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## Foreword

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## Foreword

*John E. Murray, Jr.\**

The John and Liz Murray Awards for Legal Scholarship are designed to recognize intellectual engagements with legal theory that enhance legal doctrine and practice to meet the continuous changes in society. There are three awards including an award recognizing unique and invaluable scholarly contributions of an individual legal scholar. The choice of the first recipient of this award required precious little deliberation. Judge Richard A. Posner of the United States Court of Appeals for the Seventh Circuit was the obvious choice.

Judge Posner could have been chosen simply because of his status as the premier law and economics scholar in America. His insights, however, have penetrated the traditional boundaries of legal philosophy and law and literature as well as many other dimensions. While these invaluable resources will be long remembered, his most lasting contribution will be in the judicial opinions he has crafted that already grace the pages of law school texts in numbers far exceeding other judges.

Judge Posner insists on crafting every sentence of his opinions that are particularly valuable as pedagogical instruments. Because they manifest a judge who is constantly searching to understand sometimes nebulous legal doctrines and their applications, they enhance student empathy that invites a deeper intellectual engagement with the concept. Instead of claiming oracle status and stating conclusions in the form of doctrines as if they were unambiguous, Judge Posner expressly recognizes the challenges as he pursues the pragmatic necessity of discovering the preferable approach in deciding the case as fairly as possible. He is particularly candid in recognizing what is unknown about the applicable doctrine and the facts as well as what is known. He eschews jargon and focuses heavily on a basic understanding of the case that a reasonably enlightened layperson could enjoy in reading the opinion. At the same time, the insights provided in virtually any

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Posner opinion are among the more sophisticated analyses found in the total judicial product in any given year.

The characterization of Judge Posner's work product as "prolific" is woefully inadequate. It is not too early to characterize his work on the bench as the memorable product of a great judge. Nor is it too early to count his separate scholarship in books and articles as among the more important products of this era. The Posner product provided in this issue typifies his work. In the analysis of any concept or activity, he is particularly concerned with purpose—the purpose of a rule or principle of law as well as the purpose of an activity such as appellate judging. Here, he provides the sitting appellate judge as well as the aspiring appellate judge with an earnest and insightful understanding of the challenges of that role and his experience in meeting them. It is not difficult to predict the citation of this article in any future discussion of the work of an appellate judge.

During his visit, Judge Posner generously met with other judges, with Duquesne University law faculty and with a large audience of the bench and bar where he not only provided a summary of the ideas in the article appearing in this issue, but responded to numerous questions posed by that audience.<sup>1</sup> We are particularly grateful for the generous spirit he demonstrated during his visit as well as the splendid scholarship he again displays in this issue. This edition of the *Duquesne Law Review* provides Judge Posner's unique perceptions of the purposes and functions of judges and lawyers in appellate courts.

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1. Judge Posner visited Duquesne University on March 22, 2012, where he delivered an address entitled *Appellate Decision Making and Appellate Advocacy—One Judge's View*.