



Faculty Lunches with the Dean (No. 9)

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I recently blogged about what Bob Joyce and Carl Stenberg shared during the most recent session of Faculty Lunches with the Dean. This post summarizes the information that was shared at that lunch by Ann Anderson.

Ann Anderson. Like Carl Stenberg, Ann talked about work she plans to do during her Faculty Development Assignment. Ann and Carl are part of our pilot for the new policy that is taking place from December 1 to May 31. We will evaluate the policy after the pilot and decide whether to continue it—with or without modification.





Ann Anderson

One of Michael Crowell's areas of work as a faculty member was something called *judicial authority*, which includes the inherent authority of judges to take certain actions. Ann offered to take responsibility for that work because it overlaps in some ways with her work on civil law, though in most ways it is a brand new field for her. Thank you to Ann for taking up this important work. The field of judicial authority is an area of law that requires first-rate legal analysis, and it also requires especially good judgment to fill in the many practical gaps left by existing court decisions. Ann is the perfect person for the job.

Ann is working now on the inherent authority of judges to impose sanctions against litigants and lawyers who appear before them. It will shock you to learn that judges occasionally feel the need for sanctions in the course of managing unruly litigation. In some areas there is explicit statutory authority to impose sanctions through specific rules of civil procedure, and there are many court decisions interpreting them. For example, Rule 11 authorizes a judge to sanction a lawyer who brings a completely frivolous lawsuit that he or she reasonably should have known was without merit from the outset.

There are other areas of misconduct where judges must rely on their inherent authority in imposing sanctions, which is trickier and can lead to mistakes. What authority does a judge have when a lawyer is repeatedly late for appearances? What about imposing sanctions when a lawyer abuses the pretrial discovery process—by behaving improperly during a deposition, for example, or by filing frivolous discovery motions? Does the law of contempt apply, and how does that body of law interact with the law governing a judge's inherent authority.



This is a big area of work, and it is easy to understand why judges and others might get confused. Ann has written pieces about this subject in the past, and now she hopes to pull it together in a more comprehensive way by this summer. I'm sure that the judges will be grateful for her work and find it helpful, and it seems like a very good use of her Faculty Development Assignment.