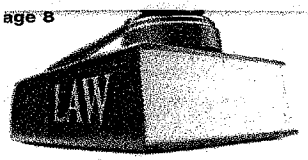

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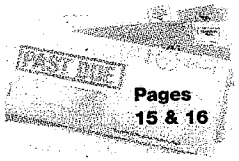

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Quote

"Ignorance is a blank sheet on which we may write; but error is a scribbled one from which we must first erase."

— CHARLES CALEB COLTON

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and commercial use has driven the increasing prevalence of legal contracts to protect and preserve ownership rights.

Take, for example, a laboratory mouse, with a carefully bred predisposition to Alzheimer's disease.

"Somebody wants to do research with the mouse. The owner of the mouse usually wants a piece of whatever research comes of it," said David Englert, spokesman for the Office of Technology Transfer at the University of Rochester's Medical Center.

Researchers closing in on a scientific discovery typically are more interested in their project than the legal agreements that protect it, he said. His office is hosting a free lecture today, "Giving Away the

School of Medicine and Dentistry."

"From a researcher's perspective, it's just a piece of paper that needs to be read and signed, that's standing in the way of the research," Englert said. "From the university's perspective and the government's perspective, the agreement could be putting restrictions on the research that we can't accept, and that the researchers themselves wouldn't want to accept if they understood what's going on."

Attorney J. Gibson Lanier, an associate at Ballard Spahr Andrews & Ingersoll LLP, will discuss the role of material transfer agreements and what can happen if hasty

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their [American Lawyer] 200 rankings," says Susan Hackett, the ACC's senior vice president and general counsel. "Those rankings are wonderful, but they basically suggest that success for a law firm is high profitability, big size and huge scope. ... What we want to do with this project is drive an understanding that what matters more than firm profitability and size is client satisfaction and value service. That is what the whole index is about."

For law firms, the overall effort to improve the relationship between in-house lawyers and outside attorneys is welcome. Several firm leaders have participated in brain-

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Legal rebels recognized by ABA

By ELIZABETH STULL
Daily Record Reporter

Rochester's own "legal technology evangelist," Nicole Black, was featured Tuesday as a "Legal Rebel" at ABAJournal.com, the Web site of the American Bar Association's flagship magazine.

Black, who writes a weekly column for *The Daily Record,* and boasts a large presence online, is identified on the site as the "Boss of Blogs." She is among 50 attorneys nationwide being profiled in the series by journalist Rachel M. Zahorsky.

Other featured "Legal Rebels" include fellow blogger Mike Dillon, general counsel to Sun Microsystems; Erica Moeser, president of the National Conference of Bar Examiners, who advocates for a single national bar exam and Evan R. Chesler, presiding partner at Cravath, Swaine & Moore LLP, who wrote an article for Forbes titled, "Kill the Billable Hour."

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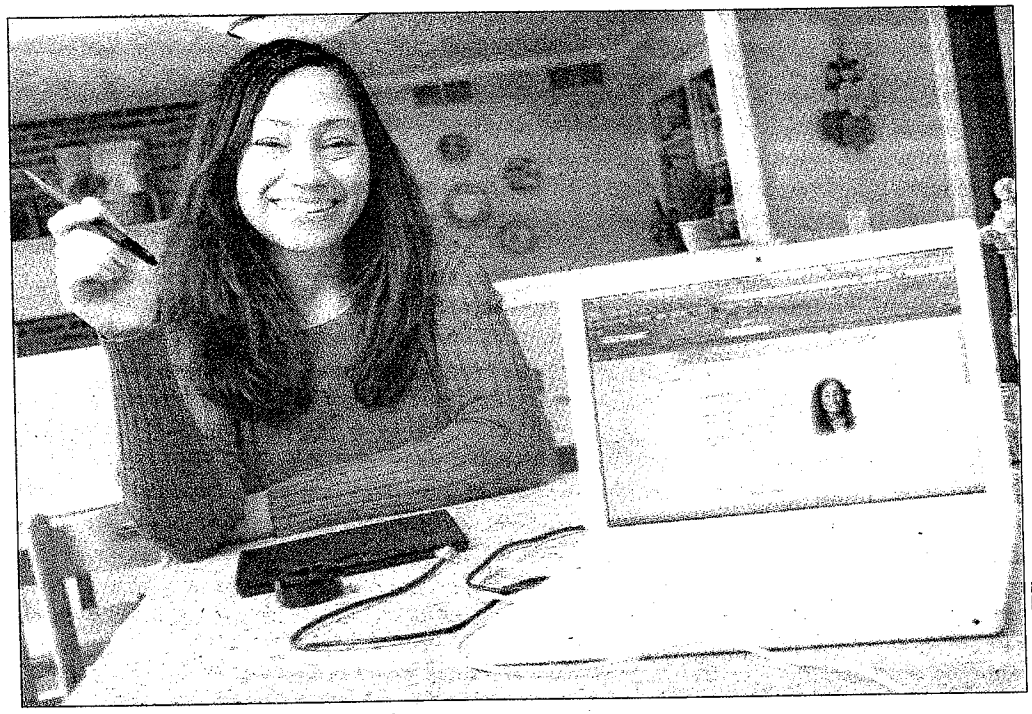

VASILY BAZIUK

Nicole Black at her Bushnell's Basin home.

Material transfers explained

TRANSFERS *from page 1*

researchers or inventors neglect to have an attorney or university office review the contract before signing.

Lanier

Misusing or improperly transferring materials can result in millions of dollars in liability, and can cost university researchers federal grant funding.

"It can really, really hurt," Lanier said.

Lanier told *The Daily Record* legal issues show up most often in the medical research area.

There are several dangers of signing material transfer agreements "willy-nilly," Lanier said.

The agreement is a contract that "sets forth the parameters in which the party receiving material can use it, and what the rights and duties are with respect to that transfer."

Third parties with permission or a license to use materials for research or development also may be liable under a material transfer agreement.

The specific terms of the agreement can be negotiated, and might be the subject of litigation. A paragraph stating any use coming from the material is owned by whoever transferred it, for example, effectively might mean the inventor no longer owns the invention.

Another type of objectionable contract clause might give the person or group receiving material a non-exclusive license to use the inventions, or set low royalties for their use.

"Patent owners do royalty audits to make sure they're receiving royalties," Lanier said.

Institutions such as the University of Rochester typically have a standard material transfer agreement that is modified for particular transfers, Lanier said.

The "outgoing agreement," drafted by the group that owns the material, tends to control the negotiations, he said.

Although big pharmaceutical companies bring big money to the table, Lanier said the bargaining power usually is "heavily balanced in the hands of those who have the reagent, and oftentimes universities are the ones that have the reagents" or research material.

Lanier's lecture is part of the University of Rochester's FIRE Lecture Series — For Inventors, Researchers and Entrepreneurs. It is free and open to the public, but pre-registration is required; call (585) 784-8856 or e-mail david_englert@urmc.rochester.edu to attend.

— *elizabeth.stull@nydailyrecord.com*

Nicole Black: 'Legal Rebel'

BLACK *from page 1*

Black acknowledged in an interview this week that practicing law is "not the vast majority of what I do right now."

She primarily is a writer working on a couple of books, and speaker about technology for law firms. But she defended her legal credentials against a recent online attack.

The Syracuse native moved west to attend the University of Rochester, where she earned a bachelor's degree in religion with a minor in psychology in 1992. Three years later she graduated from Albany College Union School of Law and returned to Rochester for a year-long internship with the Monroe County Public Defender's Office.

She said she was hired soon after arguing an appeal that successfully overturned a murder conviction in the matter of *People v. Sierra*, 231 AD2d 907, 647 NYS2d 891 (Fourth Dept. 1996).

Black entered private practice with the Rochester law firm Trevett, Cristo, Salzer & Andolina PC in 1999 and was a year away from making partner when she left to have her first child in 2002, she said.

Reluctant to return to law firm practice, she entered the blogosphere in November 2005 and set up shop as a contract attorney. Since then she has become of counsel to the Rochester law firm of Fiandach & Fiandach and co-authored (with Brighton Town Justice Karen Morris) Criminal Law in New York, a West Thomson treatise.

She maintains four active blogs and has had six speaking engagements in the past three months, according to information on her site, lawtechtalk.com. She started that site earlier this year as a technology consulting business for law firms, businesses and public relations professionals.

Black said her love affair with technology began long before law school, when she learned how to use the BASIC programming language in the early 1980s. Later she met her husband, a nurse at the University of Rochester, through an online chat room in the 1990s.

Now she is on a mission to unite the practice of law with 21st century technology — not only for herself, but for the legal profession, she said.

"It's going to have to happen because Gen Y is coming," Black said Tuesday.

The next generation of lawyers will demand a more flexible, client-centric practice, she said. "Technology can help them do that."

"Every lawyer has a job to exercise due diligence before taking on new technology — but keeping what they have and not [updating] it is not due diligence," Black said.

She encouraged practitioners to read her new book on social media, published by the ABA, as well as online blogs and legal conferences.

Although there are few books on the subject of legal technology, Black cited several online resources for interested attorneys.

In addition to her own blog at http://21stcenturylaw.wordpress.com/, she recommended several Web sites for attorneys ready to update their technology skills, including the ABA's Legal Technology Center, http://www.abanet.org/tech/ltrc/fyidocs/saas.html; Internet Cases, http://blog.internetcases.com/; This Week in Law Podcast, http://twit.tv/twil and Law.com's legal tech articles: http://www.law.com/jsp/legaltechnology/index.jsp.

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