AMY MORRIS HESS

Employment Record

Current Position:

UTK Distinguished Service Professor;
Waller, Lansden, Dortch, & Davis and Williford Gragg
Distinguished Professor of Law
University of Tennessee College of Law
1505 West Cumberland Avenue, Knoxville, TN 37996-1810
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Williford Gragg Professor of Law since 2007.
Waller, Lansden, Dortch & Davis Distinguished Professor of Law, since 2001.
Professor of Law, since 1990; UTK Distinguished Service Professor, since 2000.
Associate Professor, 1981-90; tenure granted, 1985.
Visiting Assistant Professor, 1979-80.

Spring 2009 Frank E. Spain Visiting Chair in Law, University of Alabama Law School, Spring 2009.
Distinguished Visiting Professor, University of South Carolina School of Law, Spring 2002.
Visiting Professor, University of Texas Law School, Summer 1991.
Visiting Professor, University of Missouri-Columbia Law School, 1989-90.
Associate Professor, University of Colorado School of Law, 1980-81.
Visiting (adjunct) Lecturer, University of Virginia School of Law, Fall 1977 and Spring 1979.
Partner, Carwile & Hess, Charlottesville, VA, 1976-79.
Associate, Kelley, Drye & Warren, New York, NY, 1971-75.
Summer Law Clerk, Shearman & Sterling, New York, NY, Summer, 1970.

Courses taught regularly: estate planning, estates and trusts, wealth transfer taxation, income taxation, property, and tax theory.

Education

Law School:
University of Virginia; J.D. 1971
American Association of University Women Graduate Fellowship, 1970-71
Virginia Legal Research Group, 1969-71

Undergraduate:
Barnard College; B.A. 1968 (Government)

Admitted to practice in the states of Tennessee (active), Virginia (associate); formerly admitted in New York (license no longer maintained).

Honors

Treat Award for Excellence, presented by the National College of Probate Judges, 2005.
Elvin E. Overton Faculty Scholar, College of Law, 2005.
Harold C. Warner Outstanding Teacher Award, College of Law, 1993 and 2002.

Bass, Berry & Sims Award for Outstanding Service to the Bench and Bar, 1994 and 2001.
Carden Award for Outstanding Achievement in Scholarship, 1998
University of Tennessee Alumni Outstanding Teacher Award, 1994.
Faculty Honoree, Roosevelt Inn (University of Tennessee chapter), Phi Delta Phi Legal Fraternity, 1993.
Elected to Phi Kappa Phi by University of Tennessee chapter, 1986.
Harry W. Laughlin Prize for distinguished service to the College of Law, 1985.

Publications

Books

Successor Author, Bogert & Bogert, THE LAW OF TRUSTS AND TRUSTEES (rev. 2d ed., 1978, supplemented annually and 3d ed. in progress, supplemented annually), since 1995. A 23-volume encyclopedia on the law of trusts in the United States. I am currently preparing the third edition of the treatise, which will be published as Bogert & Hess. Several volumes are in progress. The first volume of the third edition, dealing with statutory standards governing trust investments (treatise sections 611 through 670), was published in the Summer of 2000. A second volume, dealing with the taxation of trusts (treatise sections 265 through 276) was published in the Fall of 2005. A third volume, dealing with the history of trusts (treatise sections 1 through 46) was published in the Fall of 2007. A volume on trustee duties and powers regarding investments and contracts (treatise sections 671-750) is scheduled to be published in the Fall of 2009.

Co-Author (with Valerie J. Vollmar and Robert Whitman), AN INTRODUCTION TO TRUSTS AND ESTATES (West 2003), a casebook for the basic law school course in trusts and estates. Second edition in progress.

Articles

"Estate Planning for the Baby Boomers: Will They Have Estates to Plan?" ABA TAX SECTION QUARTERLY, Winter 2009.

"Freeing Property Owners from the RAP Trap: Tennessee Adopts the Uniform Statutory Rule Against Perpetuities," 62 Tenn. L. Rev. 267 (1995).

"Important Developments During the Year 1994 - Fiduciary Income Taxation," 48 TAX LAW. 1211 (1995).

"Important Developments During the Year 1993 - Fiduciary Income Taxation," 47 TAX LAW. 1193 (1994).

"Important Developments During the Year 1992 - Fiduciary Income Taxation," 46 TAX LAW. 1103 (1993).

"Important Developments During the Year 1991 - Fiduciary Income Taxation," 45 TAX LAW. 1223 (1992).

"The Federal Transfer Tax Consequences of Joint and Mutual Wills," 24 REAL PROP. PROB. & TR. J. 469 (1990).

"The Federal Transfer Tax Consequences to the Donee of Annually Lapsing Powers of Withdrawal," 22 REAL PROP., PROB. & TR. J. 693 (1987).

"The Federal Taxation of Nongeneral Powers of Appointment," 52 TENN. L. REV. 395 (1985).

(With Glenn E. Coven) "The Subchapter S Revision Act of 1982: An Analysis and Appraisal," 50 TENN. L. REV. 569 (1983).

Other Writings

Chapter 7, "Estate Planning," of THE WOMAN'S LEGAL DESK REFERENCE (Barbara R. Hauser, Ed., North American Press, 1996). A successor to EVERYWOMAN'S LEGAL GUIDE, below.

(With W. Clyde Gouldman, II) VIRGINIA FORMS, VOLUME I, CIVIL LITIGATION (Michie/Bobbs-Merrill, first edition, 1978; replacement volume, 1989; supplemented annually, 1990-94.) An annotated formbook for civil practice in Virginia state courts of record.

Chapter 10, "Estate Planning," of EVERYWOMAN'S LEGAL GUIDE (Barbara A. Burnett, Ed., Doubleday, 1983). A sourcebook on legal rights for the lay reader.

Presentations

Speaker, "Estate Planning for the Baby Boomers: Will They Have Estates to Plan?" and "Recent Developments in Trusts and Estates Law" CLE Program, El Paso County (Colorado Springs), Colorado, Bar Association Probate Section, March 2009.

Panelist, What a Difference a Generation Makes: Estate Planning for Generations X, Y, and Beyond, Joint Fall CLE Progam, ABA Sections of Taxation and Real Property, Trust & Estate Law, San Francisco, California, September, 2008.

Speaker, "Estate Planning for the Baby Boomers: Will They Have Estates to Plan?" Estate Planning Council of the Emerald Coast, Destin, Florida, October, 2007, and Knoxville Estate Planning Council, January, 2008.

Speaker, Introduction to Estate Planning and Administration, Annual Meeting, National Bar Association, Orlando, Florida, August, 2005.

Speaker, "Something Old, Something New, Something Borrowed . . . Tennessee Adopts the Uniform Trust Code," Continuing Professional Education Seminar sponsored by Cavalry Banking, Murfreesboro, Tennessee, October, 2004.

Speaker, "Section 529 Plans: A Tax-wise Way of Providing for College Education?" Probate Section, El Paso County (Colorado Springs), Colorado, Bar Association, October, 2002.

Speaker, "Surviving Spouse's Elective Share: Where We've Been, Where We're Going," panel presentation on "Partners: The Institution Of Marriage" Association of American Law Schools Workshop on Defining the Family in the Millennium, Palm Springs, California, March, 2001.

Member of Faculty, American Law Institute-American Bar Association (ALI-ABA) Thirty-Fifth Annual Advanced Summer Program "Estate Planning in Depth," University of Wisconsin, Madison, Wisconsin, June, 1999.

Speaker, ALI-ABA Continuing Legal Education Program "1999 Annual Spring Estate Planning Practice Update," Satellite Broadcast from Washington D.C., May, 1999.

Speaker, Continuing Legal Education Programs on "Estate Practice Under the New Tennessee Probate Code," University of Tennessee College of Law, Knoxville, Tennessee, October and December, 1997.

Speaker, "Are My Old Will Forms Still Good?: Estate and Gift Tax Changes Under the Taxpayer Relief Act of 1997," Chattanooga Estate Planning Council, October, 1997.

Speaker, "Post-Mortem Tax Planning and Elections for Closely Held Business Interests," Program at the Spring Council and CLE Meeting, ABA Section of Real Property, Probate & Trust Law, Washington, D.C., May, 1997.

Speaker, "Planning for Intentionally Defective Grantor Trusts and Qualified Subchapter S Trusts," Fiduciary Income Tax Committee of ABA Section of Taxation, Annual Meeting, Orlando, FL, August, 1996.

Speaker, "Is It Safe to Cross the Street? A Discussion of *Estate of Street v. Commissioner* and Other Cases on the Charging of Administration Expenses Against Income," Fiduciary Income Tax Committee of ABA Section of Taxation, Spring Meeting, Washington, D.C., May, 1994.

Speaker, "Carryover Basis at Death," ABA Real Property, Probate & Trust Section Spring CLE Meeting, Nashville, Tennessee, May, 1992.

Speaker, "Joint and Mutual Wills in Property and Tax Law," UTK Centripetals Luncheon Series, March, 1986.

Speaker, "Recent Developments in Estate Planning" at the Tennessee Bar Association Continuing Legal Education Seminar on Estate Planning, Knoxville, May, 1985

Other Professional Activities

Academic Fellow, American College of Trust and Estate Counsel, 2005 to present; Member, Committees on Legal Education and Professional Responsibility, 2009 to present.

Member, Standing Committee on Membership, ABA Section of Real Property, Trust & Estate Law, 2008-present; Co-Chair, Task Force on Marketing Segmentation, 2009-present.

Editor(-in-chief), REAL PROPERTY, PROBATE & TRUST JOURNAL, 1997-2001; Associate Editor, 1989-97; Vice-Chair, Editorial Advisory Board, 2003-07, member, 2001-03. A nationally refereed journal published quarterly by the ABA.

Vice-Chair, Community Outreach Committee, ABA Section of Real Property, Probate & Trust Law, 2003-07. Committee charged with planning and administering free seminars in real estate law and estate planning and administration for minority lawyers interested in concentrating their practices in these fields.

Member, Tennessee Uniform Probate Code Study Commission, 1995-97. An advisory body created by the Tennessee General Assembly to counsel the legislature concerning adoption of the Uniform Probate Code. Our suggestions for amendment were introduced and considered by the 1997 session of the General Assembly; most passed.

Member, Pro Bono Committee, 2002-present; Committee on Continuing Legal Education, 1992-96, Knoxville Bar Association.

Member, Board of Directors, Knoxville Estate Planning Council, since 2001; member of Council since 1991; Vice-President and Program Chair, 2008-09; President, 2009-10.

Chair, 1991, and member, Executive Committee, 1987-92, Section on Law of Donative Transfers, Fiduciaries and Estate Planning, Association of American Law Schools.

Member, Knoxville Estate Study Group, since 1984. Principal Drafter, in 1988 (revised 1996), of will form and accompanying explanation included in a book of forms prepared by the Study Group for "Wills on Wheels," a project of the Volunteer Legal Assistance Program, Knoxville Legal Aid Society, to deliver estate planning services to the elderly of modest means. Members of Study Group take turns leading discussion at monthly meetings on topics of interest to sophisticated estate planners. This requires preparing a presentation of one-half to one hour's length approximately once a year.

Editor, "Keeping Current – Probate" column in 3 *Probate and Property,* 1989 (published bi-monthly by the ABA).

Vice-Chair, Committee on Tax Legislation and Regulations: Income Taxation of Trusts and Estates, ABA Section of

Real Property, Probate and Trust Law, 1988-95; and member since 1983. (In 1995, this Committee and two others were consolidated and the resulting entity was named the Committee on Post-Mortem Income Tax Problems. My Committee activities have included participating in the CLE presentation on post-mortem planning and elections for closely held businesses in May 1997; assessing the impact of a revenue ruling and a group of related cases dealing with the federal estate tax marital deduction upon related areas of the federal income taxation of estates and trusts; drafting a legislative proposal and accompanying report to amend I.R.C. §678 to conform it to I.R.C. §§2041(b)(2) and 2514(e), which was approved by the House of Delegates for submission to Congress in 1990; and drafting a report on I.R.C. §643(e), which is intended to reduce income tax avoidance through the use of multiple trusts.

Chair, Subcommittee on Grantor Trusts, Committee on Fiduciary Income Taxation, ABA Section of Taxation, 1995-97; chair, Subcommittee on Important Developments, 1991-95; and committee member since 1989. My principal responsibilities from 1991 to 1995 were reporting on developments at each committee meeting and drafting important developments annual reports referred to in Publications above. In 1996, as chair of the Subcommittee on Grantor Trusts, I worked on a panel discussion of, among other topics, the 1995 regulations concerning the effect of a grantor's obligation to support a beneficiary in grantor trusts that hold Subchapter S stock, presented at the committee meeting held during the ABA Annual Meeting in August, 1996.

Member, Committee on Federal Death Tax Problems of Estates and Trusts, ABA Section of Real Property, Probate and Trust Law, 1984-1993.

Member, Committee on Annual Meeting, Tennessee Lawyers' Association for Women, 1994-95.

Member, Committee on State Death Taxes, ABA Section of Real Property, Probate and Trust Law, 1977-79; prepared material on Virginia law included in a survey of state death taxes which appears at 14 REAL PROP., PROB. & TR. J. 277 (1979).

Service to the University of Tennessee

Service to the College of Law

Committee memberships

Dean Search Committee, 1986-87; 1991-92; 1997-98; 2007-08.
Chair, Search Committee, Associate Dean for Faculty Development, 2008-09.
Governance Committee, 1983-84; 1987-88; 1990-94; 1995-96; 1997-2000; 2004-05; 2008-09.
By-Laws Committee, 2008-10.
Admissions Committee, 2004-07.
Academic Standards and Curriculum Committee, Chair 2002-04; member, 1981-83; 1994-1998.
Teaching Improvement and Faculty Development Committee, Chair, l987-89 and 1998-2000; member 1994-95 and 2000-2001.
Readmissions Committee, Chair, 2000-02; member 1983-84.
Tenure Review Committees for Professors Jeffrey Hirsch, 2007-08; Gary Pulsinelli, 2006-07 (chair); Joan McLeod Heminway, 2004-05 (chair); Colleen Eck Medill, 2000-01 (chair); Don A. Leatherman, 1999-2000 (chair); Thomas A. Plank, 1998-99; Ndiva Kofele-Kale, 1988-89.
Promotion (to full professor) Review Committees for Professors Don A. Leatherman, 2003-04 (chair); Colleen Eck Medill, 2002-03; Gregory M. Stein, 1999-2000; Frances Lee Ansley, 1995-96 (chair), and Thomas D. Eisele, 1991-92.
Peer Review Committees for Professors Joseph H. King, 2003-04; Richard S. Wirtz, 2002-03; Patrick H. Hardin, 2000-01; Gregory M. Stein and Grayfred B. Gray, 1992-93.
Appointments Committee, 1982-85 (Chair, 1984-85); 1992-94 (Co-Chair, 1993-94); 1995-97.
Committee to Select Outstanding Teacher for Warner Award, Chair, 1994-96, 2003-06.
Planning Committee, 1988-89.

Clinic Advisory Committee, 1984-85; 1986-88.

Mentor to Professors Paula H. Schaefer, 2009-10; Iris Goodwin, 2005-09; Gary Pulsinelli, 2003-04; Becky L. Jacobs, 2002-03; George W. Kuney, 2001-02; Joan McLeod Heminway, 2000-2001; Carole McCrehan Parker, 1998-99; Colleen Eck Medill, 1997-98; Kelly K. Browne, 1996-97; Don A. Leatherman, 1994-97; Judy M. Cornett, 1995-97; Barbara J. Stark, 1994-95; Glenn H. Reynolds, 1991-93; Frances Lee Ansley, 1990-92; Thomas D. Eisele, 1985-89; and Ruth J. Hill, 1986-88.

Faculty Advisor, Volunteer Income Tax Assistance (VITA) Program, 1996-2002.
Faculty Advisor, Tennessee Law Women, 1992-2001.
Faculty Advisor, National Tax Moot Court Team, 1993-94.
Instructor in Case Analysis and Briefing, College of Law Introductory Period, 1988; 1990-94, 1998-2008.
Faculty Advisor, Tennessee Law Review, 1985-87.
Faculty Advisor, Moot Court Board, 1981-85.
Chair, College of Law Freshman Orientation Programs, August, 1983 and 1984.

Service at the University Level

Member, Program Review Team, Department of Finance, UT College of Business Administration, October, 2007.

Member, Teaching Council, 2005-07

Member, Executive Committee, University of Tennessee Chapter of American Association of University Professors, 2005-08.

Chair, Committee to Select the Recipients of the University of Tennessee National Alumni Association Outstanding Teacher Awards, 1997.

Chapter President, 1996-97, and Member, Executive Committee, University of Tennessee Chapter of Phi Kappa Phi, 1993-98.

Member, Chancellor's Planning and Budgeting Advisory Committee, 1995-96.

Internal Chair, Program Review Team, Department of Finance, UT College of Business Administration, February, 1995.

Chair, Evaluation Committee for Dr. James A. Crook, of UT- Knoxville Chancellor's Administrators' Review Program, 1993-95.

Mentor, Talented Minority Undergraduate Research Fellowship Program, summer, 1992.

Member, University Task Force (later, Advisory Committee) on Campus Police Department, 1990-92.

Member, University Faculty Senate, 1983-85, and 1990-93
Member, Executive Committee, 1984-86
Member, Committee on Committees, 1984-86; 1991-92
Member, Committee on Athletics, 1990-1992
Member, Library Committee, 1991-93

Member, University Research Council, 1985-88
Chair, Council Task Force on Relationships between UTK Faculty and External Organizations, 1986-88; member, 1988-89.

Member, Program Review Team, MBA Program, UT College of Business Administration, November, 1986.

Personal

home: 6916 Quail Drive, Knoxville, Tennessee 37919
865-584-5697
family: one child, Carlos Alberto Hess, age 29
hobbies: running, hiking, music, reading

9/09