

BlawgWorld 2006

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SAMPLE

BLAWGWORLD 2006
Capital of Big Ideas

Population: 51

Edited by Sara L. Skiff

PREFACE



Ideas are free. But while the author confines them to his study, they are like birds in a cage, which none but he can have a right to let fly: for till he thinks proper to emancipate them, they are under his own dominion.

— Sir Joseph Yates, *Miller v. Taylor*, 4 Burr. Part IV, Page 2379.

A *blog* is an easy-to-use publishing tool that enables people to “post” articles, photos, and even videos in reverse chronological order on a Web site. A *blawg* is a legal-oriented blog. Most blogs (and blawgs) feature a *Web 2.0* technology called *RSS Feeds* that enable you to monitor them with an *RSS Newsreader*, an email-like program. [See J.D. Lasica, *RSS Newsreaders and Other Alternatives to Web Browsing*.](#)

According to various studies, approximately 80,000 new blogs launch every day, including dozens of blawgs. No one knows how many blawgs exist, but whatever the number, monitoring them — even with an RSS Newsreader — would amount to a full-time job. You probably don’t have that kind of time yet you probably do want to tap into the blog phenomenon.

This conundrum explains why we created this TechnoLawyer eBook. In it you’ll find thought-provoking essays from the most influential blawgs — 51 essays from 51 blawgs to be precise. The essays were handpicked by each respective blogger as most representative of their blawg. As a result, you will likely find several blawgs worthy of your continued attention. When you do, just click on the blawg’s screenshot to visit its home page. Or just search for the name of the blawg in Google.

Get the Whole eBook

As noted above, *BlawgWorld 2006: Capital of Big Ideas* consists of 51 essays, but this sampler version contains just one of these essays. To download the entire eBook free of charge, please visit www.blawgworld.com.

Our Heartfelt Thanks

We would like to thank each of the participating bloggers for their enthusiastic support of this eBook. Obviously, *BlawgWorld 2006: Capital of Big Ideas* would not exist without their insightful contributions. These bloggers do indeed have big ideas!

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Stephen Albainy-Jenei and Karlyn Schnapp are patent attorneys with Frost Brown Todd LLC. They handle a diverse intellectual property practice working chemical, pharmaceutical, biotechnology and emerging growth companies to brew up intellectual property protection and technology transactions. They both have been designated "America's Leading Business Lawyers" by Chambers & Partners.

Blog Bio:

With a FRESHLY-BREWED look, Patent-Baristas.com is stirring up a buzz in the patent law world. Providing news and commentary on intellectual property law from the biotechnology and pharmaceutical fields, Baristas Stephen Albainy-Jenei and Karlyn Schnapp are your hosts.

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Topics:

Intellectual property, biotechnology, technology business

Misconduct (and Not Just Scientific) Is a Problem for Everyone

There has been a lot of [reporting](#) of allegations of misconduct by U.S. researchers. [The Department of Health and Human Services](#) received 274 complaints—50 percent higher than 2003 and the most since 1989 when the federal government established a program to deal with scientific misconduct. The federal [Office of Research Integrity](#) closed only 23 cases last year and, of those, eight individuals were found guilty of research misconduct. In the past 15 years, the office has confirmed about 185 cases of scientific misconduct.

More disturbing, however, a survey published June 9 in the journal *Nature* shows about 1.5 percent of 3,247 researchers who responded admitted to falsification or plagiarism. (One in three admitted to some type of professional misbehavior.) This doesn't seem to be new—in 1974, Dr. William Summerlin, a researcher at Sloan-Kettering Cancer Institute, used a marker to make black patches of fur on white mice in an attempt to prove his new skin graft technique was working. It's just hard to tell, though, how much bad acts are increasing or just increasingly being found/reported.

Not to let anyone off the hook but there is a tremendous amount of professional pressure to publish papers and do more work in the academic setting than ever before. One researcher testified that he was working 80 to 90 hours a week, seeing patients two days a week, doing surgery one day a week, supervising medical residents, serving on as many as 10 different committees at the hospital and the medical school and putting on national medical conferences. He sought help from a psychiatrist who counseled him to cut back and from his boss who demanded he increase his research and refused to reduce his patient load (Gee, I think I know him).

While there are often many reasons cited, e.g., mental disorders and the like, it still all comes down to character. But not just the character of the researchers involved in the studies. What we have is a system that grinds people into the ground and then recoils as (horrors! gasp!) someone cracks under the strain.

Everyone is so quick to damn the individual researcher (and we should) but no one seems to be willing to indict their co-conspirators. The university administration that sets up a publish or perish environment; the requirement for more and more grants to support more and more (slave) students; the demanding federal grant

continued ...

application process. And even the whistleblowers tend to be punished instead of “upper management”—who get to turn a blind eye to the consequences of the system, all the while reaping the benefits of increased output.

Noteworthy is that the [National Institutes of Health](#) is [currently being asked](#) to explain why one of the agency’s scientists was fired after he complained about poor scientific practices within his division and inappropriate unprofessional conduct from his supervisor.

But, this practice is certainly not constrained to the research filed. With billable hour requirements exceeding 2000 hours (and many associates required to bill as many as **2400 hours** annually in order to achieve the highest compensation levels) there can be a culture of “work or die” in a law firm just as intense as anywhere. The problem, of course, is that there are only so many billable hours in a day and increased pressure on associates (or any attorney, doctor, or other professional) to bill hours may, in turn, increase the temptation to engage in unethical billing practices, such as inflating the hours actually spent on tasks, euphemistically referred to as “padding.”

Chief Justice William H. Rehnquist once observed, “if one is expected to bill more than two thousand hours per year, there are bound to be temptations to exaggerate the hours actually put in.” *The Legal Profession Today*, 62 IND. L.J. 151, 155 (1987). Yet about a quarter of all partners and half of all associates are now billing more than 2000 hours per year.

This is not just a misconduct question here. This relates to quality of life for professionals as well as their communities. Do we want professionals to be well-rounded individuals capable of contributing to society at all levels or do we want billing machines? I guess we could all be like as one partner in one of Chicago’s largest and most prestigious firms who recorded an average of 5941 billable hours per year for four consecutive years. Karen Dillon, 6,022 Hours, *Am. Law.*, July/Aug. 1994, at 57. If we assume that 70% of work time is converted into billable hours, this lawyer needed to work 23.3 hours per day, 365 days a year.

Unfortunately, everyone is being asked to do more and more but no one asks where “more” comes from. When I was growing up, my father worked all the time (including his one week of “vacation”). He was lauded as a hero for working hard. Now, we’re supposed to work even harder at work while also working more at home and elsewhere. More time at ballgames, dance lessons, school programs, and everything else we’re told we need to do to be good citizens. There is such a thing as too much.

Let’s hope that we hold the rule makers as accountable as the rule breakers.

More [here](#).