KINGS of the Court

Drake Law School's
Whitfield & Eddy
National Moot
Court Competition

team brought home a national championship trophy this year — and some good stories.  

By Julia Johnston

There's the one about a judge falling asleep and another judge popping out his dental plate during arguments. The teammates also endured a hapless time-keeper and a judge who advised them to change sides for final arguments. And, strangely, they nearly missed the announcement of their win.

Undeterred, the team of Theodore Simms II, a third-year student, and second-year students Jeff Link and William Schultz won the 51st annual competition sponsored by the Young Lawyers’ Committee of the Association of the Bar of the City of New York and the American College of Trial Lawyers.

Link, a Burlington native and Central College graduate, also was named Best Oralist in the final round, held in New York City. The law school appellate advocacy competition is one of the nation's largest and most prestigious.

Simms, from Washington, D.C., and Schultz, from Clear Lake, Minn., came to Drake Law School specifically because of its trial practice reputation and mock trial program. Simms from the University of Maryland and Schultz from Drake University had competed as undergraduates in the American Mock Trial Association tournament, which was begun in 1985 at Drake Law School when Richard Calkins was dean.

In addition, Schultz says he wanted to be coached by Jeff Noble, LW '90, an assistant Polk County attorney and an alumni coach for the American Trial Lawyers Association Mock Trial Competition. So in addition to the Moot Court victory, this year's ATLA Mock Trial team with Simms, Schultz, Edward Bull and Gary Dickey Jr. came in second in nationals after beating Harvard in regionals.

Link's first advocacy experience was during his first year of law school when he won the C. Edwin Moore competition. Simms and Schultz also caught the Moot Court bug from doing well in required first-year arguments.
Twenty-eight teams met at nationals, whittled from an original 198 teams in 14 regional contests. The Drake team advanced through six rounds at nationals, defeating teams from Chicago-Kent, Georgia, BYU, Temple, William & Mary and, in the finals, South Texas, which has won nationals twice in the last five years.

Simms, Schultz and Link described their winning Moot Court season for the Counselor:

Q: What was the legal problem?
Simms: The brief problem was based on the federal wiretapping statute. A person who was a private figure had a cell phone call intercepted, transcribed, and sent to a newspaper, which published the material. There are two issues. One is a First Amendment issue that involves privacy and free speech — that's the fun issue. The second issue is civil damages. I argued whether the use of word "may" in the [statute's] damages provision implied any discretion, so I had to argue "may" meant "shall." That's not the fun issue. You're about to argue damages and everybody goes to sleep.

Link: In one round in New York, a judge fell asleep during Brigham Young's damages argument.

Q: How much time did it take you to prepare?
Schultz: There are two components. One is the brief - we did it in one chunk of time in one week. We met in the law library for five days straight from 5 p.m. to closing - midnight, one o'clock, whatever it was. We had met prior to that, too, getting together who would do what part.

Simms: (thumbing through his calendar) We met four times a week, altogether about 15 to 25 hours a week.

Q: How did you decide who did what?
Simms: I pulled rank as a third-year student and made all the decisions.
Schultz: That was instrumental in how well we did. We didn't know what we were doing, so Theo told us what to do.
Link: Theo's our captain.
Simms: I was on the Moot Court team last year and came back this year, so I figured I'd be the only one who knew what was going on. I figured it would be better to not do things by committee so I decided what issues to brief and who would argue. In a Moot Court problem, there's one good argument and one bad argument. We didn't have any internal arguments in deciding who would do what argument.
Link: Theo got the most work.
Simms: They did more work at the beginning and I probably did more work in the end.

Q: Did you get along the whole time?
Link: Will wasn't a big Gore fan. (Link was state director for Gore-Lieberman 2000 in Iowa.)
Schultz: Going to (regionals in) Grand Forks (North Dakota), we had a political discussion.
Simms: The other time we would fight was when we'd be practicing and one of Jeff's three cell phones would go off and he'd spend 15 minutes trying to calm people down in Washington because Gore lost a couple points in Kansas.
Link: We had intense practices, not fights. One would argue and two would be on the panel. Each of us attempted to stump the other.
Simms: Everyone eventually had to throw in the towel once because he couldn't answer a question.

Q: How do competitions differ?
Simms: Competition is scored on a point system. There are sections on knowledge of facts, the ability to answer questions and so on. There's a total of 50 points for regional competition. We were scoring really well - we earned 48s - and lost by .24 to (University of) Iowa.
Schultz: We beat Iowa on oral skills but we scored in the middle on the briefs. At nationals, our same brief was third.
Simms: In the regional, for the overall score, 60 percent is oral, and 40 percent is the brief, which is submitted at the beginning of the year and you can't change it after submission. We were beating people in the oral arguments by 5, 6, 7 points, which is a lot in these competitions, but not on the briefs. I think our brief was just a different style of argument. It was very aggressive, yet very informative, and I made it a point to make the brief as concise and direct as possible.

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Moot Court Success

Most law schools limit their National Moot Court teams to third-year students, and some also load a team with the best advocates, he says. Drake, on the other hand, expects at least one second-year student to be on each appellate, trial, negotiation, and client counseling team. The two National Moot Court teams have always had a 2L on the team, and this year, two 2Ls are on the national championship team, captained by Theodore Simms II, a 3L who was on the team last year.

"We have found it helps to have an experienced person lead the team. It's a formula that works. We also try not to have one team that's designed to be the "Varsity" team. We don't load the supposed best people on one team," Sisk says.

In addition, Drake professors act as coaches and the administration is visibly supportive, sending a clear message that student participation is valued. At most law schools, there's Law Review and "Not exactly," where Moot Court and similar activities are regarded as second class. The best students then self-select out of Moot Court," says Sisk. "At Drake, one activity is not better than the other; they are different."

Dean Peter Goplerud III says the program enhances students' legal education. "Competitions give them an extraordi-

and I made it a point to make the brief as concise and direct as possible. That type of brief played okay here in the Midwest and very well out East.

Schultz: Ours had everything in it, but we said it in 32 rather than the 45 pages allowed.

Q: How many rounds are there?

Simms: There are two preliminary rounds. Basically, you argue as petitioner and the other side argues as respondent. We got assigned the petitioner's side but we have to be prepared to argue both sides.

Link: One of the interesting things - they try to balance these arguments, but there were 21 respondent teams in nationals and only seven petitioners. The petitioner was the harder side. And we were petitioners.

Simms: It was an unbalanced problem this year. One side had an advantage and it wasn't our side.

Link: But we had an advantage because we knew the hard side.

Q: Were there any moments that news stories wouldn't note?

Schultz: In New York, one of our judges was playing with his lower plate teeth

Link: It popped out and he caught it.

Simms: He's actually on the bench up there, a district trial court judge.

Link: Everything was done very well, although the timekeepers were not the best. Before you go, they ask how much time you are going to take. I go 15, Theo goes 13, and we save two minutes for Theo's rebuttal. I always went first. So I get up for my 15-minute argument and say here's the case and the facts, and the timekeeper holds up a card with 1 on it, which means one minute left. I look at it and continue. Then the guy starts shuffling the time cards like he's ready to hold up the TIME card, which means I'd have to stop. The judge goes over and has a debate with the timekeeper, who thought I was going for two and rebuttal was for 15. And I'm in the first two minutes and the judge sits down and says, "Continue." It was a bit disconcerting.

Q: Is there a "Drake style" that makes Drake teams successful?

Simms: We meshed really well as a team. There's not really a Drake style, but if you get people who mesh, you have a good team. I was laid back, Will is more animated, and Jeff is the one everyone wanted to listen to because he's so tall. We all had demeanor that complemented each other as far as the way we presented material, and we also had good substance.

Schultz: Theo's the kind of guy who can be fazed but won't show it. He has his argument to make "may" into "shall" and he's getting an argument from the judge that says he's wrong and Theo says, "I'm not."

Q: Does Drake Law School get respect when you are at tournaments?

Schultz: When we were out in New York, after every round, we told them Drake was in Des Moines.

Simms: It's not a hotel in Chicago.

Schultz: When we went to the East Coast (Boston) again for Mock Trial, people recognized us because they had judged us in New York. Each time our teams win, the Drake name spreads.

Q: How did you find out you won?

Link: We were in a beautiful, ornate room in the New York Bar Association building with the panel of seven judges - a judge from the 2nd Circuit, two U.S. District Court judges, two
nary opportunity under fire to develop their communication and analytical skills. Also, as they prepare for competition, they gain experience working as part of a team, something they will encounter many times in their legal careers," he says.

The national championship team of Simms, William Schultz and Jeff Link exhibited many of those skills. Because they were well organized and extremely capable, Sisk says, he was "mostly a cheerleader" this year.

Sisk brought his passion for advocacy to Drake's Moot Court. He was on the University of Washington's Jessup team that finished third in the nation in 1983. As an appellate attorney at the Department of Justice for three years and, as head of the appellate department at a Seattle law firm, he argued or briefed cases before 10 of 13 federal Circuit Courts of Appeal.

This most successful season for Drake's moot court program will be Sisk's last as faculty adviser. Professor Laurie Doré is the new faculty adviser for the 2001-2002 school year.

In concluding his tenure, Sisk reflects on its growth. The law school has been one of the powerhouse in the region for many years in Moot Court and Mock Trial. In 1994, a Drake team finished second in the nation in the National Moot Court finals. This year, along with the Moot Court national championship, an ATLA Mock Trial team finished second in the nation.

"Most significantly this year, we have proven we are not just a regional powerhouse, but a national contender," says Sisk.

state judges, and the presidents of the American College of Trial Lawyers and the New York Bar Association. Someone said they were about to make a presentation, the winner is Drake University, and then they just went on talking.

Schultz: They said it, and I looked over to Theo and whispered, "What just happened?"

Simms: I looked over at Jeff and said, "Did we just win?" Jeff looked in the audience at his wife, Patty, and she nodded yes, we won. Nobody believed it. We went back and forth: "What just happened?" "Did we just win?"

Link: We argued in the afternoon and that evening. One judge gave us a lot of constructive criticism. She told us, "I didn't like your team's argument so argue the other side when you go to the final round."

Simms: I told her we were going to stick with the petitioner's side despite her suggestions.

I thought we had made an enemy. She watched the arguments and afterwards said, "I gave up sleep to come watch you guys. And now I'm glad I did. You guys were great!"

Link: She was the first person to come up and congratulate us.

Simms: Jeff had a hard time getting through metal detectors at LaGuardia (Airport) with all his prizes.

Q: Did you expect to win?

Simms: I did. I saw these guys try out because I helped judge the final rounds of tryouts. I said, "Those two are going to be in the top two or three." I found out they were going to be on my team and figured out all summer what we'd do. In the fall, I said to them: "We're going to win."

Link: I said, "Whatever."

Simms: I loved when it was over and I could say, "I told

Strong showings by other Drake teams...

Drake fields two teams for National Moot Court, and one team each for Jessup International Moot Court, National Environmental Law and Giles Sutherland Rich Moot Court (Intellectual Property). In addition, there are two teams for the American Trial Lawyers Association Mock Trial and one team each for Negotiations and Client Counseling.

In addition to the National Moot Court championship, the 2000-2001 competitions yielded many other winners:

• National Moot Court: The team of John Danos, Gary Dickey Jr., and Rebecca Huizenga finished third in regionals.

• Jessup Moot Court: The team of Karriambanya Carew, Constance Grignon, Alexandra Spaulding and Huong Vu finished second in regionals. Carew was named Best Oralist.

• ATLA Mock Trial: Two Drake teams defeated two Harvard teams in regionals in Boston. In regionals, the team of Edward W. Bull, Gary Dickey Jr., William Schultz and Theodore Simms II finished second in the nation in the final round.

• National Mock Trial: The team of Amy Brunner, Brenda Quade and Bryan Stodghill won regionals.

...including Drake undergraduates

William Schultz drew on his extensive experience as an undergraduate mock trial contestant to help the Drake Law team win its national title. He's also showing current Drake undergraduates the ropes by coaching them for the past two years in the American Mock Trial Association Tournament.

The 2001 edition of the AMTA tournament included more than 300 teams, with 64 teams advancing to the national finals at Drake. The two Drake teams dominated their regional tournament held Feb. 23-24 in Topeka, Kan., one taking first place with an 8-0 record and the other taking second with a 7-1 mark. Together, the two teams took six of 10 Best Attorney awards.

"Coaching has been a fabulous experience," Schultz said. "As a Drake undergraduate, I had the good fortune to be coached by four talented people, each with a different style. I tried to use this diversity of styles to develop my own, using the best approach for each situation. You learn a lot by being taught, but even more by teaching."

More and more promising undergraduates are being attracted to Drake Law School because of the AMTA tournament, Schultz said, which is exactly what it was designed to do. Former Dean Richard Calkins started the tournament as a way to expose undergraduates throughout the country to the virtues of Drake Law school, he said. "It's definitely having the effect Dean Calkins intended," he said. "I know of at least three students from champion teams who plan to attend Drake Law School."