

10 QUESTIONS

for

Rod Smolla

DEAN AND PROFESSOR OF LAW, WIDENER UNIVERSITY DELAWARE LAW SCHOOL

INTERVIEW BY JOHN E. SAVOTH

Dean Rod Smolla came to Widener University Delaware Law School in 2015 after a lengthy career in academia and private practice. Dean Smolla served as the dean of University of Richmond School of Law and Washington and Lee School of Law in Virginia and as president of Furman University in Greenville, S.C. He has presented oral arguments in state and federal courts across the country, including in front of the U.S. Supreme Court. He also is an accomplished writer, having authored and edited many books for general and legal audiences. Dean Smolla is a native of the Chicago area, graduated first in his class from Duke University School of Law and earned his undergraduate degree from Yale University.

JOHN E. SAVOTH: I'd like to first have you describe your educational background and your professional background before arriving here at Widener University Delaware Law School.

DEAN ROD SMOLLA: I grew up in Chicago. My dad was an air traffic controller. I was a first-generation college student – not just in my immediate family, but from my large, extended family.

Then I went on to law school. I had never met a lawyer in my life and I don't think I did until some event my first year. After law school I clerked for a federal judge in Mississippi – a Federal Court of Appeals judge.

I then came back to Chicago to start a practice and moved from there into academic life. I have been at many, many

different American law schools, large and small – city schools, state universities, public schools and private. While I was a law professor, I remained active as a litigator and I still argue cases today.

You're still practicing law to a certain extent and you're a first-amendment attorney and scholar. Do you have any cases that either you're involved in now or you've been involved in that would hold interest to the Philadelphia Bar Association membership?

I just finished filing an interesting friend-of-the-court brief in the Washington Redskins' trademark case with the very famous lawyer, Floyd Abrams. We argued that – even though we don't like the Redskins and don't like their trademark – their trademark is protected by the first amendment, and the government can't cancel it.

I am also representing the fraternity at the University of Virginia that was the victim of a false story in Rolling Stone magazine that it was the scene of a gang rape. Sometime next year I'll be arguing an appeal in Washington, D.C. in a libel case that's been going on for almost a decade that's about to go in front of the D.C. Court of Appeals.

With that varied background and all the experiences you've had professionally and personally, what drew you here?



I have always been a believer that it's important for law schools to take seriously the job of training students to actually practice law and to enter professional life.

I had been here before as a visiting scholar to give a lecture. I love this part of the country. The law students that tend to come to the Delaware Law School remind me of myself. Something like 70 percent of our law students come from families where no one's ever been a lawyer, and for many of them, it's also the first time anyone in their family has gone to college.

So, the opportunity to be part of a school that helps folks like them make great careers, accomplish great things – having never dreamed they would ever be able to go to law school – is really something I care deeply about.

Do you see any recognizable differences between Delaware Law School and the other schools where you've served as dean?

I have always been a believer that it's important for law schools to take seriously the job of training students to actually practice law and to enter professional life. Historically, law schools

have not put all that much emphasis on that. I like the fact that that's always been part of the value system of this law school, and that the faculty members, the alumni and supporters of the school are willing to double down and make that even more important. I think that this school is more committed to that than a lot of the schools where I've been.

One other thing I'll say is that Delaware Law School is in a grouping of schools that takes service to the community seriously. Our faculty members are involved, our students are involved and I believe in it. This place is not an ivory tower. We are out there trying to make an impact, and I think those are really distinctive characteristics.

What is your impression of the level of instruction at Delaware Law School? And do you see any areas where it's particularly strong?

Not only is the faculty terrific, but we've got some wonderful,

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impressive adjunct professors. We have past chancellors of the Philadelphia Bar Association. We have federal bankruptcy judges. We have Justice Randy Holland, Delaware Supreme Court, who is one of the revered figures in all of the judiciary across the United States. I was delighted when I got a sense of how strong the law faculty is and how dedicated they are. We have strength in a lot of areas.

There's been a lot of press on the state of legal education, particularly focused on schools that are confronted with a shrinking pool of applicants. What are your thoughts on that?

Well, there's certainly been a national trend over the last five years that really was triggered by the 2008 recession. The overall number of students is down

dramatically. The indicators say that has bottomed out, and that now it's beginning a slight uptick. But I doubt it will ever go to the high levels that were reached a decade ago. I think we may be in a national position of stability and maybe mild growth, but it's not going to be dramatic growth.

Now, the good news is that Delaware Law School is beating the market. We had a 25 percent increase in applications this year over last year, and although it's early in the season it is up again, even over last year. We're really hopeful that there's an excitement and a buzz that is coming to the school that will help this school grow stronger.

Even so, we're being conservative in our estimates and we're being very prudent. We've already cut a lot of costs, and we've had to learn to run on a leaner model. If we're able to

attract more students, we'll take those revenues and invest in education, and maybe lower the cost of tuition over time or give out more financial aid.

Another issue that has been talked about, really since the recession in 2008 and 2009, is the difficulty in securing post-graduation employment. How's the Delaware Law School addressing that?

We've done well and I think one of the interesting things is a lot of the realignment in the legal market occurred at the really elite level. The big law firms changed their business models successfully and are hiring fewer associates. Historically, Delaware law students have tended to go to smaller firms where they could gain practice experience quite quickly. They'd also go into government agencies, or



become public defenders or prosecutors. They have traditionally worked in parts of the legal market that have not downsized that much, so we've had great employment statistics.

Our message to the students, though, is that the employers are not going to come here to knock on the door. That's not the way it works. You've got to go out there. You need to be resilient, you need to show some hutzpah, you need to show people that you've got what it takes and that you've got grit. You'll need to be able to deal with people, prove that you've got business sense and know what it means to work. These are some qualities that a lot of legal employers are looking for. These are also qualities that a lot of our graduates possess.

I think one thing that we can probably do more of is engage our alumni. We have 11,000 graduates of the school. A large number of folks in the Philadelphia area went to this school, and they're willing to help create the structures and the opportunities for our graduates.

Let's talk about the alumni. We just had Judge Paul Panepinto, Philadelphia County Court of Common Pleas, an alumnus of the school, run for the Supreme Court of Pennsylvania, and recently we've had two Chancellors of the Philadelphia Bar Association – myself and Bill Fedullo – who are alumni of the school. Have you had a chance to interact with the alumni?

I have. I've interacted with a lot of our alumni and we're making connections, we're building momentum for the school, we're raising resources for the school, we're looking for ways to help our students get jobs and we're recruiting new students.

I look forward to a chance to do it more. I love to talk about legal issues, about what's going on in the Supreme Court and what's going on in the profession.

You're sitting for the Delaware State Bar Exam. What do you hope to accomplish with this endeavor?

I've been admitted in Illinois for almost 40 years and admitted in Virginia for more than 20 years, and I really want to push our students into a culture where they understand from the first day they get here that one of their first jobs is to make sure they're positioned to pass the exam.

I'd like every one of our students to pass the bar exam, and this sets an example for them. I'm going to go through the bar exam courses. I'm going to have to go through the grind of relearning things that I studied a long time ago in law school and haven't used since. It's largely a message to the students – we're all in this together and that I know what it takes, that I know what it's like.

Secondly, it's a signal to the practicing bar and the judges in Delaware that even though we're part of a region, the school exists in the state of Delaware, and I want us to be connected to the profession in this state. It is important for the dean to be

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What more could you tell a law student than as you go through your life as a lawyer, that if you ever have a dilemma, just ask yourself what would Atticus do?

a member of the bar and serve on committees and go to the bar meetings to maintain a connection with the profession.

The last reason is that I take my identity as a lawyer seriously – not just as a law professor and a dean. I think of myself as a member of the profession, and I want to have a law license where I live – where my professional address is located. That means something to me. Now, I might not be so cheery about it in May when I'm trying to re-remember the rule against perpetuity, but I'm excited.

If you could have our future lawyers at Delaware Law School read one book, what book would it be?

It's "To Kill a Mockingbird." We actually showed the movie here at the law school about three or four weeks ago and followed it with a student discussion.

First of all, it's a masterpiece. It's an American masterpiece, and it's powerful on so many levels. But to me, the portrait of

Atticus Finch, the man in that novel, not just as a lawyer, but as a dad is the most powerful. The reader gets a sense for how he balances his professional life and his love of his family, the way he treated everybody in the community – not just in the way he treated them as a lawyer, but the way he treated them as a human being. And then, his courage as an advocate.

What more could you tell a law student than, as you go through your life as a lawyer, that if you ever have a dilemma, just ask yourself what would Atticus do? Not a bad way to think about how you approach the life of a lawyer. So, even though it's almost a cliché because so many people would give this answer, I'm happy to give it. That's the one book I'd make sure they read. ■

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