agreements that complied with applicable law and University policies. The group is looking to expand the program in 2015-16 to other departments and units.

In the upcoming year the transactional law group also will be looking to promulgate an administrative policy to reform the process by which it reviews and approves all contracts. The policy should help by confirming how to seek advice from a lawyer or paralegal, what to expect from OGC, and, importantly, when OGC involvement, review and approval would not materially advance the University's interests and, therefore, should not be required.

OGC will be critiquing the transactional law group's operation in the upcoming year. We will review

its patent prosecution and trademark registration practices to make them more effective and efficient. We will determine which of these legal and administrative services are best provided in OGC and which should be provided by specialized private lawyers or by an administrative unit with subject matter expertise. This initiative is part of a larger OGC project to review the group's practice areas and resources to ensure they support and are aligned with the University's Strategic Plan.

This past year OGC lawyers and paralegals provided very high quality legal services in several complex transactions. We are pleased to report that specialized outside legal counsel was retained in only a few of the deals and only to advise on a part of the transaction.

NOTEWORTHY DEALS

TECHNOLOGY TRANSFER. This year attorneys in the research and intellectual property practice advised the Office for Technology Commercialization (OTC) on an inter-institutional agreement with the University of Texas's MD Anderson Medical Center. The agreement facilitated the commercial development of the University's suite of patents claiming a Sleeping Beauty Transposon system. The agreement bore fruit in January of this year when the patents along with a series of patents directed to a non-viral treatment of cancer were exclusively licensed to Intrexon Corporation and ZIOPHARM Oncology. The University expects to receive at least \$22 million in publicly traded stock from the transaction.

CORPORATE SPIN-OFF. The College of Education and Human Development, in February, spun-off its Flipgrid™ operations to Vidku, Inc. The college transferred to the



OGC advised on performance agreements to bring internationally recognized musicians to the TCF Bank Stadium.

company rights in its course management software, multi-year content development, licensing and hosting agreements and other intellectual property. It will be paid \$8 million over the next two years and it has already received 2,250,000 common shares of the company. These shares are now valued at several million dollars. OGC attorneys in the research and intellectual property practice advised the college, OTC and the vice president for research on the transaction.

REAL ESTATE DEVELOPMENT. Continuing work from last year on the development of the Ambulatory Care Center on the Twin Cities campus, attorneys and a paralegal in the real estate and construction practice counseled the chief financial officer and the Real Estate Office on the \$25 million acquisition and development of Block 31 in South Minneapolis.

INTERNATIONAL PROGRAMS. OGC was instrumental in the creation of Minnesota Global Inc. The University intends to operate many of its international programs through this wholly owned subsidiary. It will soon serve as the University's Registered Office in the People's Republic of China. This then will consolidate and simplify many of the University's non-U.S. operations, improve oversight and compliance and shield the University from many foreign tax, regulatory and administrative burdens.

EVENT AGREEMENTS. OGC works hard to promote the arts and culture on campus, too. The group negotiated agreements to bring the Rolling Stones, country singer Luke Bryan and the British pop band One Direction to the TCF Bank Stadium and various musical and performing arts acts to the student unions on the University's campuses.

ACADEMIC HEALTH CENTER

OGC provides legal advice and support to the Academic Health Center (AHC) in serving its important mission within the complex world of health care. Along with the construction of the new Ambulatory Care Center, the AHC has continued in active discussions with Fairview Health Services and UM Physicians regarding the further integration of the academic and clinical operations and missions of the health care enterprise. OGC has been actively involved in supporting that process.

REAL ESTATE AND CONSTRUCTION PRACTICE

The OGC real estate practice group advises the central Real Estate Office on purchases and sales of land and buildings, the taking and granting of easement rights to use real property, and lease agreements. Lawyers and a paralegal work with University departments and units in leasing space. OGC also counsels Central Planning and Project Management unit (CPPM) on construction law and agreements.

This year OGC advised CPPM on changes to University policies, practices and documents needed to comply with a major reform in Minnesota construction law, the Minnesota Responsible Contractor law. We also worked with CPPM to implement the new state American Made Steel law.

Highlights for the real estate practice for the year include:

- \$27 million expansion of the Hormel Institute in Austin, Minnesota;
- Amendment of the TCF Bank Stadium Facilities Use Agreement with the Minnesota Vikings Football, LLC;
- \$7.9 million purchase of 650 - 25th Ave. SE in Minneapolis, the \$1.7 million purchase of a 52-acre parcel near the Landscape Arboretum, and the purchase of 825-827, 907 and 911 Woodlawn Ave. in Duluth; and
- Sublease among Dakota Aggregates, Inc., Harddrives, Inc. and the University to authorize the construction and operation of an asphalt plant in Rosemount, Minnesota at UMore Park.



With OGC's assistance, the Arboretum acquired 52 new acres.

RESEARCH, TECHNOLOGY COMMERCIALIZATION AND INTELLECTUAL PROPERTY LAW PRACTICE

OGC advises the University community on research and intellectual property transactions and law.

RESEARCH. OGC lawyers advise faculty, academic units and Sponsored Projects Administration (SPA) on sponsored research grants. We review, negotiate and draft complex sponsored research agreements. We counsel faculty on compliance with federal laws and regulations of academic research. We also advise SPA and others on satisfying federal export control laws.

This year OGC was part of a major national undertaking to improve and quicken the negotiation of clinical trial

agreements. An OGC lawyer participated in a multi-university initiative to create and adopt a standard form of clinical trial agreement, the Accelerated Clinical Trial Agreement. The federal National Institutes for Health, in coordination with the University Industry Demonstration Partnership, sponsored the initiative. For more information, see <https://ctscentral.org/accelerated-clinical-trial-agreement-acta/>.

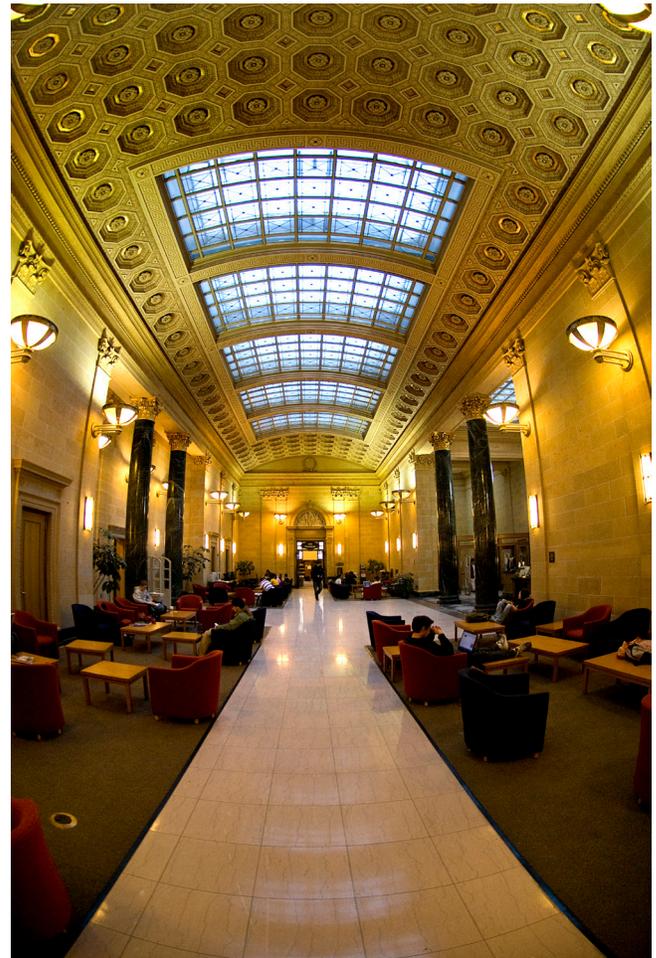
TECHNOLOGY COMMERCIALIZATION. OGC advises OTC on technology transfer agreements and commercialization. This year, lawyers in the group counseled OTC and the vice president for research on the creation of the Discovery Capital Program. This program will permit the University to assist in the development of University intellectual property by authorizing the University to invest up to \$350,000 in a University start-up in a round of financing. The Board of Regents reviewed and approved the program in May.

OGC represented OTC and its Venture Center this year in over 13 exclusive licensing deals with start-up companies. We negotiated or drafted, or in some cases, both, the license agreements, equity issuance agreements and related shareholder control agreements and provided advice on corporate, contract and securities laws. OGC also represented OTC in many forms of technology transfer agreements. We advised OTC in a tender offer of the shares of a licensee, the issuance of warrants to purchase equity shares in licensees, restructuring of agreements with financially distressed licensees, and the termination of agreements with non-performing licensees.

INTELLECTUAL PROPERTY. Professionals in the group advise faculty and students and collegiate and central units of all aspects of intellectual property law. An OGC attorney and an administrative assistant specialize in patent prosecution. This attorney counsels faculty and OTC on the patentability of disclosed inventions, assists in searches for prior art references, and reviews and helps prepare responses to office actions to the U.S. Patent and Trademark Office (USPTO). The administrative assistant directs the office's work in communicating with faculty- and student-inventors, outside specialty legal counsel and the USPTO.

OGC continues to look for ways to improve the patent prosecution practice area. This year OGC and OTC critically reviewed the administrative services OGC provided in this area and developed a plan to rationalize and economize those operations. The recommendations will be implemented in the fall of 2015.

An OGC attorney specializes in copyright law. OGC regularly advises faculty and students on the use of others' copyrighted works and the registration, protection and use of their dissertations, theses, and articles. OGC



OGC worked with the University Libraries on its deal with Google making rare or out-of-print works digitally available.

counsels academic units on the commissioning, creation and distribution of instructional materials and course works. This year, OGC advised:

- the University of Minnesota Press on an agreement with Apple, Inc. that resulted in works published by the Press being sold and distributed by Apple through the iTunes store; and
- the University Libraries on an amendment to its Cooperation Agreement with Google, Inc., which authorized the release by the company of digital copies of hundreds of rare or out-of-print works from the University's collection.

An OGC attorney and an administrative assistant specialize in trademark registration and enforcement. OGC registers marks with the USPTO, counsels OTC on the availability and suitability of names for apples and plant varieties, and enforces University-held marks. This year, OGC represented:

- OTC in enforcing the University's mark SweeTango™ against a company that was using a similar name to promote a Minneapolis-based coaching business, and

- the Twin Cities athletic department in an opposition to the University of Tennessee’s registration of the slogan “Brick by Brick.”

CORPORATE AND COMMERCIAL PRACTICE

OGC provides advice on corporate transactions and law. This year OGC worked with the University of Minnesota Alumni Association to amend its Bylaws. We represented the Medical School in the sale of the International Journal of Eye Banking to the Eye Bank Association of America. And we liquidated and dissolved the five Minnesota regional Area Health Education Centers.

OGC advises on purchases and sales of goods and services. Professionals in this practice area work closely with the Purchasing Services and the Internal/External Sales departments. This year, OGC reviewed over 600 purchasing agreements. One area should be noted: OGC spent a great deal of time this year negotiating and reviewing software license and development agreements. We will be looking in the upcoming year for ways to make our involvement in negotiating and approving these agreements more efficient, while maintaining sufficient oversight.

FINANCIAL, GIFT AND TAX PRACTICE

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 equity, venture capital and other funds in which the University invests. One lawyer specializes in this area. This year, OGC represented OIB in making investments in over 14 equity funds. And in a significant and complex transaction, OGC advised OIB on an Investment Management Agreement with J.P. Morgan to invest millions of University dollars in a “fund of funds” to hedge the University’s equity risk.

OGC advises the University of Minnesota Foundation, from time to time, on gifts to benefit the University. This year, OGC was counsel to a committee looking into the opportunities and risks of “crowdfunding” support for University research projects.

OGC also works closely with the Tax Management Office. This year, a lawyer in this group worked with outside tax counsel to advise on the

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. OGC also supported University Services in its efforts to take full advantage of the Section 179D deduction for costs to design energy-efficient buildings.

INTERNATIONAL PROGRAMS PRACTICE

OGC advises the Global Programs and Strategy Alliance (GPSA) and its units on the legal risks and implications of programs conducted outside of the United States. OGC regularly represents GPSA in affiliation agreements with foreign institutions.

LEGAL ADVICE AND PREVENTIVE LAW ACTIVITIES

OGC devotes substantial time and 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 opportunity for grievances, administrative charges and lawsuits. Some important projects this year:

PROTECTION OF HUMAN PARTICIPANTS IN RESEARCH. OGC worked alongside administrators in the enormously complicated and difficult work regarding the protection of human participants in research, particularly in connection with the review by the Office of Legislative Auditor and the review by the External Review Panel.



Protests and programming went smoothly around the Vikings game against the Washington football team at TCF Bank Stadium.

OGC will continue to provide counsel to the University and its IRB as they implement recommendations that have legal components.

STUDENT AFFAIRS. OGC helped manage a system-wide project to review and revise policies and practices and to revise or implement training around sexual assault and other crimes to ensure compliance with the Violence Against Women Reauthorization Act of 2013 and the implementing regulations of the Department of Education.

LABOR AND EMPLOYMENT. OGC provides daily advice and counsel to senior administration, labor relations, and human resource professionals on a broad range of labor and employment issues. This year, OGC assisted deans in managing disciplinary cases under the Tenure Code against a number of University faculty members. We also provided formal opinions regarding employee reassignment and hiring process issues. OGC supported athletics departments on multiple campuses in negotiating contracts and contract extensions for coaches and athletics personnel, and advised athletics departments on numerous personnel matters.

PROTESTS ON CAMPUS. OGC participated actively in responding to objections to, and planning for game-day

protests and events around, the Vikings' game against the Washington football team at TCF Bank Stadium. We provided legal advice regarding contracts law, the First Amendment, and laws against discrimination that were invoked in connection with the event. OGC also assisted administration in planning for and responding to protests and occupation of Morrill Hall by a group called Whose Diversity. In both instances, the opportunity for free expression was preserved while the University provided a safe and productive environment for students, faculty, staff, and visitors.

ATHLETIC COMPLIANCE OFFICE

The Athletic Compliance Office, which reports to the General Counsel, works with all of intercollegiate athletics regarding The National Collegiate Athletic Association (NCAA), Big Ten Conference, and Western Collegiate Hockey Association (WCHA) rules. This consists of working with 25 teams and over 750 student-athletes. In addition, the Athletic Compliance Office works closely with the McNamara Academic Center, Admissions, Financial Aid, and Academic Support Resources on campus. The functions of the



The Gophers brought home the Little Brown Jug for the 23rd time on November 29, 2014 by defeating Michigan 30-14 in Ann Arbor.

Athletic Compliance Office include education, policy and procedure development, monitoring and auditing for NCAA rules compliance, and investigation and enforcement of rules.

Over the course of the 2014-15 academic year, the Athletic Compliance Office conducted over 60 educational sessions regarding rules compliance to units within athletics, across campus, and in the Twin Cities area. Close to 1600 individuals attended these sessions. In addition, the Athletic Compliance Office met with every team to review the NCAA rules during the first and second weeks of the fall 2014 semester.

This past year, the Athletic Compliance Office conducted over 14 external and internal audits and monitoring procedures. This was done with the full support of the Athletics Director and the senior staff in the athletics department.

The Athletic Compliance Office investigated in excess of 40 potential rule infractions in 2014-15 and ultimately submitted reports of 23 violations to the NCAA and Big Ten Conference. Under NCAA guidelines, all of these violations were considered to be level III and IV infractions. The Athletic Compliance Office also submitted 26 requests for waivers of either NCAA or Big Ten rules.

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 participant research. The office is committed to responding fully to requests for public data, while diligently protecting private information that is not subject to disclosure. In addition to handling requests for public information, the office also 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 Minnesota Statutes Chapter 13. The Public Access to University Information policy was updated, and new procedures for requesting information from the University and on the rights of subjects of data were added to keep the University in compliance with applicable changes in laws and regulations.

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

The office has continued its 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, and new procedures on Retention of University Records and Destruction of University Records were 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. Susan serves as the Compliance Partner for Privacy and is a member of the Enterprise Data Management and Reporting (EDMR) committee. She is also active in her professional organization, ARMA International.

USE OF OUTSIDE COUNSEL

The total sum paid from OGC's budget to outside counsel for FY15 was \$1,390,741. This amount is virtually identical to FY14 spending. Total outside counsel legal expenditures incurred by the University during this fiscal year were \$5,272,156, an increase of \$631,860 over FY14. This increase was primarily attributable to increased patent prosecution expenses for OTC. About one-third of the institution's outside legal fees are for insurance defense and are paid by RUMINCO.

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 limitation and payment policies.

The use of in-house counsel is far more economical for the University, as costs per hour for comparable legal services performed 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 particular structure, operations, strategic priorities and mission. This 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 the University. Client feedback suggests that OGC provides high quality legal services on a level at least equal to that provided by leading private firms.



A Holstein, one of the many bovines residing at University of Minnesota Morris.

STAFF BIOS

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 GROUP

GREGORY C. BROWN. Greg joined OGC in 1991 and is Director, Transactional Law Services Group. 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 Stinson, Leonard, Street. 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. Shelley is a former member of the Board of Directors of the National Association of College and University Attorneys (NACUA), and is a past 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 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 (now Dentons). 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 and Moot Court 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 & Pady 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 in OGC 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

JEREMIAH CARTER, INTERIM DIRECTOR. In July of 2015, Jeremiah was appointed as the Interim Director of Athletic Compliance. 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.

CHELSEA LAMBERSON, ASSISTANT DIRECTOR. Chelsea joined the Athletic Compliance Office in December 2014, coming from Eastern Washington University where she was the Compliance Coordinator. Chelsea also spent time as a graduate assistant in the University of New Hampshire's Compliance Office while she attended Law School. She received her bachelor's degree in Journalism at the University of Oregon, where she competed for Oregon's club ski team, and her J.D. from the University of New Hampshire.

ANDREW NELSON, ASSISTANT DIRECTOR. 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. Coordinator McKinney 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.



Architectural detail at Walter Library.

ADMINISTRATIVE STAFF

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Kathy Bitterly

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Page 5: From University of Minnesota Athletics Website, featuring Daly Santana

Page 7: Photograph obtained online

Page 8: Nicole Holdorph

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Page 11: From University of Minnesota Athletics Website, featuring Josh Champion

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