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## President's Message

Please join us in supporting the ACTEC Foundation during the 2011 Annual "All-College" campaign.

Your ACTEC colleagues and friends who serve on the ACTEC Foundation Board will soon seek your support so that the Foundation can continue to identify and fund projects that offer valuable resources for our Fellows, our profession and our broader communities.



ACTEC Fellow contributions underwrite valuable resources such as ACTEC Commentaries and the SSRN—references used daily by trust and estate practitioners across the country. Ongoing support for symposia and scholarly events generates important opportunities for the publication of papers for academics. (To learn more about the recent Uniform Probate Code Symposium, go to page 2.)

Your support encourages future trust and estate practitioners, who gain unique opportunities to apply their knowledge through writing, research and real-world clinical experiences. This year's winner of the Mary Moers Wenig Student Writing Competition said, "I have had an incredible opportunity to research, study and write about fiduciary duties in a trust and estate context. I really appreciate the learning opportunity that the Competition has provided for me. It is an honor to be recognized by such a distinguished organization as ACTEC."

Funding provided by the ACTEC Foundation also enables the Student Editorial Board at Hofstra University School of Law to support a dedicated staff of students to research citations for the articles that appear in the ACTEC Law Journal. Your giving also provides valuable aid for legal clinics across the country where students provide guidance on wills to at-risk or underserved people.

Contributions can be made online with a credit card on the Foundation's web site at [www.actecfoundation.org/donation/](http://www.actecfoundation.org/donation/). Or Fellows may include a contribution to the ACTEC Foundation when remitting dues, either by check or online. In addition, donations can be made by a gift of stock or securities, or through the committee reimbursement request form for committee members who attend the Fall or Summer National Meetings.

We hope that you will join us now in donating so that at the 2012 Annual Meeting in Miami Beach, Florida, you will know you've been a part of the success of our latest "All-College" campaign.

Sincerely,

Cynda C. Ottaway

## ACTEC Symposium Takes Stock of Probate Reform, New Challenges

A distinguished group of scholars and practitioners assembled at the University of Michigan Law School on October 21, 2011 to discuss the state of American trust and estate law and explore emerging issues in the field. The event, a symposium entitled *The Uniform Probate Code: Remaking of American Succession Law*; was organized by ACTEC's Legal Education Committee in partnership with the University of Michigan Journal of Law Reform. Support from the ACTEC Foundation and the Bjarne Johnson Memorial Fund made it possible to offer the symposium without charge.

Among the proposals taken up by the group, a radical suggestion presented by Thomas Gallanis and Josephine Gittler, both of the University of Iowa College of Law, drew a particularly spirited response. Their proposal would reinforce social norms and create an incentive in favor of family caregiving by allowing a decedent's caregiver to elect to receive a share of the estate.

The proposal was lauded for tackling a pressing social problem, but criticized for failing to take account of the realities of caregiving and perversely creating incentives for failed caregiving. Others, however, thought the measure might not go far enough by providing a share only for legally defined family caregivers but not for unmarried partners or friends.

University of Oregon School of Law professor Susan Gary's piece also proved controversial. She argued that, with the growing variety of American family arrangements, the rigid rules of intestacy statutes increasingly fail to capture the wishes of those who die intestate. Therefore, she proposed an intestacy statute that permits a large measure of judicial discretion in distributing an intestate's property, allowing a judge to take cognizance of an

intestate's untraditional family arrangement in applying the intestacy rules. But Professor John Langbein of Yale Law School, for one, indicated that his vote would be a "firm 'no' vote" for such a proposal out of concern that the judges in many American jurisdictions could not be trusted with this task.

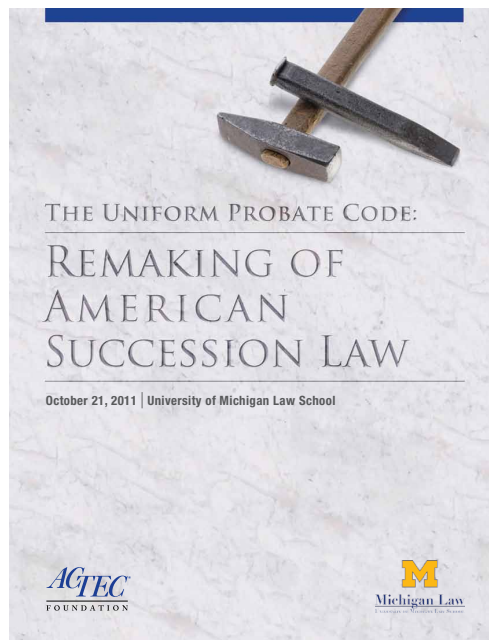
Over lunch, Professor Langbein delivered the keynote address, speaking at length about the factors influencing a state's decision whether to adopt a uniform statute. He emphasized the importance of capturing broad agreement

in drafting a uniform code given legislatures' reluctance to disrupt longstanding trust and estate laws and the uncertain mobilization of interest groups in favor of a uniform statute.

The symposium was held in honor of Professor Lawrence Waggoner and his more than 30 years of work in American probate law reform. He spoke about his experiences as a part of reform efforts and his views on the future of probate law reform. Professor Waggoner served as the director of research and chief reporter for the Joint Editorial Board for Uniform Trust and Estate Acts and in that capacity served as the

principal drafter of the 1990s revisions to the Uniform Probate Code. He has recently served as reporter for the 2008 revisions to the Uniform Probate Code involving improvements to the definition of parent and child and as the reporter for the Restatement (Third) of Property (Wills and Other Donative Transfers).

The articles presented at the symposium will appear in Volume 45, Issue 4 of the University of Michigan Journal of Law Reform, to be published in the summer of 2012. More information about the symposium, including video of the entire event, will be available online at [www.mjlr.org/actec-symposium](http://www.mjlr.org/actec-symposium). ■



## STUDENT EDITOR AT HOFSTRA SCHOOL OF LAW BRIEFS COMMITTEE

The ACTEC Foundation for the last three years has provided funding to support the work of Hofstra University's School of Law Student Editorial Board (SEB), which helps prepare citations for the ACTEC Law Journal (ALJ).

At the recent ACTEC Fall National Meeting in Coronado, California, Chief Student Editor Ashleigh Garvey reported to the Communications Committee on how these student editors are recruited.

In 2010, the year the SEB launched, ACTEC Fellow and ALJ Academic Editor Professor Mitchell Gans selected 12 students for the board. This academic year, Garvey told the Communications Committee, students were invited to participate in a law review writing competition in which 160 applicants' writing scores, resume credentials and grade point averages were considered before 18 students ultimately were selected to serve on the board.

Garvey discussed the staff's structure and gave an overview of the student editorial process, including collaboration with the ACTEC national office staff and ALJ authors. Garvey also conducted research for the committee on how many issues similar law journals publish and their level of staff support. For example,

"The Real Property, Probate and Trust Journal" is published quarterly, with a comparable number of pages per volume to the ALJ, but with 50 students listed on its masthead, she told the committee. ALJ Editor Ed Manigault acknowledged the Hofstra law students' good work and reported that Fellows and non-fellow trust and estate practitioners are encouraged to submit articles for consideration. ■

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## MARY MOERS WENIG STUDENT WRITING COMPETITION – 2011 WINNER

Kennedy Lee was selected as the 2011 winner of the Mary Moers Wenig Student Writing Competition for his article, "Representing the Fiduciary: To Whom Does the Attorney Owe Duties?" The article will be published in the Winter 2012 issue of ACTEC Law Journal.

The Brigham Young University law school graduate participated in the contest at the suggestion of one of his former law professors. "A large part of my success on this paper is due to Professor Robert Tippett," Lee said. "He was my supervisor for this paper and provided invaluable guidance in selecting a topic. Many states have no case law on this subject, and the states that do have case law are not uniform."

Lee says he knew that he wanted to be an estate planner before he even entered law school, yet he only learned about ACTEC in his second year as a law student. Lee suggested that access

to ACTEC publications and resources be widened to include law school students. He said that providing such access would increase law students' awareness of the breadth of services that ACTEC offers, even before they start practicing.



The annual competition is open to law students in good standing at American Bar Association-accredited law schools, and aims to promote the creation of scholarly works in the area of trusts and estates. Papers are judged on the elements of research and analysis, topic, style, originality, and their contribution to the existing writings on the topic.

For more information on other 2011 competition finalists, visit, [www.actecfoundation.org/WenigCompetition.asp](http://www.actecfoundation.org/WenigCompetition.asp). ■

## Support ACTEC Foundation

The ACTEC Foundation is a registered 501(c) (3) charitable organization and contributions are tax deductible.

Fellows can make contributions by one or more of the following methods:

**Annual Membership Dues**—Fellows may add a contribution to the ACTEC Foundation when remitting dues, either by check or online.

**Online Contributions**—Contributions can be made online at [www.actecfoundation.org/donation/](http://www.actecfoundation.org/donation/).

**Stock Donations**—To make a donation of stock or securities, please contact Amy Michaud at [amy.michaud@actec.org](mailto:amy.michaud@actec.org) or (202) 684-8453 so that your gift may be appropriately attributed.

**Committee Reimbursement**—Committee members who attend the Fall or Summer National Meetings may submit a request to be reimbursed for travel expenses and the form permits a Fellow to donate the reimbursement directly to the Foundation.

## FOUNDATION STAFF

### President

Cynda C. Ottaway

### Executive Director

Deborah O. McKinnon

### Membership and Foundation Management Director

Amy Michaud

[amy.michaud@actec.org](mailto:amy.michaud@actec.org)

(202) 684-8453

### Communications Director

Leah Weatherspoon

[l.weatherspoon@actec.org](mailto:l.weatherspoon@actec.org)

(202) 688-0271

### ACTEC Foundation – National Office

901 15th Street NW, Suite 525

Washington, D.C. 20005

To learn more visit:

[www.actecfoundation.org](http://www.actecfoundation.org)



901 15th Street, NW, Suite 525  
Washington, DC 20005

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