



**Mexico's
"Disposable Women"**
Two from the class of
'07 bring hope to
Ciudad Juarez



**Reinventing
the Practice**
Skip Herman '75
creates a new kind
of law firm



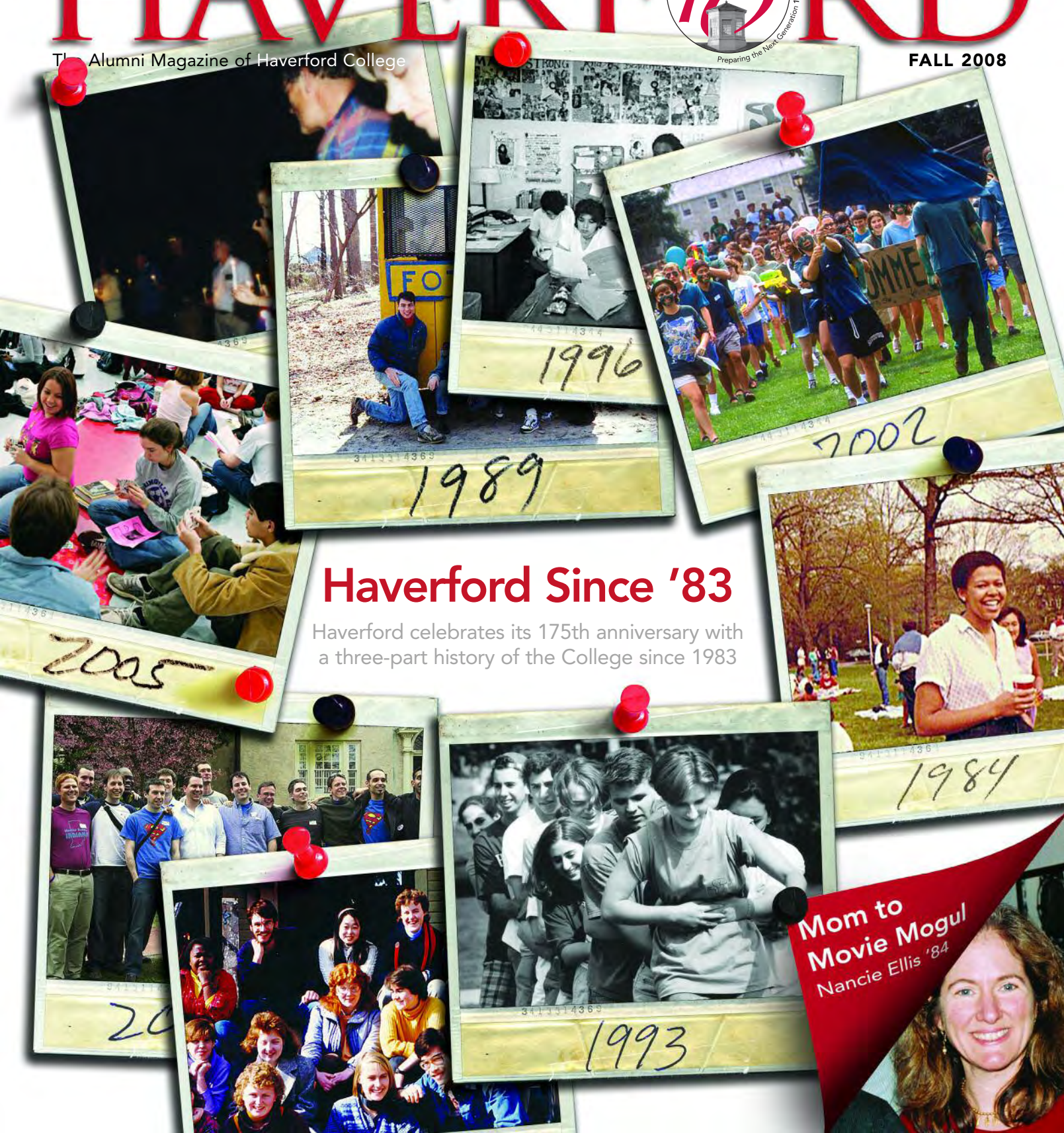
**Tell Her
Where it Hurts**
Prof. Wendy Sternberg
on the psychology of pain

H A V E R F O R D



The Alumni Magazine of Haverford College

FALL 2008



Haverford Since '83

Haverford celebrates its 175th anniversary with a three-part history of the College since 1983

**Mom to
Movie Mogul**
Nancie Ellis '84





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DEPARTMENTS

- 2 View from Founders
- 4 Letters
- 6 Main Lines
- 18 Commencement
- 20 Reviews
- 25 Ford Games
- 29 Faculty Profile
- 67 Giving
- 69 Notes from the Alumni Association
- 70 Reunion Weekend
- 74 Annual Giving
- 76 Faculty Friends
- 77 Class News
- 92 Roads Taken and Not Taken



48



55

FEATURES

33 From Mom to Movie Mogul

Nancie Ellis '84 played a key role in the production of the independent film *And Then Came Love*.

By Samantha Drake

40 New Order in the Court

Skip Herman '75 is helping to lead a revolution in the structure and operations of a law firm.

By Thomas W. Durso

48 Ending the Culture of Disposable Women

Two members of the class of '07 are bringing hope and opportunity to the women of Ciudad Juarez, Mexico.

By Brenna McBride

55 Haverford Since '83: Part One

Haverford celebrates its 175th anniversary with a three-part history of the College since 1983.

By Greg Kannerstein '63

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PETER FURLA

NEW ORDER IN THE

Skip Herman '75 is helping to lead a revolution in the structure and operations of a law firm.

By Thomas W. Durso

Herman shoots hoops in the Forum, a large, open area—with basketball court—his firm uses as a combination conference/prep room.



COURT

The old Cook County Courthouse, with its stately stone exterior and its mere six stories, is dwarfed by the muscular glass and steel skyscrapers that surround it just north of the Loop in downtown Chicago. Yet there is quiet pride in its presence along Honorary Clarence S. Darrow Way, and why not? For this building possesses legacy, and quite a bit of it, which is one big reason that Sidney N. Herman '75 chose to cofound his pioneering law firm here 15 years ago.

It was in this building that Darrow himself, defending the infamous murderers Leopold and Loeb, delivered one of the finest summations of his storied career, stemming an anti-Semitic groundswell calling for their execution. Carl Sandburg and Ben Hecht launched their writing careers in the courthouse pressroom; Barack Obama worked here briefly as a young lawyer. And eight members of baseball's Chicago White Sox were tried here on charges they conspired with gamblers to throw the 1919 World Series; just outside the courthouse doors is where a young fan implored Shoeless Joe Jackson, "Say it ain't so, Joe!"

Fifteen years ago Sidney N. "Skip" Herman '75 cofounded a law firm in a single large room that took up a quarter of one of the building's floors. Today Bartlit Beck Herman Palenchar & Scott occupies four stories of the old courthouse and is adding to the structure's legacy with a progressive approach rarely seen in the shark-infested waters that represent the practice of law in the United States.

An emphasis on winning cases instead of billing hours, a reliance on the power of the visual to persuade juries, an effective, pioneering use of technology, an unparalleled leveraging of physical space, and an atypically egalitarian organizational structure have helped establish Bartlit Beck as "one of the country's elite trial firms," according to one law publication.

"Our job is to take complex matters and make them simple," Skip Herman says. "That's really what we do. It's not learning all the laws. You're getting a trier of fact, which could be a judge, a jury, an arbitrator, and you're taking some complex set of events or patents or anything like that and trying to make them understandable. It's all designed to focus on that point, not how many depositions are we going to take."

After graduating from Haverford with his bachelor's degree, Herman proceeded to Northwestern University School of Law, where he earned a J.D., *cum laude*, and served as articles editor of the *Northwestern University Law Review*. He then went to work at Kirkland & Ellis, a large global firm, and worked his way up to equity partner in the litigation department.

Along the way, though, Herman and a handful of his colleagues found themselves at odds with that staple of firm financials, the billable hour.

"It drives all kinds of things within a firm," he says. "It drives how late people are at the office every day, often just for face time. It drives how much the client gets charged based on how long it takes you to do something, as opposed to how well you do it, which is a massive difference."

After a brief, unsuccessful attempt to implement a fixed-fee model at Kirkland & Ellis, Herman, four of his fellow partners, and 12 associates struck out on their own. They were giving up the security—and income—of working at a well-established firm, but by launching a fixed-fee firm, they were making a loud statement that handling and winning cases efficiently was better for all involved—for the firm, for its clients, and for a taxed judicial system where matters drag on seemingly without end.

New Order in the Court

“We decided we’d rather get paid on the basis of the results as opposed to how many hours we put in,” Herman says. “We thought, if we got things done more efficiently, we’d like to get paid more like any other business in America. You do something efficiently, you should be paid more than if you do it slowly. You shouldn’t get paid the same if you win as if you lose.”

The affable Herman is sitting in his corner office, the room where a Chicago grand jury indicted Leopold and Loeb in 1924. It is a bright, airy space with large windows that actually open. Herman is dressed casually, in black slacks, an olive henley, and a white t-shirt. Later he’ll knock off early to head uptown to Wrigley Field; the fact that the Black Sox were tried in his building tickles the lifelong Cubs fan to no end. That he and his wife Meg live a 15-minute walk away from the venerable ballpark is no accident, nor is his daughter Katy’s middle name, Banks, after the legendary Chicago shortstop Ernie Banks. Most of Herman’s remaining free time is spent at the Montana ranch he owns.

For now he is expounding passionately and eloquently on the innovative philosophies that have turned Bartlit Beck into a successful firm and a highly desirable place to work—20 percent of its attorneys are former U.S. Supreme Court clerks. But perhaps nothing captures the firm’s essence so well as a small ceramic magnet Herman keeps in his office. He has held on to the chip for 15 years, ever since the founding of the firm. On it are written four words:

“Thou Shalt Not Committee.”

Indeed, in some ways Bartlit Beck may be more noteworthy for what it lacks than what it possesses: No committees. No billable hours. No cutthroat competition among associates.

Instead there is innovation and initiative and equality.

Oh, and success. Lots of it.

“It has turned out to be extremely profitable,” Herman says of his firm’s approach, “because we’ve won. Our whole thing is that we should make more if we win, and we should make less if we lose. Well, we’ve been winning.”

Even aside from Herman’s interest in his building’s back story, the office’s innovative design is an important part of Bartlit Beck’s

operations. The firm has expanded from the quarter-floor it occupied at its founding and now has four stories in the courthouse. Exposed brick, high ceilings, and metal spiral staircases make visitors feel as if they’re strolling through an ad agency, not a law firm, and the collaborative feel the design imparts has had important benefits.

“The physical space has been very important to us and has actually, I think, brought us clients and made us better,” Herman says. “That first moment when clients walk in, they see there’s something different here. You have firms, some in

facing several whiteboards with the storyline of a current case scrawled on them.

Bartlit Beck attorneys meet clients and prospective clients in the reception area and walk them through the Forum on their way to their offices. That’s no accident, Herman says; Bartlit Beck has settled cases in this room.

“When you get in, you’re immediately in a place where you can look around and say, work gets done here,” he says. “It’s a forum, which means ‘exchange of ideas,’ which is the first thing a client sees. It’s not down a marble hall which intersects with



“Clients often don’t hear the other side of their case. We have them come to the mock trial, and we have one of our guys argue the other side. They hear things put in a way they’ve never heard before.”

Herman in front of the historic former Cook County Courthouse where his Chicago law firm is housed.

Philly, that are down and off the street; you have some nice row houses that have been turned into offices. But Chicago is not a lot like that. Most of it is all big high-rises. Right away, our building says something is going on, it’s different.”

The firm’s central physical feature is a large, open area called the Forum. A basketball hoop and net, attached to a Plexiglas backboard, hang at regulation height at one end of the room, and on the floor are painted free throw and three-point lines. A combination conference room and prep area, the Forum sits between two small offices occupied by the firm’s primary trial attorneys, so that associates are encouraged to pop in and chat about cases. On this day tables are shoved together in the center of the Forum,

a bunch of conference rooms and stuff.”

One floor up is an equally significant feature, a mock courtroom constructed using photographs from Darrow’s day. Bartlit Beck’s lawyers pass through the room regularly, a reminder that “everything you do should be related to whether you’re going to be able to get it into evidence in court,” Herman says. The firm uses the room to mock-try every case it takes to trial, going so far as seating a person, black robes and all, to serve as judge and hiring a jury to hear evidence and render a verdict.

“Clients often don’t hear the other side of their case,” Herman notes. “We have them come to the mock trial, and we have one of our guys argue the other side. They hear things put in a way they’ve never heard

before. It educates the client about what's going to be said about them, and they ought to know that in advance, both for publicity purposes and for their own case assessment purposes for settlement."

Clients aren't the only beneficiaries. The firm's younger attorneys get a chance to practice in conditions they're likely to encounter at trial, and potential witnesses can be assessed for their effectiveness.

"We do trials as somewhat like a play," Herman says. "You've got to script it, you've got to produce it, you've got to hire a cast. What's your story going to be? What are some of the props? Who's going to tell your story? Some people sell, some people don't. How are you going to present it, in what order? How is it going to flow? What are the different acts?"

A big part of Bartlit Beck's emphasis on trial litigation is its reliance on the power of visual information and cues to influence juries. Every lawyer who joins the firm is given a copy of Edward Tufte's *Envisioning Information*, an influential work about information design and the visual communication of information. Hanging on a wall at the firm is a copy of Charles Joseph Minard's graphical rendering of Napoleon's disastrous march on and retreat from Moscow in 1812, which depicts in astoundingly graspable ways the links among time, weather, and casualties during that campaign. Tufte himself called it "probably the best statistical graphic ever drawn."

"We spend a lot of time on demonstrations," Herman says. "A big part of our belief is that people take things individually, and what we do when we start a case is not a whole lot of legal research, but to put the entire case in a single visual. If you can show it in a graph, if you can show it in a chart, if you can show it in a picture that moves in front of a jury's eyes, they're going to take it in a lot better than if you speak. They may not follow you, but they will follow this."

Bartlit Beck's relatively modest size has fostered institutional agility, intellectual curiosity, and an egalitarian mindset, and the philosophies that Herman holds so close to his heart have meant success. None of it is coincidental. Herman credits Haverford's influence—its people and its Quaker heritage—as playing a "huge" role in the careful construction of Bartlit Beck

as a very different kind of law firm.

"The environment was exactly the same—collaboration and an exchange of ideas in a setting that's small enough to allow that to happen," he says. "The model I saw at Haverford of a small, cooperative, open society that freely exchanged ideas both on the matters in front of you and on matters in the world is what I tried to create here."

That approach to law, including the firm's innovative billing philosophy, has helped it recruit and retain the country's best associates—what Herman refers to as a "quality bump." With no hours to track and no committees to clog up matters, Bartlit Beck is a lean, efficient operation, with far fewer internal politics to pit its lawyers against each other. That is enormously appealing to newcomers, says Herman.

"We hire extremely few people, but once we do, we work with them to get them better and find their strengths and go with those, and they stay," he adds. "There is no competition between friends coming into a firm to see who's going to get that one slot. The pay is not dependent on what they bring in. You now have no hourly work, no internalism, no competition among your friends, and no competition for credit on client generation. It's all for one, and we're able to recruit very good people because we present that kind of model, as opposed to the one that most often is offered by the big-name firms."

Those attorneys have opportunities to shine that most firms simply cannot offer. Since it is not billing clients by the hour, Bartlit Beck has a strong incentive to keep costs down. That means using small, talented strike forces to win cases—not large, unwieldy teams to pad invoices.

"At our old firm, the incentive was to put as many people on the case as possible, because at the end of the year when you went in to get more money, more shares, your pitch was that you had employed all these people," Herman says. "That was really the only measure. It wasn't what you won. In fact, the more inexperienced lawyers took longer, which made you more money."

"Here, on a fixed fee, instead of having seven or eight people on a case, our incentive is to have as few experienced people as possible. When you have a SWAT team



Herman in the firm's heavily used mock courtroom.

of highly trained, smart lawyers, they beat the 10 guys that are just guys, that are just learning it...our young guys are almost always up against much more senior lawyers, and they're arguing the case. The people that are their age on the other side of the case are still carrying bags."

The firm offers other incentives to its associates as well: Intensive use of technology allows Bartlit Beck's lawyers to work from virtually anywhere, so they're not chained to the office; Herman himself keeps tabs on the firm each summer from the ranch he owns in Montana. Each associate is given an all-expenses-paid weekend—flight and lodging, with spouse—once a year. And the firm has built a fitness center that it strongly encourages everyone to use; the facility includes a full-time massage therapist and trainer.

Perhaps the greatest benefit Bartlit Beck can offer its attorneys and support staff is trust, another deeply ingrained trait from Herman's days at Haverford. He speaks fondly of the College's "honor system," in which professors trusted their students not because huge classes gave them no choice but because small classes fostered it. Herman has implemented a like mindset at his firm.

"It's very similar, and I'm very proud of that," he says. "We trust our people. It's not a place where people are monitored closely. We trust our guys, and we'd like them to learn that and to trust each other and act in a cooperative manner." 🐾

Thomas W. Durso is a Philadelphia-area freelance writer who has contributed to numerous higher education publications.