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THE BATTLE OVER THE SOUL OF LAW PROFESSOR BLOGS

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Special to the Legal

Late last month, I was among the participants at a Harvard Law School-hosted conference titled Bloggership: How Blogs are Transforming Legal Scholarship. Unbeknownst to most of us outside the legal academy, there apparently is some disagreement over whether blogs that law professors operate should be regarded as legitimate scholarship and public service or should be dismissed as a frivolous waste of time that detracts from the more traditional scholarly pursuits of writing massive law review articles and pontificating to the mainstream media on legal issues of public interest.

This past weekend, my 'How Appealing' blog, which focuses on appellate court rulings and related news coverage, celebrated its fourth year of existence, and thus my blog happened to be the third-oldest blog represented at the Harvard Bloggership conference. The two blogs represented at the conference that began even earlier than mine are two of the most popular law professor blogs.

'InstaPundit,' written by Law Professor Glenn Harlan Reynolds of the University of Tennessee College of Law, is one of the most popular blogs on the entire Internet. Its focus is primarily on matters of politics, public policy and other current events of wide interest, with only a secondary focus (if that) on legal issues. And 'The Volokh Conspiracy,' founded by Law Professor Eugene Volokh of the UCLA Law School and his brother Sasha, is now the second-highest trafficked law professor blog. It is a group blog to which more than a dozen law professors contribute, and its focus is largely, but far from exclusively, on law-related issues.

More recently, the Law Professor Blogs Network, which today consists of nearly 30 separate blogs, has come into existence. Its founder, Paul Caron of the University of Cincinnati College of Law, in April 2004 began the 'TaxProf Blog.' It was Caron who organized the Harvard 'Bloggership' conference.

The blogs within the Law Professor Blogs Network each tend to focus on a specific area of the law or legal education, such as the highly acclaimed 'Sentencing Law and Policy' blog by Law Professor Douglas A. Berman of the Moritz College of Law at The Ohio State University. And those blogs, while not denying their authors the ability to reveal non-law-related aspects of their personalities, tend to contain only posts that are relevant to each blog's particular subject matter focus.

The 'Sentencing Law and Policy' blog stands as the epitome of a law professor blog that deserves to be viewed both as scholarship and public service. The blog reports in a timely manner on significant state and federal court rulings in the area of criminal sentencing, and the blog regularly posts to the internet copies of legislative reports, briefs, and even court opinions that otherwise would not be readily accessible online.

Perhaps for these reasons, 'Sentencing Law and Policy' is the blog that has thus

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far been cited most frequently in court opinions and law review articles. Yet notwithstanding the blog's focus on a particular legal subject matter, the blog's author, Berman, frequently reveals his passion for sports and popular culture. The site proves beyond any doubt that a law professor's blog that deserves to count as scholarship and public service need not be bereft of personality or pop culture.

At the opposite end of the spectrum from the 'Sentencing Law and Policy' blog stands Law Professor Ann Althouse's blog, 'Althouse.' Its author teaches at the University of Wisconsin Law School, but the blog focuses more avidly on the Fox network program American Idol than on serious legal issues. By choosing to blog about her life and what she finds of interest generally, Althouse has created the opposite of what one might envision a law professor's blog to be. But unexpected does not equal unpopular, and Althouse's blog appears to be the third most-visited law professor blog now in existence.

Another category of law professor blogs that I particularly enjoy consists of law professors who blog about legal issues of general interest in a way that is both insightful and yet readily accessible to non-experts in the field. These blogs, although they are not focused on a particular narrow law-related subject matter such as tax law or sentencing law, do tend to focus on law-related issues as compared to politics or the popular culture.

Three examples from this genre are 'PrawfsBlog,' a group blog founded by law professor **Dan Markel** of the Florida State University College of Law; 'Concurring Opinions,' a group blog founded by law professor Daniel J. Solove of the George Washington University Law School; and 'OrinKerr.com,' founded by Orin S. Kerr also of GWU, who also remains as a contributor to 'The Volokh Conspiracy.' If you find my 'How Appealing' blog to be of interest, chances are good that you will also enjoy these three other blogs.

If my four years of operating a popular law blog has taught me anything, the key to having a successful law-related blog is choosing a subject or range of topics that the author knows a great deal about and has particular enthusiasm for. Over time, a blog that offers thoughtful commentary or easy access to interesting legal news and case developments can generate a readership numbering in the thousands to tens of thousands per day, far outstripping the number of people who will read the typical law review article.

While law-related blogging may never be as popular of a destination on the Web as sex and pornography, I can only imagine the traffic that a Law Professor Blogs Network site devoted to the law of sex and pornography would generate if such a blog ever were launched.

As I explained in the remarks that I delivered at the Harvard Bloggership conference, to those of us outside the legal academy, the battle over whether law professor blogs should count as scholarship or public service borders on the irrelevant. What we, the readers of law blogs, hope to find is interesting content. Fortunately, the law professor segment of the law blog world generates a great deal of interesting content on a daily basis.

You can access the law blogs discussed in this essay at the following Web addresses: howappealing.law.com, instapundit.com, volokh.com, lawprofessorblogs.com, taxprof.typepad.com, stencing.typepad.com, althouse.blogspot.com, prawfsblawg.blogspot.com, concurringopinions.com, orinkerr.com.

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