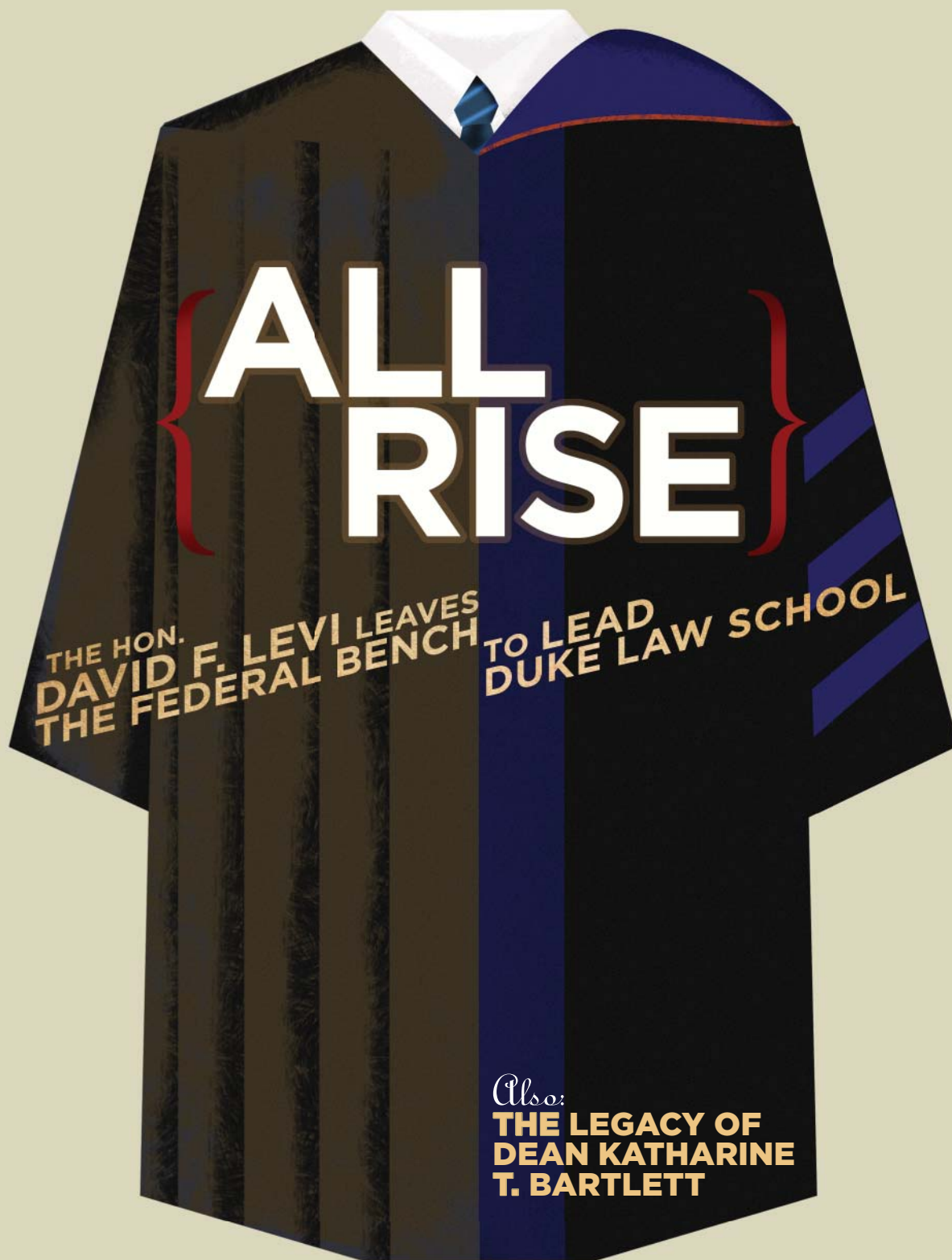


# DUKE LAW MAGAZINE

Spring 2007 | Volume 25 Number 1



THE HON. DAVID F. LEVI LEAVES THE FEDERAL BENCH TO LEAD DUKE LAW SCHOOL

Also:  
THE LEGACY OF  
DEAN KATHARINE  
T. BARTLETT

# From the Dean

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## Dear Alumni and Friends,

This is the last official dean's letter I write for the *Duke Law Magazine*. Like so many things I am doing for the last time as dean, it is with mixed feelings that I say farewell, and thank the many members of the Duke family who have supported the School, and me, through this past seven-and-a-half years.

I look forward, after a year's sabbatical in New York with my husband, Chris Schroeder, to re-starting life as a teacher and scholar at Duke. In this new chapter of my life, I will be much enriched by the many friends I have made as dean and by the insights I have gained into organizational behavior and culture. I also look forward to more time to write, garden, and become involved in various pro bono activities in the profession and in my local community.

On the other hand, I know that I will miss the privileges of this position – representing a great institution, making decisions that sometimes make a difference to its quality, meeting extraordinary people, and getting credit for the successes of others.

Most of all, perhaps, I will miss the sense of self-growth that comes from being stretched beyond my comfort zone. This period has had much of the exhilaration for me that I experienced as a first-year law student, completely blown away by the brilliant minds I encountered and the challenges of a new form of analytical thinking. Every personnel crisis or system collapse in this deanship was, for me, an opportunity to grow in judgment, confidence, respect and admiration for others, and humility.

I believe that Duke Law School is in a good place. We have been made stronger by the many new faculty and staff we have hired over this period, the clinics we have opened, the interdisciplinary centers and programs we have established, the new professorships and scholarships we have created, and the facilities we have built and renovated – all of these accomplishments the result of committed faculty, alumni, staff, and students.

The School is certainly in good hands. Judge David Levi was drawn to Duke Law School because of its unique ability to offer a legal education as rigorous as that of any other law school, yet within a sup-



portive community designed to build teamwork, self-knowledge, ethical reflection, and other skills essential to building lawyers who are responsible leaders and problem-solvers. He brings tremendous talents and ambition to help move Duke to the next level. He recognizes excellence. He is committed to both the academic enterprise and the need for the legal academy to connect with the profession. He understands people, and he is capable of communicating Duke's quality to all of its various constituencies.

One of the things we try to teach our students about leadership is how to trust others and let go. Letting go will not be easy for me. I have come to love and identify with this Law School in more ways than I can possibly enumerate. But the time is right, for me and for the Law School, for new leadership. Thank you all for this great opportunity, for all of your support over the years, and for helping Dean Levi to make this place even better in the years ahead.

Sincerely,

*Kate*

Katharine T. Bartlett  
Dean and A. Kenneth Pye Professor of Law

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# News Briefs

## Program in Public Law

### Presidential signing statements: White House veterans look at quality, not quantity

**T**HE PROGRAM IN PUBLIC LAW held a lunchtime panel discussion on presidential signing statements Aug. 21, featuring Professor Eric Posner of the University of Chicago Law School, Professor Trevor Morrison of Cornell Law School, and Duke's Douglas B. Maggs Professor of Law Walter Dellinger.

Moderator Curtis Bradley, Richard and Marcy Horvitz Professor of Law, opened the event by outlining the history of and recent controversy surrounding signing statements, which presidents have long issued when they sign bills into law. While often simple statements of political rhetoric, signing statements also are used to assert presidential positions or concerns about the meaning or constitutionality of the legislation being signed, in order to guide executive branch action or to influence courts in the event of future statutory challenges, Bradley explained.

A statement President Bush issued in December 2005 upon signing the Detainee Treatment Act attracted opposition with its declaration that that he would construe the Act's prohibition on the maltreatment of prisoners "in a manner consistent with the constitutional authority of the president to supervise the unitary executive branch as commander in chief," Bradley said. "Some people construe that statement as suggesting that the president was reserving some right not to comply with [the statute's] prohibition on cruel treatment, at least in certain circumstances." An April 2006 article in *The Boston Globe* fueled the controversy with its claim that since he took office, the president had "quietly claimed the authority to disregard more than 750 laws." Since then, the American Bar Association has released a task force report critical of signing statements, and the Senate Judiciary Committee has held hearings on the subject.

All veterans of the White House Office of Legal Counsel (OLC), the panelists agreed that issuing signing statements, even with great frequency, is a sound institutional practice. "It's a substantive question, not a question about numbers or quantity," said Posner. "You actually have to do the hard work of reading the signing statements, the OLC memoranda, his speeches and those of his

**"It's a substantive question, not a question about numbers or quantity. You actually have to do the hard work of reading the signing statements, the OLC memoranda, his speeches and those of his predecessors, to try to figure out whether his views of the Constitution are right or not."**

Professor Eric Posner

predecessors, to try to figure out whether his views of the Constitution are right or not." While all modern presidents have asserted strong views about presidential powers in their statements, "the underlying assumption in the media debate and elsewhere is that Bush has taken extreme positions on executive powers compared to earlier presidents," he said.

Morrison said that while presidents commonly assert executive prerogatives in areas where Congress has not acted, the current administration is distinguished by its "willingness to go the additional step and suggest that legislative restrictions on the way the president might exercise certain of his authorities are simply invalid." It did this, he said, with the OLC's original memorandum

on the use of torture, which suggested that a categorical statutory ban on torture and other aggressive interrogation practices would be unconstitutional if it prohibited the president from directing their use in his capacity as commander in chief.

Dellinger, who headed the OLC under President Clinton and whose memoranda relating to signing statements and the president's authority to interpret the Constitution are widely cited in the current debate, said presidents have clear authority to decline to execute statutes that, in the president's view, are unconstitutional. However, he said that the current administration has gone "profoundly wrong" by asserting, in some signing statements, a presidential authority to refuse to comply with acts of Congress that are clearly constitutional in their constraints.

"They have done so by conflating a phrase, 'inherent authority of the president,' which has two different meanings in two different settings," said Dellinger. The president has "sweeping" authority to act when Congress has been silent and there is no legislation restricting the president's abilities, he argued, but the administration is wrong in asserting, through its torture memo and other statements, that Congress can't place restrictions on presidential powers in areas where it has legislated. "Once Congress has acted under one of its legitimate heads of authority, like the authority to regulate the Army, to make rules and regulations regarding the conduct of military forces – that, to me, is presumptively a constitutional constraint on the president, unless it runs afoul of one of the technical powers of the president, like the appointment authority," said Dellinger. ♪



“Practical Politics and the Law” Lecture Series

## Dean Kenneth Starr '73 lauds new chief justice

**S**PEAKING AT DUKE LAW SCHOOL on Oct. 2 as part of the student-organized Practical Politics in the Law series, Kenneth W. Starr '73, dean of Pepperdine University School of Law, praised John Roberts' record of building consensus on the United States Supreme Court during his first year as chief justice. Roberts' leadership helped “nine very independent justices” reach unanimous decisions in more than 50 percent of cases heard during the 2005 term, Starr noted, including cases dealing with such controversial topics as abortion, religion in the public square, and military recruiting at law schools.

A former member of the D.C. Circuit Court of Appeals, former United States solicitor general, and frequent Supreme Court advocate himself, Starr noted the “virtually unparalleled” depth of Chief Justice Roberts' experience before the court he now leads, based on his having argued before the Court 39 times, both on behalf of the government and private clients. As important, Starr said, is the chief justice's view, first articulated during his confirmation hearings, “that the Court is doing its best when it tries to achieve the narrowest possible result in a case, and thereby achieve as much harmony and concord and agreement on the Court as possible.”

The chief justice demonstrated commitment to this philosophy, Starr said, when he joined Justice Breyer's opinion in *Randall v. Sorrell*, a 6–3 decision which struck down the contribution and spending limits in Vermont's campaign finance law as unduly intrusive on the freedoms of speech and association. “Here was Chief Justice Roberts embracing *Buckley v. Valeo*, the fountainhead 1976 opinion, and he did so on the basis of stare decisis, [saying] ‘It has been the law and I am going to be respectful of the law.’”

“Can we have greater unanimity and less antipathy and thereby promote public confidence in the Supreme Court of the United States? Whether you agree or disagree with a particular opinion, we now have with us a sophomore, John Glover Roberts Jr., who has already ... accomplished that which people didn't think could be accomplished,” Starr said. ♪

### Blue Fund founder discusses trends in progressive investing

**T**HE SERIES CONTINUED Nov. 13 when Daniel Adamson, co-founder and chief executive officer of “The Blue Fund” spoke about new trends in progressive investing.

“Socially responsible” investment funds screen companies for their records in such areas as environmental sustainability, community participation, and respect for human rights, Adamson explained. Having steadily gained in popularity since their emergence in the early 1970s, these funds now manage more than \$2.29 trillion in assets, he said, adding that this trend is likely to continue.

“CEOs say that ‘sustainability’ is increasingly a key to profitability. [Sustainability] is not only important for them in promoting the company as a brand, but in terms of shareholder value.”

While traditional screens look at past corporate behavior to determine a company's social responsibility, they generally don't screen for the company's demonstration of a “sincere commitment to progressive values,” Adamson said, noting that corporate America contributes vast sums to the Republican party. “As an investor ... I could direct my personal dollars to a mutual fund that might have an environmental mandate, but the companies within that fund might be turning around and supporting, with tens of millions of dollars, a political party that, in my view, was working to undermine environmental standards. Given the scope and scale of corporate participation in American politics, directing dollars to companies that in turn direct them to a party that works against your goals is significant.”

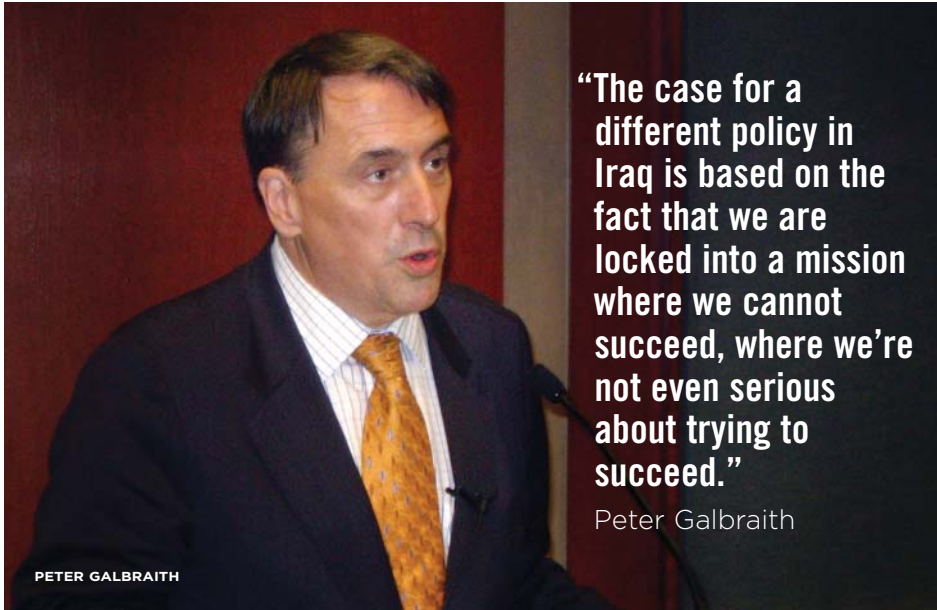
The Blue Fund screens companies for their corporate political contributions, as well as those of their principals. Adamson cites this evidence of the Fund's “sincere commitment” to progressive values.

The Practical Politics and the Law series offers students insight into the political process from bipartisan perspectives. The series is co-sponsored by the Program in Public Law and *Duke Journal of Constitutional Law and Public Policy*. Duke Law Democrats joined in sponsorship of Adamson's talk. ♪



KENNETH STARR '73

## Galbraith suggests alternative course in Iraq



PETER GALBRAITH

**“The case for a different policy in Iraq is based on the fact that we are locked into a mission where we cannot succeed, where we’re not even serious about trying to succeed.”**

Peter Galbraith

**T**HE STATED U.S. MISSION in Iraq – to achieve a unified and democratic country – is totally untenable according to Peter Galbraith, author of *The End of Iraq: How American Incompetence Created a War Without End*. Galbraith, one of the first Americans to expose Saddam Hussein’s deliberate use of chemical weapons against the Iraqi Kurds in the 1980s, shared his thoughts about the state of Iraq and the U.S. mission there when he spoke at the Law School on Oct. 18, as a guest of the Program in Public Law.

More than three years after the U.S. invasion, Iraq has disintegrated, said Galbraith, the former U.S. ambassador to Croatia. Kurdistan, in the north, “is in all regards an independent state, except in international recognition,” he said. He called the predominantly Sunni center of the country a battleground between the Sunni insurgents, the coalition forces led by the United States,

and an Iraqi army that is “really a Shiite force of soldiers” that sometimes act as “death squads,” targeting Sunni insurgents and civilians alike. Baghdad is the front line of a civil war, he said, with Sunnis loyal to al Qaeda and its imitators controlling the western part of the city, and the Mahdi army, the militia loyal to the radical Shiite cleric Moqtada al-Saadr, controlling the west. Shiite religious parties also control the oil-rich southern part of the country, operating in “little fiefdoms” and maintaining strong ties to Iran, which is the primary victor of the U.S. invasion, according to Galbraith. “While there was no Tehran-Baghdad axis in 2002, there is [now] a very close one.”

To unify Iraq, the United States would have to both dismantle the “Shiite theocracies” in the south – in effect “taking on as enemies” 60 percent of Iraq’s population – and end the civil war.

The U.S.-brokered constitution, adopted by

Shiites, Sunnis, and Kurds, effectively facilitates the break-up of the country, Galbraith charged. “It creates a powerless central government and very strong regions.” The central government’s limited exclusive powers do not include power over oil or other natural resources, or taxation power. And where powers are shared, regional law prevails, he said.

“The case for a different policy in Iraq is based on the fact that we are locked into a mission where we cannot succeed, where we’re not even serious about trying to succeed,” said Galbraith, calling for immediate withdrawal of coalition forces from the south and from the capital. “If we’re not going to promote democracy, disband militias or counter Iranian influence, why are we there? If we’re not going to stop the civil war [in Baghdad], why should we be there?”

Galbraith suggested encouraging Sunnis to form their own region, with their own army, in the hope that such an army might be able to provide security and bolster the command of moderate elements. While there is no guarantee that a Sunni army would be prepared to “take on” al Qaeda, the current strategy is not working and an alternative is justified, said Galbraith.

The United States should maintain an “over-the-horizon” force in the region, based in Kurdistan, where it remains popular, allowing it to move into the Sunni areas if needed to disrupt al Qaeda or attack al Qaeda bases, he said.

“This alternative strategy does not produce an ideal solution, [but] it will get the United States out of most of Iraq and out of the fighting.” That is essential, said Galbraith, in order to allow the United States to address growing threats to its national security posed by North Korea and Iran. ♣

An advertisement for the International Reunion in Munich, 2008. It features a photograph of the two towers of the Munich City Hall (Rathaus) against a blue sky. The text is overlaid on a blue background.

### INTERNATIONAL REUNION MUNICH • 2008

The international reunion originally scheduled for June 14-17, 2007, in Munich, has been postponed until the summer of 2008. We will keep you posted with details.

“The Information Ecology” Lecture Series

## Champagne, Feta, and Bourbon: The spirited debate about geographical indications

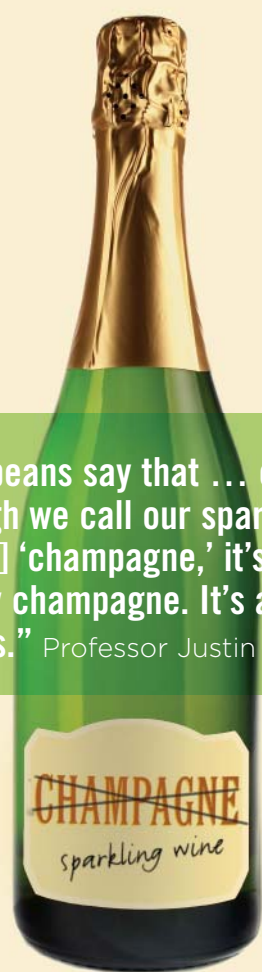
PROFESSOR JUSTIN HUGHES of Cardozo School of Law reviewed an international battle over words when he spoke as part of The Information Ecology lecture series on Oct. 23. The words in question are “geographical indications” (GIs), a specific kind of intellectual property recognized under the Agreement on Trade Related Aspects of Intellectual Property Rights (the TRIPS agreement), which identify goods – generally foods and spirits – as having unique qualities with their source in the soil, land, or territory of a specific region. On its face, said Hughes, GI protection in the TRIPS Agreement forbids the use of a GI in any way that misleads the public as to the geographic origin of the good.

“Europeans say that ... even though we call our sparkling [wine] ‘champagne,’ it’s not really champagne,” Hughes explained. “[They say] there’s something special about their champagne that exudes a nexus between the land and the product – the idea that there is some characteristic of the good that is essentially attributable to its place of origin.” In the recent “Doha round” of negotiations on TRIPS, the European Union sought to “re-propertize” champagne and approximately 40 other words that Americans have come to think of as generic.

While European countries use a labeling and registration system specific to GIs, they are protected domestically under trademark law through certification or collective marks; anything that qualifies as a GI can receive certification protection in the United States, as can a broader range of goods. “We don’t require a nexus between quality and lands, or say that [the product] has a unique quality reputation that is essentially attributable to the geographic origin.” Hence, “Parmigiano Reggiano” is protected as a trademark in the United States – it is a GI – but “parmesan” is generic, to the dismay of the Europeans.

“I thought for many years that this would be a trade deal, but it’s not – it’s about words. They want ‘parmesan’ back, and Kraft won’t give it up,” said Hughes, who also noted the American use of words to create an evocative appeal for a product, such as “French bread,” regardless of its geographic origin. Nor is the “word grab” particularly necessary, he argued, holding up a tin of Colombian coffee, one of the most successful GIs to emerge from the developing world in recent decades. “Until recently, the EU would not allow Colombia or others to register in the GI system, so it [achieved success] solely under the weaker certification laws of the United States.

“I am very concerned about the [Europeans’] ‘clawback’ list,” said Hughes. “The EU theorizes that if Kraft stopped making parmesan cheese, everyone would purchase the ‘real’ parmesan. The result is a substantial cost to the producer, confusion to the consumer, and no calculus as to loss.” ♪



“Europeans say that ... even though we call our sparkling [wine] ‘champagne,’ it’s not really champagne. It’s about words.” Professor Justin Hughes



### Bernstein Memorial Lecture in International and Comparative Law

## Dean Zhu Suli: China will take a unique path towards judicial independence

**Z**HU SULI, dean of Peking University School of Law, delivered the fifth annual Herbert L. Bernstein Memorial Lecture in International and Comparative Law on Nov. 2, addressing the issue of judicial independence in the Chinese context. Zhu argued that while the Western model of judicial independence advocated by many Chinese and foreign legal scholars is a laudable goal, it is unrealistic and even inappropriate for China at this point, given the country's unique development as a "party-state."

In most Western countries, Zhu said, the judiciary, legal profession, and other professions were developed prior to the establishment of political parties. On that basis, they had "sufficient political prestige, professionalism, and skill" to repel party influence and pressures.

By contrast, the history of modern China began with the establishment of two grass roots political parties, the

Nationalist Party – the Kuomintang – and the Chinese Communist Party (CCP) in the 1920s, said Zhu. "The state and the government of modern China, and all its institutions, including the military, judiciary, civil service, and ... professions came after the political parties," he said. When the CCP took power in 1949, there were no professionals "and very few educated people" in its ranks, unlike the Soviet regime which assumed leadership over highly educated legal, bureaucratic, and military professionals.

The first generation of professionals, both in the Republic of China and the People's Republic of China, were loyal party members or military officers under the leadership of their parties, said Zhu. "Within such a party-state, the political party's influence is natural in all sorts of professions and in all branches of government – and also in the judiciary," he observed, noting that approximately 90

percent of China's judges are CCP members, down from 100 percent 10 years ago. He cautioned, however, against viewing the contemporary CCP and its members in "simplistic terms," saying its members now are diverse in background, levels of education, and political ideologies.

While noting that China's path will differ from that of Western countries, Zhu expressed confidence that an independent judiciary will evolve as part of its ongoing social transformation and the high demand for further reforms. He called on legal scholars to study the development of the legal profession and the judiciary in China and to help develop a plan to assist the move toward independence, using the Western model only as a tool to "measure China's shortcomings."

"China's experience has great potential to develop an alternative theoretical framework for studying the evolution of the legal profession and independent judiciary in many other developing countries," said Zhu. He noted that many developing countries are similar to China in their lack of a modern state, modern government, and legal and other professions. "China's experience may provide a better perspective and a more convincing explanation of the performance of the judiciary in these countries [as well as] practical answers to the problems of judicial independence that so many people criticize in developing countries."

The annual Bernstein Memorial Lecture celebrates the life of the late Professor Herbert L. Bernstein, a long-time faculty member and scholar of contract law and comparative and private international law, who died in 2001. It is sponsored by alumni, faculty, and friends of Duke Law School, and by the Center for International and Comparative Law. ♡



Photo: Mark Dolejs



## Rabbi Seymour Siegel Memorial Lecture in Ethics

# Informed consent has failed, Schneider argues

**C**ARL SCHNEIDER, Chauncy Stillman Professor for Ethics, Morality, and the Practice of Law and a professor of internal medicine at the University of Michigan, delivered the sixth annual Rabbi Seymour Siegel Memorial Lecture in Ethics on Nov. 14, arguing that the doctrine of informed consent – the dominant doctrine related to medicine – is a failure.

“Informed consent does not and cannot put patients in a situation in which they can make informed medical decisions for themselves,” said Schneider, referring to numerous studies supporting his position. “Informed consent has consistently failed in achieving the purpose for which it was introduced, and it is doomed always to fail, no matter what we do.”

Doctors and patients are “begrudging teachers and learners at best,” said Schneider. Physicians know they can strongly influence the choices their patients make by the way they frame the alternatives, and they find it hard to “bring patients up to speed” on treatment options in simple, clear language. For their part, he said, patients may request detailed information about their conditions and treatments, but don’t – or can’t – fully assimilate the information (and irrelevancies) presented to them. In many cases, the sheer volume of information overwhelms patients, as is the case, he said, with the informational requirements of many independent review boards (IRBs) for enrolling patients in clinical studies.

“IRBs are increasingly insisting on extensive disclosure of every conceivable risk. We are giving patients 25-page documents. [Patients] don’t even take the task on.” A better approach, he suggested, might be for IRBs to simply disallow or closely monitor obviously dangerous research, “and then free up the rest of the

research from the obligation of having patients read 25-page documents that you know they won’t.”

Schneider said that relatively low literacy and numeracy rates among patients also pose a significant barrier to achieving true informed consent, as does inadequate time allotted for doctor-patient visits and hospital rounds.

Mandatory disclosure “never seems to work the way it’s supposed to,” said Schneider, pointing to its common use in securities trading, truth in lending, and reading criminal suspects their *Miranda* rights, and to its apparent failure with consumers. “If you look at the extent to which consumers go out and try to acquire information about the decisions they are making, like retirement planning, you discover that people, in very large numbers, do not take the most basic steps and do not know the most basic things.”

In interviews, patients have consistently requested, above all, competent and caring doctors. “They say, ‘I want a doctor who cares whether I live or die.’ Far too often, patients feel that they get neither,” he said. “The patient does not think that because she is asked to sign one more form, her human dignity is better off. On the contrary, if anything, it seems to me that informed consent is so easily satisfied by having the doctor hand the patient a form that it reduces the essential respect for human dignity that we ought to be interested in.

“When we think about how to use our reformist energies – the energies of law and the energies of ethics – when we think about what might most promote human autonomy and human dignity, I think that it’s time for us to abandon more and more attempts to tweak informed consent and begin to think

**“I think that it’s time for us to abandon more and more attempts to tweak informed consent and begin to think much more basically about what we need to do to make the relations between doctors and patients work better...”**

Carl Schneider



much more basically about what we need to do to make the relations between doctors and patients work better, and to make the way that patients are treated by managed care organizations and by hospitals more successful and more decent.

“Patients need more than one kind of education,” Schneider said in closing. “More urgently than they need information to make a decision, they need information about how to care for themselves successfully. If education is as difficult as I’ve been supposing, we’re going to have to pick our battles.”

The annual Siegel Lecture is sponsored by labor lawyer and Senior Lecturing Fellow Allen Siegel ’60 to honor the memory of his brother, Rabbi Seymour Siegel, a noted scholar of ethics and theology, who died in 1988. ♣

### Center for International and Comparative Law

# Volcker and colleagues discuss investigation of U.N.'s Oil-for-Food Program

DUKE'S CENTER on International and Comparative Law kicked off a series of inaugural events on Oct. 27 with an examination of corruption and mismanagement in the U.N.'s Oil-for-Food Program. Former Federal Reserve Chairman Paul Volcker, who chaired the Independent Inquiry Committee (IIC) that investigated the Program, was joined on the panel by Mark Califano '88, who served as chief legal counsel to the Committee (see profile, page 50), and Jeffrey Meyer, the Committee's senior legal counsel. Califano and Meyer are co-authors of *Good Intentions Corrupted: The Oil-for-Food Scandal and the Threat to the U.N.*

Launched in 1996 to help alleviate the humanitarian crisis among Iraqi civilians that resulted from economic sanctions levied against Iraq after its 1990 invasion of Kuwait, the Oil-for-Food Program represented a "substantial administrative challenge for any organization," said Volcker. The Program oversaw more than \$110 billion worth of oil and humanitarian transactions by 2003, when the government of Saddam Hussein fell; approximately 3,500 private suppliers of

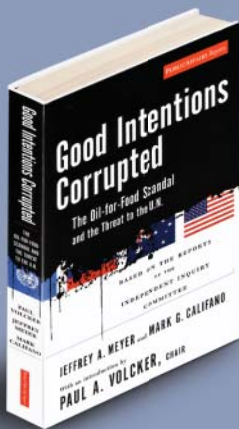


MARK CALIFANO '88, PAUL VOLCKER, JEFFREY MEYER

humanitarian aid were involved. Within Iraq alone, nine different U.N. agencies oversaw transactions and distributed aid. Volcker's 18-month investigation revealed "grievous weaknesses" in the administrative and political capacities of the United Nations, he said, including "failures ranging from at least a limited amount of outright corruption to simple areas of inability to insert administrative discipline."

Iraq manipulated the Program politically from its start, said Meyer, by awarding oil

contracts to companies from Russia, France, and China – Security Council member countries sympathetic to lifting sanctions. In the fall of 2000, Iraq started demanding an illicit surcharge from oil contractors of 10 to 30 cents per barrel of oil, he added. These were typically funneled through shell-companies to Iraqi nominee accounts in Jordan or Lebanon, though investigators also uncovered more than \$52 million in cash payments made by Russian companies directly to the Iraqi embassy in Moscow.



## Good Intentions Corrupted

MARK CALIFANO '88 jokes that the process of condensing 2,500 pages of detailed, well referenced IIC reports into manageable book form was "the perfect way to wind down" from the intense investigation. "Besides, nobody in the public realm would read our reports, and that was a shame. There was a lot to be known about how the U.N. operated and about foreign commerce that wasn't getting out there."

*Good Intentions Corrupted* is a not-for-profit venture for Califano and his co-author Jeffrey Meyer, who had been the chief editor of the IIC reports. "Everything in the book is public source material derived from public service work. And it really is the product of an entire staff who worked day and night for four months in order to complete the reports," said Califano. Net proceeds from book sales are going to Relief International which is building schools in southern Iraq, using local contractors.

Iraq also required suppliers of humanitarian goods to inflate their prices by 10 percent on each contract, a scheme through which the Iraqi government netted about \$1.8 billion dollars from more than 2,000 companies, Meyer said, noting that U.N. officials reviewed and approved virtually every inflated contract. Yet even after abuses of the Program became public, the Security Council failed to achieve the necessary consensus it needed to stop them. “Politics and commerce are so painstakingly intertwined in operations like this that it is very important to determine what drives what,” Califano observed. “Some of the most sensitive organizations and member states had their ear to the ground on almost every potential economic possibility that could exist in Iraq after sanctions arose.”

**“Politics and commerce are so painstakingly intertwined in operations like this that it is very important to determine what drives what.”** Mark Califano

Among those found to have taken part in kickback and manipulation schemes were Benan Sevan, the U.N. undersecretary who administered the Program, and Kojo Annan, the secretary general’s son, who used contacts in the U.N. procurement department to secure contracts for the Swiss inspection company Cotecna, Meyer said.

Among its administrative failures, the United Nations lacked the auditing, accounting, staff, and “discipline” they should have had, said Volcker. “Every time a question arose it would be somebody else’s responsibility. There were no effective conflict of interest rules. There were no financial reporting rules for public officials.” While changes are in progress, Volcker expressed “severe doubts” as to whether the U.N. has gone far enough in establishing required administrative controls and discipline. The IIC recommended the appointment of a top-level administrator who would report directly to the General Assembly, he said. “When there aren’t enough auditors, when there isn’t enough of an inspection team, when people keep passing the buck, you go to him. He would be responsible.”

## Center for International and Comparative Law

### Legal adviser to secretary of state examines transatlantic differences in approach to international law and institutions

**J**OHN BELLINGER III, LEGAL ADVISER TO THE SECRETARY OF STATE, addressed differences in transatlantic approaches to international law and institutions when he spoke at Duke Law School on Nov. 15, as the Center for International and Comparative Law’s inaugural lecturer. Contrary to “cartoonish” characterizations, many of which have arisen from the contentious issues of counterterrorism law and policy, Bellinger argued that the seriousness with which the United States takes international law is reflected in its approach to its creation and respect for its resulting obligations, and in its record of leadership on issues where international action is required.

The United States and some of its European allies do have substantive, interpretive, institutional, and philosophical differences regarding international law, but they share longstanding traditions of rule of law and respect for law, and a network of binding treaties, institutions, and regimes which facilitate daily transnational cooperation, said Bellinger, who advises Secretary of State Condoleezza Rice and the White House on these matters.

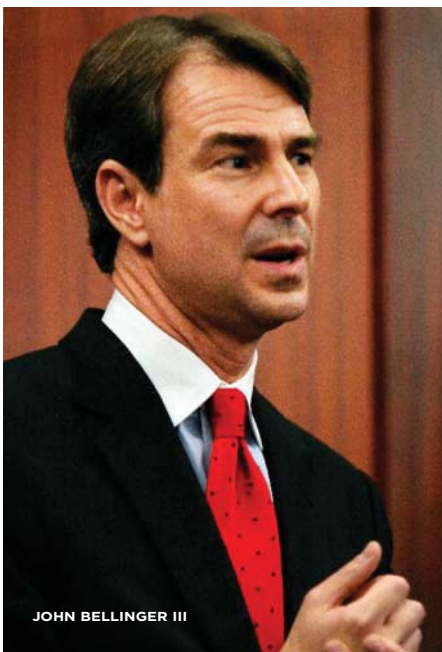
“Failure to join a treaty regime should not be equated with a lack of respect for international law, nor should it be viewed as a lack of concern for the underlying substantive issues,” he said. Bellinger lamented the “international drubbing” the United States has taken for failing to sign on to such agreements as the UNESCO Cultural Diversity Convention, the U.N. Disability Treaty, and the International Criminal Court (ICC). The United States takes a pragmatic approach to international agreements, he said, only joining those which it can clearly implement and with which it can comply.

“Contrast this with many countries that join first and tackle implementation later, an approach particularly common in the fields of international environmental and human rights law, and the result is that the United States can look like a laggard or a malingeringer in these important areas, reluctant to make an international commitment. Ironically, in some instances we take a bigger reputational hit than those countries that join but then utterly fail to comply.”

An important set of differences arises out of the relationships between international and domestic legal systems, said Bellinger, raising the controversy over the United States’ decision not to join the ICC. “The story is sometimes framed as that of a super-

power unwilling to accept any fetters on its freedom to act, contrasted to the Europeans who, as better international citizens, are more willing to abide by international rules and submit their issues to international adjudication.” This disregards both the domestic debate as to whether the U.S. government has the authority to delegate to international tribunals the power to decide questions of international law that would have direct effect on U.S. law, as well as the fact that the ICC is based on a system of complementarity.

“We share [with ICC member states] commitment to ensuring accountability for genocide, for war crimes, and for crimes against humanity. What we disagree with is the ICC’s method for achieving accountability.” From the U.S. perspective, he said, the ICC prosecutor’s power to initiate cases without appropriate oversight by the U.N.



JOHN BELLINGER III



Security Council creates an undue risk of politicizing prosecutions, putting U.S. personnel deployed around the world on peacekeeping missions particularly at risk. The U.S. has no “gap in values” with the Europeans, said Bellinger, but came to a different policy result after weighing the same principles and considerations.

“We were deeply concerned about good process, institutional design, and



**CENTER FOR INTERNATIONAL  
& COMPARATIVE LAW**

the principle of political accountability. Our decision was in no way a vote for impunity. We were confident that our domestic system was capable of prosecuting and punishing our citizens for these crimes.”

Issues relating to counterterrorism laws and policies, particularly those relating to the detention, questioning, and transfer of members of al Qaeda and the Taliban, have given rise to erroneous presumptions, “the product of faulty premises or shoddy analyses,” said Bellinger. “Often what is billed as a legal difference is really a difference in policy.” A particularly frustrating case in point is the image of the United States as being in violation of the laws of war or international humanitarian law in its refusal to grant POW status to combatants detained in Afghanistan following 9/11, he said.

“POW status can be seen as an incentive to follow the rules,” Bellinger said, arguing that in failing to carry their arms openly, wear uniforms recognizable at a distance, or respect the laws and customs of war, Taliban fighters did not meet the requirements of the Geneva Conventions. “Weaken that incentive, and the losers will not only be our own soldiers but civilians who bear the brunt of suffering when unlawful combatants operate surreptitiously within the general population.” He expressed confidence that criticism of the U.S. decision to try enemy combatants before military commissions will subside when the international community sees how the recently signed Military Commissions Act works in practice. ♪

## Church, state, and the IRS: Marcus Owens '74 discusses CA case

**M**ARCUS OWENS '74, a partner at Caplin & Drysdale in Washington, D.C., and former director of the Exempt Organizations Division of the Internal Revenue Service, returned to the Law School on Nov. 1 to offer an insider's look at the IRS investigation of one of Southern California's largest churches. Owens' client, All Saints Episcopal Church of Pasadena, came under IRS scrutiny after a guest pastor delivered an anti-war sermon two days before the 2004 presidential election. In the course of the sermon the pastor told the congregants, twice, that he was not presuming to tell them how to vote, said Owens.

A congregation known for its social activism – “It's part of their DNA to talk about war and peace in that church,” said Owens – the church could lose its tax-exempt status if it is found to have violated the prohibition against exempt organizations' involvement in campaigns. Owens noted that the church has chosen to be transparent in its dealings with the IRS, which is why he was able to discuss the case freely with law students.

Owens also met informally with students interested in pursuing careers in tax law at an informal afternoon reception. ♪

## Warning Shots: The military's anthrax vaccination program and its consequences



**J**OHNN J. “LOU” MICHEL'S '85, a partner with McGuireWoods in Chicago, discussed his role in successfully challenging the mandatory anthrax vaccination of military personnel on Nov. 20. A retired Air Force officer, Michels won injunctive relief against the program in 2004 on behalf of six former and current service members, arguing that the vaccine, with side effects that may include immune disorders, muscle pain, and birth defects, was never properly cleared for use on humans.

Michels is a litigation specialist with an extensive labor and employment law practice. His talk was co-sponsored by the Program in Public Law and the Center on Law, Ethics and National Security. ♪

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## JOURNAL NEWS



## **Duke Journal of Gender Law & Policy explores trends in employment discrimination**

**A**N OCT. 20 SYMPOSIUM SPONSORED by the *Duke Journal of Gender Law & Policy (DJGLP)* and led by Professors Catherine Fisk and Mitu Gulati explored the intersections of employer-mandated appearance codes and Title VII's prohibitions on employment discrimination. In a series of roundtable discussions, 34 top legal and business scholars and practitioners in such areas as employment discrimination, workplace harassment, sexual orientation, race, and organizational behavior discussed the apparent conflict between some recent court decisions that have condemned stereotyping in the workplace and others that have upheld appearance requirements, among other issues. The symposium was co-sponsored by Duke Law School, Crowell & Moring, and McKee Nelson.

"Makeup, Identity Performance & Discrimination" had its genesis in last year's Ninth Circuit Court of Appeals ruling in *Jespersen v. Harrah's Operating Co.*, said Fisk. A majority of the court upheld Harrah's decision to fire a long-time, well-liked bartender because she refused to comply with its requirements that female employees wear makeup. While courts have generally found it to be illegal to stereotype when making employment decisions, they have, as in *Jespersen*, sometimes upheld sex- or race-specific grooming requirements, said Fisk.

The symposium, which featured Jespersen's attorney Jennifer Pizer of Lambda Legal Defense Fund and Paul Ades, associate general counsel for Harrah's Entertainment, Inc., among the panelists, further probed the relevance of appearance as it relates to race, gender, religion, ethnicity, and an individual's particular way of "performing" his or her racial or gender identity, as well as the organizational interest in and response to these issues. "Our identities are communicative simply as a function of who we are," Professor Devon Carbado of University of California, Los Angeles, School of Law observed in his closing remarks. "We always have a performative identity whether we intend to or not." Carbado noted that the day-long conversation "[had] been a manifestation of what we are asking courts to do, which is negotiate difference in a more serious way," since notions of professionalism, branding, and business judgment cannot always be easily disaggregated from questions of race and gender.

Sixteen scholarly papers from symposium panelists on such topics as appearance as it relates to corporate branding, tattoos and cultural profiling in the workplace, and messages and consequences relating to minority workers' workplace hairstyles — including braids, dreadlocks, and chemically straightened hair for black women — are collected in *DJGLP*, Vol. 14, No. 1. The issue is dedicated to Dean Katharine Bartlett, whose scholarly work on the law relating to dress and appearance is considered foundational to the field. ♪

## **2006 DELPF symposium examines children's environmental health**

**T**HE 2006 SYMPOSIUM of the *Duke Environmental Law and Policy Forum (DELPF)* brought together leading experts in environmental health and policy on Oct. 27 to discuss incorporating children into risk assessments, gaps in legislative and regulatory protections, case studies, and opportunities for health policy development. In addition to reviewing risks to children from such hazards as toxic chemicals, panelists explored child-health epidemics such as obesity and asthma, linking them to urban design, and strategizing how best to engage policy-makers with these issues.

Papers by symposium speakers will be collected in Vol. 18, No. 2 of *DELPF*. ♪

## **DLJ fall lecture examines Thurgood Marshall's role in Kenyan constitution**

**P**ROFESSOR MARY DUDZIAK of the University of Southern California School of Law, a leading legal historian, delivered the *Duke Law Journal's* 2006 Fall Lecture on Nov.

10, focusing on Marshall's work in helping African nationalists craft an independence constitution for Kenya in the early 1960s. Observing that adversaries

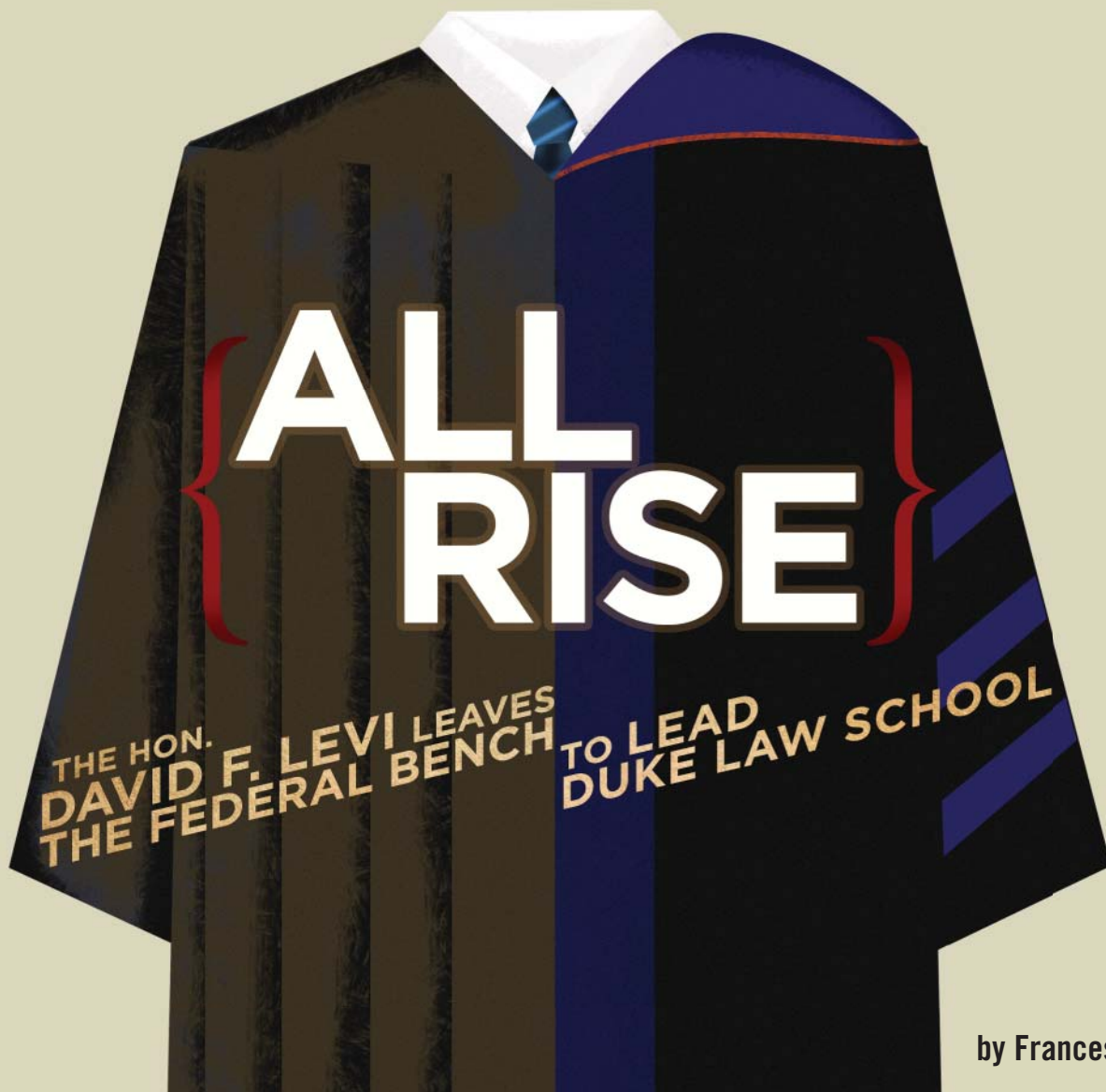
in the process fought each other "not with weapons, but constitutional clauses," using the negotiations essentially as a peace process, Dudziak noted how Marshall, a constitutional framer before he became a pathbreaking Supreme Court justice, worked to include protections for white land owners in Kenya, as well as African blacks who were about to assume political power.

Dudziak's article, "Working Toward Democracy: Thurgood Marshall and the Constitution of Kenya," is published in Vol. 56, No. 3 of the *Duke Law Journal*, available online at <http://www.law.duke.edu/journals/dlj/>. ♪



**"Makeup, Identity Performance & Discrimination" and  
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“I HAVE THE FAITH THAT THERE IS A QUALITY IN LAWYERS AND IN THE LAW



by Frances Presma

## THAT CARRIES OVER FROM THE ACADEMY, TO THE BENCH, TO PRACTICE.”

Judge David F. Levi

**A**S CHAIR OF DUKE LAW SCHOOL'S DEAN SEARCH COMMITTEE, Jim Cox thought he had a winning pitch to entice top candidates into the pool being considered to replace Dean Katharine Bartlett.

“I would tell them we had a terrific trajectory: 17 amazing hires over seven years, enormous strength in a number of different areas, and an incredibly vibrant intellectual life and energy that translates to a wonderful student culture that gets students involved,” says Cox, Brainerd Currie Professor of Law. His pitch got a “polite hearing” from Judge David Levi, Chief U.S. District Judge of the Eastern District of California. “He thanked me for the call and said, ‘I know [Professor] Sara Beale very well and think very highly of Duke. But I don’t have any interest in being dean of the Law School unless I am convinced that there is a commitment to excellence there. I want to see a commitment to making Duke one of the handful of schools at the very top level of legal education.’ The wooing really ensued at that point.”

It went on for several weeks before Levi formally joined the pool of what Cox calls “remarkably talented” candidates. In the meantime, the judge did his own “due diligence,” talking to law deans, colleagues on the bench who had Duke connections, and even with faculty. “I concluded that Duke Law School is in excellent shape – it has a distinguished faculty, effective leadership, a collegial atmosphere, an impressive student body that clearly loves the school, and loyal alumni who share that love. There is a palpable sense of excitement about the direction of the Law School.”

On Jan. 3, Duke University Provost Peter Lange announced that Levi would, indeed, become the next dean of Duke Law School, taking over from Dean Bartlett on July 1.





Lange welcomed Levi as someone who can “enhance the distinctive identity of the Law School, developed so ably under Kate Bartlett’s leadership, as a place that recognizes the importance of aligning the very highest standards of legal scholarship with a real commitment to addressing challenges within the profession, and with making law school and law schools relevant to the changing world of legal practice.”

Reviewing Levi’s distinguished achievements in the law – president of the *Stanford Law Review*, Supreme Court clerk, U.S. attorney at age 35 and federal judge at age 39, and chair of the Judicial Conference Committee on Rules of Practice and Procedure, to name just a few – Lange called Levi an intellectual “by background, commitment, and temperament.”

“Judge Levi is a person deeply committed to the development of legal scholarship and to the ways that research, developed in our universities, can better inform the legal process in the decisions made by both lawyers and judges. He is a person of forthrightness, perspective, and self confidence – and he has a great sense of humor, a quality we need in our leadership.”

Intelligence, humility, and humor are qualities mentioned repeatedly by colleagues and friends who have worked with Levi through the various stages of his career. “He has a wonderful sense of humor and a strong intellect,” says Judge Frank C. Damrell Jr., a colleague on the U.S. District Court for the Eastern District of California. “He is kindly to everyone who deals with him as a judge, in the clerk’s office, U.S. attorneys, members of the private bar. He carries himself with extraordinary humility in light of his intellectual gifts, which are remarkable. That combination of kindness, good humor, strong intellect – it’s a pretty great combination. Duke made a terrific choice, because he possesses the qualities you want in a dean to an extraordinary degree.”

Donald Ayer, a partner at Jones Day in Washington, D.C., and a former deputy U.S. attorney general and principal deputy U.S. solicitor general, has known Levi since

1981, when Ayer hired him as a federal prosecutor in the Eastern District of California, where Ayer was U.S. attorney. “David has a wonderful combination of intelligence and learning, coupled with an unpretentious manner,” says Ayer, who adds that Levi will be able to bridge academia and the practicing lawyer’s world in a way that will enhance both.

“For a number of reasons, David has a great interest in and feels a great affinity for the academic community. At the same time, he is well known and highly respected in the world of practice and among judges. His experience as a judge, including his work on the Rules and Standing Committees, means that he knows a lot of people. This combination, when joined with David’s manner and personality, is very promising for Duke. He will be looking for ways to find connections and maximize the opportunities for the Law School, for the students, and for the faculty, in a context where the public realm is far from irrelevant. I am excited for him and for Duke.”



For his part, Levi says the Law School's "exceptional momentum" was a key factor in his decision to leave the bench. "It is a privilege to join a law school of the first rank that is imbued with a sense of optimism and purpose, within a university that places an emphasis on knowledge in the service of society," he said on accepting the position. In a later interview, he reiterates the compelling qualities that he found at Duke: a commitment to excellence at all levels, an extraordinary sense of community, students who "really love" the institution, and loyal, engaged alumni. He freely admits, too, that after an extremely fulfilling career in public service, he has a sense of "coming home" with his move to Duke.

"I always expected and wanted to be associated with a great center of learning. I had spent the first nearly 30 years of my life in that setting – at the University of Chicago, Harvard, and Stanford – and the next 25 in a different kind of setting that I value very much. The opportunity to return to something that I love – to have been a part of the federal judiciary and also now to be part of a great law school – for me, it's a dream come true."

## A community of scholars

Levi grew up in an "intensely collegial" academic community in the Hyde Park-Kenwood neighborhood on Chicago's South Side. His father, the late Edward H. Levi, served as dean of the University of Chicago Law School and subsequently as that institution's provost and president, before being appointed by President Gerald Ford as U.S. attorney general in 1975.

"The law faculty was heavily concentrated in a four-block area," says Levi. "You can probably name any member of that quite unique law school faculty at that time, and they were a big part of my life growing up. They were all neighbors." One of those neighbors was also his uncle, Bernard D. Meltzer, the Edward H. Levi distinguished service professor emeritus, who died in January. "He was thrilled with the news [of my

appointment], and that meant a lot to me," says Levi.

Levi speaks of his parents with great affection, recalling his mother's intellectual strength and marvelous sense of humor. "You couldn't call her a silent partner, because she was quite the reverse," he says. "But with all the positions my father had, she was very much a part of his team. She was a wonderful woman who touched a lot of people."

Extremely close to his father, Levi cherishes the "intellectual relationship"

he brought scholarly values and dispassionate, non-political inquiry to the problems that he confronted as attorney general. That was exactly what they were looking for and it was deep in the marrow of his bones. When he was done in Washington, D.C., he immediately returned to teaching and to scholarship." His father took a broad view of public service, Levi adds. "If it ultimately serves the public good, that is public service, and one can bring those values to whatever one does."



**"Watching David chair the Standing Committee on the Rules of Practice and Procedure is like watching one of the great orchestra conductors. He is astute, strategic in the best sense, and a true leader."**

Sara Beale, Charles L.B. Lowndes Professor of Law

they shared, enhanced by their mutual interest in law and history.

"My father was a true scholar," Levi says. "The most important title he ever held in his own estimation was 'professor.' He loved the Department of Justice where he had worked as a young man, and when he was asked to go back as attorney general to help repair the place [following the Watergate scandal], he did so with great pride. But he was able to do that because people trusted that

## First love: legal history

"The water in which I swam was law," Levi says with a laugh, acknowledging that with a father, brother, uncles, and an entire neighborhood in the legal profession, it was "just a question of time" before he joined them. He wasn't quite ready to do so, however, after graduating from Harvard College with a major in English history and literature, and instead chose to pursue a PhD in legal history at Harvard. His thesis focused



on the law reform movement in the 1840s and 1850s in England, the first time in the modern period, he explains, when the profession itself seriously tried to improve the legal system.

“One of the ways one can penetrate into the social relationships of a period is to look at how the courts were being used, who used them, and why. During this period of industrialization, [it was interesting to study] the relationship between what was going on in the economy and what was going on in the workforce, in legal theory, and in legal institutions.” Levi was doing thesis

**“David has a great interest in and feels a great affinity for the academic community [and] is well known and highly respected in the world of practice and among judges. He will be looking for ways to find connections and maximize the opportunities for the Law School, for the students, and for the faculty, in a context where the public realm is far from irrelevant.”**

Donald Ayer, partner, Jones Day, former principal deputy U.S. solicitor general

research in London’s “Dickensian” public records office when he decided to go to law school, with the goal of joining a law faculty as a legal historian.

The University of Chicago wasn’t an option for law school, he says, although its dean challenged Levi and his cousin, Daniel Meltzer (now Storey Professor of Law at Harvard), to apply. “We knew the professors too well, and didn’t want to alter that wonderful relationship.” Levi’s wife, Nancy Ranney, suggested they

head west, and he settled on Stanford where, by coincidence, his father was a visiting professor during his first year. “It was wonderful to have him there and be able to share the process that I was going through, which I found very stimulating,” he says.

## Mentors and models

Immediately after being elected president of the *Stanford Law Review* as a 2L, Levi received, unsolicited, a letter from U.S. Supreme Court Associate Justice Lewis F. Powell, offering him a clerkship beginning one year after his graduation. To prepare, Levi clerked for Judge Ben C. Duniway, a senior judge on the U.S. Court of Appeals for the Ninth Circuit. “He warned me at the outset that his was an ‘artisan’s shop,’ and that he really focused on writing and on each case,” Levi says. “That proved to be true. He was a wonderful teacher – everything was done very carefully, under his direct supervision.”

In Justice Powell, Levi says he found an example of the versatility of law as a profession. “When he became a justice, he had not been a scholar and he had not been a judge, but a practicing lawyer. He had the quality of ‘legal intelligence’ – he took a thoughtful approach to the law – and it translated from one endeavor in which he had been very successful, as a litigator and also as a transactional lawyer, to the bench.”

Justice Powell, who Levi says was “sweet to me his whole life,” also gave him a model of judicial comportment. “He had a quiet dignity about him that was something to aspire to – a gentleness, an unfailing courtesy and generosity of spirit, and yet a firmness. I have tried to model myself on that character in running the courtroom. Whether I have been successful or not is for others to say. But it’s rare that I have to impose myself to maintain order. I find that if I am courteous and polite, then others will be also.”

## Detour to prosecution

Although he still aspired to become a law professor, Levi says he wanted his teaching to be informed by practical experience; he decided that becoming an assistant U.S. attorney would allow him to get intensive trial experience in a short time.

Knowing that few Supreme Court clerks were hired as prosecutors, Levi calls it a stroke of luck to meet Donald Ayer, who was at the Court recruiting clerks for the firm he worked for at the time. A former clerk of Justice Rehnquist, Ayer was set to become the U.S. attorney for the Eastern District of California, and was just starting to contemplate building that office.

“Two months before I was scheduled to start work as U.S. attorney, it was like manna from heaven to meet David and have him tell me that he really wanted to come to work as an assistant U.S. attorney,” says Ayer. “As an AUSA he was terrific. He distinguished himself in every way – in the quality and reliability of his work, and in the insights that he had, and his skills in the courtroom. He gained a reputation very quickly as an unusual individual who people looked upon with fondness and great respect.”

Levi says he loved being a prosecutor. “It’s tremendously exciting to pull together a case, to be part of the investigation of it, and then to try it before a jury. This all takes place in a context in which you are constantly watching your conduct to make sure that you are giving the government vigorous representation, yet are not overstepping. If you are too passive you aren’t likely to make mistakes, but you also aren’t likely to be doing your job terribly well. Yet there is nothing more dangerous than an overly aggressive prosecutor who has lost his or her sense of bearings, or the overall picture. The whole point, after all, is to preserve the social fabric, not tear it.”

Levi recalls one early fraud case in particular. It was known as “the Golden Plan,” and had grown out of rampant real estate speculation in California in the 1970s. Levi spent hundreds of hours in the grand jury investigating the case and pulling it together. “It was challenging intellectually in deciding how to

prosecute that case,” Levi says. All the while, he was trying others, learning how to present and argue a case efficiently and persuasively, relishing what he refers to as “the lawyer’s art.”

“It’s rhetoric, it’s drama, it’s storytelling, and it’s also law. You have to know how to enter something into evidence: Do I need to authenticate it; do I enter into stipulations? You have a huge number of decisions to make.” He found that certain aspects of the work were reminiscent of history. “A prosecutor tells the story of what happened in the past, sometimes many years earlier, sometimes months earlier. It wasn’t dissimilar from what I enjoyed doing in my academic life.”

After more than three years as an assistant U.S. attorney, Levi resolved to return to the teaching market and started “calling around” about openings. A late night telephone call changed his plans.

“I was dozing on the couch with my infant son – my second – sleeping on my stomach, when my wife said, ‘There’s somebody on the phone who says he’s Senator [Pete] Wilson, but I think it’s one of your friends, pretending.’ I took the call very warily.” In fact, then-Senator Wilson asked an astonished Levi if he would be willing to become U.S. attorney for the Eastern District of California. On Wilson’s recommendation, Levi was appointed U.S. attorney in 1986 by President Ronald Reagan.

“He stepped into the job and he was a fantastic U.S. attorney,” says retired Eastern District Magistrate Judge Peter Nowinski, who was first assistant U.S. attorney under Ayer and then under Levi, and who had also been in the running for the top position. “Frankly, I was surprised, because he had no administrative background, relatively few trials under his belt, and was probably one of the youngest U.S. attorneys ever appointed. But he commanded respect immediately. He has a wonderful manner that suits the leadership role perfectly.” Levi credits the support of the people in his office, like his close friend Nowinski, for helping him

successfully take over an office of 35 attorneys and a support staff twice that size.

“They all wanted me to succeed, because my success was their success. I saw my job as supporting them and helping them become as productive and mission-oriented as possible. When you are working with people and they have a mission and are public spirited, then little annoyances tend to move out of the way and you keep your eye on the ball. It was a wonderful time in my life.”

Overseeing an office that served a sprawling, fast-growing, and culturally diverse area, Levi hired 20 additional prosecutors during his four-year tenure. Sacramento attorney George O’Connell, at the time an assistant U.S. attorney



and later Levi’s successor as U.S. attorney, observes that his friend’s “top-notch” hires reflected a belief that prosecutors need to both understand and reflect the diverse cultural communities they serve.

“David always sought very high standards, credentials, and people, particularly for a job that I know he valued himself when he was an assistant, and that he rightly viewed as being a very challenging job. He also knew that if you just looked hard enough that there were people who would fit the diversity bill and who were more than qualified to be first-rate assistant U.S. attorneys. The number of women and minorities in the office increased significantly during his tenure. His hires were clearly intended to achieve

that balance of a highly qualified person but a person who brings the perspectives of different communities to the job.”

As U.S. attorney, Levi continued to partner with O’Connell in directing the largest public corruption investigation ever undertaken in California. An undercover probe of influence peddling in the state capital that had started in 1984, the operation involved the creation of a fictitious company headquartered in Mobile, Alabama, that sought to import Gulf shrimp to California. An FBI agent posing as the owner of a family-owned company lobbied Sacramento legislators, seeking a bill that benefited the enterprise, and secretly audio- or videotaping the meetings.

“We guided him to meet with people in the legislature who, based on information we had, would attempt to extort him. And that was what happened — he was asked for bribes and paid them,” Levi says. “We had to learn how the legislative system worked, what lobbyists did, and even draft legislation for [the agent] to discuss with legislators.” The investigators did their job so well that their phony bill passed in the state legislature, “because we didn’t get approval from the FBI Director quickly enough to pay an additional bribe that was required to kill it,” Levi recalls with a laugh. With the permission of Justice Department officials at the highest level, the prosecutors brought then California Governor George Deukmejian in on their operation, and he vetoed the legislation without exposing the broader investigation.

The investigation became public when search warrants were issued for offices in the state capital, at which point “people started coming out of the woodwork and detailing instances when [State Senator Joseph Montoya] had tried to extort them. We put together a RICO indictment that had many, many instances in it, in addition to the undercover example, making for a very strong



## WHAT THEY ARE SAYING:

case.” Montoya’s 1988 trial, which Levi tried with two colleagues, represented the first prosecution and conviction of a sitting state senator.

“To be involved in a trial of that magnitude, where one feels that an entire complex investigation and the credibility of the government’s anti-corruption program is on the line, is a fascinating experience to have, but not one that you would want to repeat every year,” Levi says. “Many cases, both civil and criminal, have huge consequences for people, whether you are defending them or prosecuting them. The consequences can be enormous. And the pressure that puts on the lawyers is enormous. Having the personal skills to cope with that kind of pressure is something that lawyers who want to practice at the highest level and handle these kinds of exciting cases need to have.”

### On the bench

Towards the end of the trial, Senator Wilson called again, asking if he could submit Levi’s name to President George H. W. Bush as a nominee for a vacancy on the U.S. District Court of the Eastern District of California. “He said, ‘I recognize that you are only 38 and this may be too early for you, but the opportunity may not come your way again. You have a big decision to make.’” Levi decided to take the opportunity, and in 1990, he took the position of a judge he particularly admired, Judge Milton Schwartz, “who became one of my dearest friends on the court.”

“To become a federal judge at such an early point was a stretch. I found that I was up to the work, but that I had to work very hard to stay on top of it. Having two young boys at home







**The Hon. John Roberts, chief justice of the United States:**

“The Federal Judiciary is sorry to lose one of its finest judges, but our loss is certainly Duke Law School’s gain. Judge David Levi was not only among our best judges, he was also especially active in legal reform and judicial administration. I have personally benefited from his counsel on several occasions and look forward to his leadership in the legal academy.”

**The Hon. J. Harvie Wilkinson III, United States Court of Appeals for the Fourth Circuit:**

“Judge Levi embodies a remarkable combination of legal and scholarly background, marrying administrative skills and substantive expertise. He was singled out by Justice Powell [for whom we both clerked] as a first-rate lawyer and a delightful person to work with.”

**The Hon. William H. Pauley III '77, United States District Court for the Southern District of New York:**

“This is a very exciting time for Duke Law School. David Levi is an exceptional district judge who is attuned to the day-to-day practice of law in his courtroom. As chair of the Judicial Conference Committee on the Rules of Practice and Procedure, Judge Levi interacts with academics, practitioners, and judges. Judge Levi will bring this wonderful reservoir of experience and broad perspective on practice to Duke. He is uniquely qualified to build on Dean Bartlett’s phenomenal work in expanding the recruitment of Duke students for clerkships in the federal judiciary.”

**Harold Koh, dean, Yale Law School:**

“Throughout his career, David Levi has been an intellectual leader as a law journal editor, a law clerk, a prosecutor, and innovative federal judge. His penetrating intelligence, easy good humor, and keen understanding of law’s real-world power will make him an outstanding dean for Duke’s law school.”

**Gerhard Casper, former president of Stanford University and former dean of the University of Chicago School of Law:**

“Judge Levi’s appointment sends a message that Duke values academics but has the courage and boldness to pick someone intellectual from the core of the profession. Levi has become one of the country’s most distinguished, thoughtful, and influential judges, whose contributions off the bench to the improvement of the federal judicial system have been countless and important.”

**John Jeffries, dean of the University of Virginia School of Law:**

“David Levi is a brilliant leader, gifted in intellect, in judgment, and in ecumenical appreciation of merit. He will make a splendid dean.”

kept me from losing perspective.”

An experienced prosecutor, Levi acknowledged his dearth of experience with civil cases when he took the bench. Making a promise to himself “never to pretend that I knew something that I really didn’t,” Levi says he found out how helpful the bar can be to the court.

“I knew I would be tested as a young judge on occasion, so I never pretended to be more knowledgeable than I was. I would be frank and say, ‘I don’t understand this. You’ll have to explain this to me.’ And I found the attorneys were delighted to help me” – an echo of the support he received from colleagues on becoming U.S. attorney.

“We are all responsible, in deep ways, for the success of the people around us,” he says. “Whatever success I had as a judge was largely due to the fact that people around me wanted to make the system work and wanted to have a judge who knew what was going on and was capable of making decisions. They helped me fulfill that role. If they had fought me or tried to take advantage of my inexperience, then undoubtedly I would not have been successful as a judge, but the system would have suffered as well. That was not the approach that lawyers took in my court, and I see a big lesson in that.”

Levi’s success in running an efficient and fair courtroom is corroborated by colleagues, counsel, and public opinion.

“David has a commanding presence in the courtroom and with his colleagues,” says Nowinski. “He is tremendously thoughtful and is a great problem solver.” O’Connell, who has appeared as counsel before Levi on a number of occasions, notes his even-tempered and polite style, as well as his thorough preparation. “He will give oral arguments with more frequency than a lot of judges, but when he does, he almost always has questions. He comes onto the bench prepared with some specifics that he wants some answers to. You don’t have a sense that he’s prejudged the issue, but that he knows where he might go and he’s going to put some questions to both sides to let him know if he can get there.”

“I have never seen an editorial like that in *The Sacramento Bee*, in which the paper said, ‘We are really concerned that Judge Levi is leaving,’ and went on and on about hoping that another judge will be able to do the kind of job he did,” says Eastern District colleague and friend, Judge Frank Damrell. Damrell’s reference is to a Jan. 12 editorial – one of two that followed the announcement of Levi’s move to Duke – that praised his carriage of a series of land-use cases in which he balanced Sacramento development plans in its “Natomas basin” area with the need to preserve habitat for endangered giant garter snakes and Swainson hawks. The piece lauded his “intelligent, consistent interpretation of the federal Endangered Species Act,” demand for funds and new plans for habitat preservation, and challenge to the government’s approval of significant growth in the area. “To get an editorial on a specific case is a remarkable indication of the respect with which he is held,” says Damrell.

Having dealt with a variety of environmental issues in a district that includes California’s fertile Central Valley, some of its fastest-growing cities, and such federal land treasures as Yosemite National Park, Levi articulates an approach that he has applied usefully in resolving many other civil cases: “They often aren’t about making a clear finding of right or wrong, or liability or no liability, but about problem-solving.”

Among his rulings that have been appealed to the Supreme Court, Levi mentions two of note. In the first, *Saenz v. Roe*, a majority opinion, authored by Justice John Paul Stevens, upheld Levi’s finding that California’s two-tiered welfare system, which offered reduced benefits to newcomers to the state, was unconstitutional. His ruling in *The California Democratic Party v. Jones*, which upheld the state’s introduction of a “blanket” primary election that permitted voters to go back and forth among different ballots, was overruled in a majority opinion written by Justice Scalia, though supported by Justice Stevens in dissent.

## A presence beyond the courtroom

Levi has gained national renown for his leadership in law reform, both through his work in the federal judicial rule-making process and with the American Law Institute (ALI), where he is a member of the governing Council and has served as advisor to the Federal Judicial Code Revision and Aggregate Litigation Projects.

Appointed by then Chief Justice William Rehnquist to the Advisory Committee on the Federal Rules of Civil Procedure in 1994, and to the chair of that committee in 2000, Levi has been involved in crafting amendments to discovery rules, including recent amendments which added e-discovery, as well as the class action rules, which, he points out, have involved intense inquiry into the role of the legal system and the problems created by mass torts. As chair of the Judicial Conference Committee on the Rules of Practice and Procedure since 2003, Levi has overseen all federal rule making, including that pertaining to the civil, criminal, appellate, evidence, and bankruptcy rules. “There isn’t a federal rule out there that I haven’t been involved with in one way or another if there is a proposal for change,” he says. He enjoys the consensus building involved in the rule making process, which involves practitioners, academics, judges, and the congressional and executive branches of government.

“It’s a wonderful process to see people from all regions of the country, with different practices and different outlooks, and from different parts of the government or practice, come together, grapple with these issues, and come to an understanding over a period of time. It’s an example of the repeated triumph of reason and reasoned discussion over ignorance, because none of us have a full view of how the legal system operates. I find myself constantly being educated and reeducated.”

“Watching David chair the Standing Committee on the Rules of Practice and Procedure is like watching one of the great orchestra conductors,” says

**“There is a palpable sense of excitement about the direction of the Law School.”**

Judge David F. Levi

Charles L.B. Lowndes Professor of Law Sara Beale who serves as reporter to the Advisory Committee on Criminal Rules. “He moves through the agendas in a way that looks effortless – but reflects a great deal of prior thought and planning – to highlight key issues, focus the discussion, and seek consensus and solutions to the most difficult issues. The members of the Committee are a sort of ‘who’s who’ of the profession, and he really brings the best out of them. He is also extremely effective at the meetings of the Advisory Committees, and in working behind the scenes with the reporters and committee chairs. He is astute, strategic in the best sense, and a true leader.”

Levi has also been active with the bar in his district outside the courtroom, calling the development of young lawyers one of his “unstated” judicial duties. To that end, he was a founder and long-time president of a chapter of the Inns of Court at the University of California, Davis, which is named for his friend and mentor Judge Schwartz, and which brings members of the bar and bench together to discuss professional and ethical issues.

## Closing the circle as Duke’s new dean

To have spent a significant part of his career in public service has been extremely meaningful personally, Levi says, with “psychic rewards” that are both exciting and fulfilling. Though he has long delayed his move into an academic setting, Levi observes that he has been able to nurture his scholarly interests while on the bench and that he finds parallels between the work of academic lawyers and judges. “We are both



detached observers; we both follow new developments in the law; we read law review articles; we consider arguments based on intellectual work.”

Having characterized his move to Duke as carrying the air of a homecoming, Levi is aware that the academic marketplace has changed since his youth in Chicago. “The environment is far more competitive,” he says. “But the old ideal is still terribly important: A community of scholars, loyal to one another and to the institution, who want to see each other flourish, who want to see the whole greater than its parts, and who want to help each other reach their scholarly potential.”

Contemplating the latest step in a career in which he jokes that he has been “thoroughly incompetent” for each job he’s taken, though he clearly has excelled in all, Levi recalls his promise and practice to “never to pretend to know something that I don’t know.” And ever the historian, he reaches back

into his past for other key lessons he can bring to his new role as dean of Duke Law School, in addition to the collegiality he grew up with: his father’s conviction that all endeavors can be brought to serve the public good; the versatility of the law he saw demonstrated by Justice Powell; the value of diversity; how mutual support and common mission build an institution; how in every situation, “men and women of good will have the ability to work toward common understanding.”

“I have been blessed to repeatedly work with people who have that sense of purpose,” he says. Recalling Justice Powell’s transition from a career in practice to the highest court in the nation, Levi notes that the justice “had to work very hard” to make that transition. “But it did work. Maybe that’s something I have to do now, too. I have the faith that there is a quality in lawyers and in the law that carries over from the academy, to the bench, to practice.” ♪



LEADING WITH VISION, CONSENSUS, AND COMPASSION,  
OUTGOING DEAN KATHARINE BARTLETT HAS EARNED  
THE GRATITUDE OF THE ENTIRE DUKE DUKE LAW COMMUNITY

# SHE RAISED THE BAR

**K**ELLY BLACK-HOLMES '01 recalls being absolutely delighted when she heard, as a 2L, that Professor Katharine T. Bartlett had been appointed dean of Duke Law School.

Having had Bartlett as her small-section contracts professor in her first year and taken two of her gender and the law classes, Black-Holmes says that she knew Bartlett as a professor who truly cared about students. “She cared about my interests – not just about my scholarly work, but about helping me define who I was, helping me grow as a person, a student, and a soon-to-be-lawyer.” She was further impressed when Bartlett found the time, during her first year as dean, to supervise Black-Holmes’ third-year independent study project.

Now an associate at Troutman Sanders in Atlanta, Black-Holmes says there was never any question in her mind that Bartlett, whom she calls a mentor and role model, would make an outstanding dean. “Everything Dean Bartlett has done for the School, from creating new clinics to launching the Duke Blueprint initiative, to raising money, flows along with her sense of self, her personality, and her concern

OPPOSITE PAGE: THE PORTRAIT OF  
KATHARINE T. BARTLETT, BY GINNY  
STANFORD, THAT WILL BE DISPLAYED IN  
THE LAW SCHOOL'S PORTRAIT GALLERY.

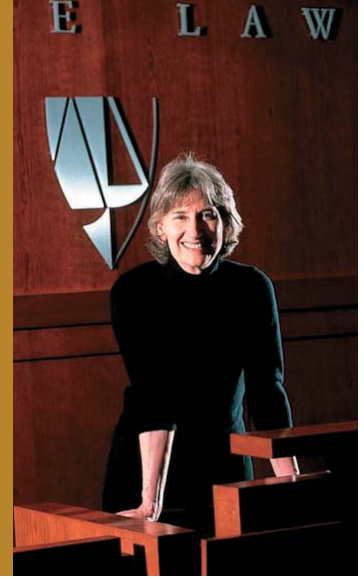
by Frances Presma

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## A message from Duke President Richard H. Brodhead:

“Kate has been a great dean and a great citizen of the larger university. As dean, she has been superb in attracting and retaining top-notch faculty and students, and has helped foster the spirit of community that’s such a palpable feature of Duke Law School. Outside the walls of her school, she has built important relationships with other deans and disciplines at Duke and with partners around the world. A thoughtful advisor, she has a special ability to assess complex situations with a clear eye for the principles at stake. I wish her the best of luck as she returns to teaching and research.”



for the students and the greater good of the School. I haven’t met one person who doesn’t like Dean Bartlett.”

As Bartlett prepares to return full-time to the faculty on June 30, after more than seven years as dean, her student’s sentiment is echoed in all quarters of the Duke Law School and University communities.

“Kate has been a most wonderful person to work with,” says Duke Provost Peter Lange. “She has been an outstanding dean, markedly improving the Law School’s faculty and programs, and taking it in new directions which are giving it a truly distinctive identity. As noteworthy, she has been a great University citizen and leader, working with me, her fellow deans, the president, and others to strengthen the University as a whole and to find the Law School’s place in that collective strategic endeavor.

“She is a person of wise counsel, a lovely combination of seriousness and wit, the highest principle, and just good fun. I will miss her both professionally and personally.”

“She has been a fantastic leader,” says Russell Robinson ’56, a partner at Robinson, Bradshaw & Hinson in Charlotte and chairman of The Duke Endowment. “She has had a vision for Duke Law School which was inspired and inspiring, and she had the ability to put it into effect. We have been very, very fortunate to have her as our leader over these years.”

“It’s been a delight to watch her grow in the job and become recognized as one of the leading deans in the country,” says Peter Kahn ’76, who has worked closely with Bartlett as chair of the Law School’s Board of Visitors (BOV) since 2001. “She is a great listener and strategic thinker who has been supportive of many people and ideas, and at the same time has had the ability to say ‘no.’ She has led by example and quiet strength.”

The Honorable Christine Durham ’71, chief justice of the Utah Supreme Court, a life member of the BOV and a Duke University

trustee, praises Bartlett’s mix of “competence and enthusiasm” and her infectious energy and investment in helping students and faculty succeed. “She has this capacity for people to perceive the degree to which she is working on behalf of everyone succeeding. Her ego seems completely invested in the advancement of the institution and the people who serve it as a whole, rather than her own. I think she is remarkable.”

Bartlett has indeed propelled the Law School on a continual upward trajectory in every respect – recruiting 17 top scholars to the faculty and, in so doing, consolidating its strength in strategic core areas; cementing a culture of interdisciplinary collaboration; adding two new interdisciplinary research centers based at the Law School and six new clinical programs, with a seventh in the works; overseeing the design and fundraising for facilities upgrades that have transformed the School inside and out; admitting consecutive classes of JD and LLM students distinguished by academic accomplishment, experience, and diversity; setting fundraising records; deepening ties with international alumni and institutions by initiating overseas meetings of the Board of Visitors; overseeing placement of graduates in the top law firms in the country, in an increasing number of judicial clerkships, and in academia; establishing and promoting a culture of leadership, intellectual engagement, and service – and the list goes on. Theresa Newman ’88, associate dean for academic affairs, notes one of Bartlett’s most remarkable achievements: “She has ‘grown’ the Law School in faculty size, programming, and reputation, while preserving and even strengthening the School’s culture of collegiality, collaboration, and community.”





**“Kate handled faculty recruitment and the intense competition among schools of similar stature with enormous competence, not only preserving the Law School’s reputation for excellence, but moving it up. Her faculty recruitment has really put Duke on the map. It’s clear that people have heard of Duke, they respect what it’s doing, and they see it as one of the finest law schools in the country.”** The Honorable Christine Durham ’71, chief justice, Utah Supreme Court

## STRATEGICALLY EXPANDING THE FACULTY WHILE PRESERVING COMMUNITY

Bartlett has hired 17 new faculty members during her tenure, recruiting top scholars of national and international renown as well as rising stars in strategic areas relating to science and technology, international and comparative law, constitutional law, national security, and business and finance. Building on the expertise of an already distinguished and diverse faculty, the consolidation of the Law School’s strength in these areas is reflected in curricular depth, enhancement of opportunities for faculty-student collaboration in scholarship and advocacy, interdisciplinary collaborations across the University, the strengthening of existing centers and programs such as the Program in Public Law and the Center on Law, Ethics and National Security, and the establishment of new ones, such as the Center for the Study of the Public Domain and the Center for International and Comparative Law, which all regularly sponsor high-level academic conferences, workshops, and speakers.

“The concept of ‘cluster hires’ – pockets of expertise – was Kate’s vision when she chaired the Appointments Committee, even before she became dean,” observes Jim Cox, Brainerd Currie Professor of Law, who chaired that committee under Dean Bartlett. “As dean she was a great proponent of this approach, and we set the bar very high for faculty appointments, with obvious success.” Those recruited – six in 2004 alone – uniformly cite Duke’s reputation for academic excellence, community, and “Kate” as reasons for accepting the offers.

Erwin Chemerinsky, one of the country’s leading and most visible scholars of constitutional law and the federal courts, and also an active appellate advocate, is one of the star hires that Chief Justice Durham singles out. Catherine Fisk, a legal historian and expert in employment discrimination, is another. Fisk and Chemerinsky, who are married, give Bartlett full credit for luring them from the University of Southern California, even after they had turned down offers from Duke after visiting for the Fall 2002 semester.

“We had chosen to stay in L.A.,” Chemerinsky recalls. “But in January 2004 Kate called each of us separately, asking if we

wanted to rethink our decision. It was entirely her doing that we’re here.” Chemerinsky, who holds the Alston & Bird chair, calls Bartlett “a wonderful dean” in the way she encourages faculty. “Kate has been supportive of everything I’ve done, both in terms of tangible support and in terms of being a cheerleader for the things I do. She’s a wonderful dean for nurturing and encouraging the faculty.”

“Kate’s a real leader in making Duke a community that really treasures its members,” adds Fisk. “She is exceptional in making people feel appreciated – she could not have done more to make me feel a valued colleague. She recognizes individual strengths, and creates opportunities for all of us to develop as teachers, scholars, and in University governance.” Fisk notes that, on Bartlett’s recommendation, she is chairing Duke’s



Photo: Les Todd

Academic Programs Committee, which reviews all programs and departments in the University.

Curtis Bradley, Richard and Marcy Horvitz Professor of Law and founding director of the Center for International and Comparative Law, also credits Bartlett’s interpersonal skills for his decision to leave the University of Virginia School of Law in 2005. “She patiently recruited both me and my wife Kathy [director of Legal Ethics and the administrator for the Capstone Project and Domestic Externship programs] for two years, and was extremely attentive to each of our individual needs,” says Bradley, an expert in U.S. foreign relations law and international law. “During part of this time, I was working at the State Department in Washington,

**“The building transformation is a real achievement. It’s far more than the bricks and mortar – it’s brought people together. You see students and faculty interacting where the corridors meet. That’s the way it should be in a community of scholars.”** Peter Kahn '76, Board of Visitors chair

D.C., and it left a deep impression on me when Kate made a special point of coming to see me there, just to touch base and show me the plans for the new wing of the building. Through the entire process, she conveyed genuine warmth and enthusiasm, and she did everything that she could to make us feel at home at Duke.”

One of Bartlett’s key achievements has been to preserve a cherished sense of collegiality among the faculty while greatly increasing its size. “She has managed to transform the School in really positive ways, and yet keep the human quality, the sense of proportion, and the lack of arrogance that attracted me to it in the first place,” says James Boyle, William Neal Reynolds Professor of Law and a leading scholar of intellectual property law, who joined the faculty in 2001 and founded the Center for the Study of the Public Domain the following year.

Faculty members repeatedly cite Bartlett’s superb judgment, straightforward manner, and ability to broker consensus. “She came in with an understanding of the institutional culture and how she could work within that culture to effectively change the School’s direction,” observes Cox, a faculty member since the 1970s. “She is by nature an individual who works best as a consensus builder, but in her quiet ways she is able to move that consensus by whom she puts in important or visible leadership roles. She is also eclectic in her understanding of legal scholarship and teaching, and has a broad vision about how people can make different contributions, even though they don’t always agree with one another.” Her support of fundamental, highly visible scholarship and faculty engagement in issues of public concern and national regulatory movements is also key, Cox adds.

“I think most people would say, ‘She has been a great dean for me,’” says Sara Beale, Charles L.B. Lowndes Professor of Law. “One of the questions she asks during your annual review is, ‘What do you need in order to be even more successful?’ She believes in encouraging people to set their sights high, and then helping them get there.”



Photo: Les Todd

## CREATING SPACE FOR A COMMUNITY OF SCHOLARS

Bartlett has overseen facilities upgrades that added 30,000 square feet of office and clinic space and transformed classrooms into state-of-the-art teaching spaces (leading to the Law School’s placement at the top of *The National Jurist*’s “Technology Honor Roll” in 2005). Plans are also finalized for the complete renovation of the Law Library, and the construction of a 4,200 square-foot atrium, “the Star Commons” – named for benefactor Stanley Star ’61 – as well as outdoor gardens and landscaped areas for community gatherings.

“If you had asked Kate on day one whether she planned to do seven different building projects totaling more than \$50 million during her tenure, she would have said, ‘Of course not.’ It wouldn’t have been her priority. But she recognized the opportunity to seize the moment,” says Professor Thomas Metzloff, who has managed the projects for the Law School.

Metzloff had started “exploring options” for the building before Bartlett became dean, and found her a fully engaged and highly practical partner from the start.

“Kate would be the first to say that she’s cheap – and that’s not a bad thing,” he says with a laugh. “She embraces the strategic goal of building spaces that are very nice, well finished, and highly

functional and efficient, but not over-the-top. She always asks whether a particular project is worth doing: ‘What are we getting for this? What’s the real goal?’ She also insists that we do things right the first time, so that we aren’t having to spend money again to fix problems.”

BOV member Buck Ferguson ’70, who has been integrally involved in all aspects of planning and construction, recounts with admiration the way that Bartlett held firm to her strategic priorities when the original plan to construct an atrium by enclosing the courtyard at the back of the Law School proved to be impractical.

“Plans for that project were well down the road when we found out that the cost to do it properly would be astronomical. Kate refused to spend that kind of money on construction, saying, ‘We want to pour it into the academic side of the School.’” He also commends her flexibility and openness to new ideas “even if she cannot immediately visualize the finished product,” her adroitness in knowing when to be extremely hands-on and when to step back, and her courage in pushing forward, even when “money wasn’t in hand but it was the right thing to do.”

Pointing out that virtually all the fundraising for the project has fallen to Bartlett, Metzloff lauds her success in engaging alumni and friends of the Law School, and Duke University itself, to bring it to fruition. Donors have responded with enthusiasm. Russell Robinson, chair of The Duke Endowment, which has contributed \$6.5 million to the building projects, has a quick explanation for the Endowment’s generosity in this regard: “Kate’s leadership has been the biggest single factor in the strong support we’ve given.”

BOV life member Richard Horvitz ’78, who endowed the garden – “Marcy’s Garden” – which will soon grace the front of the Law School, says that Bartlett’s strength as a consensus-builder has been evident as the building project has progressed, with donors and the BOV consulted at each stage. “The iterative process that has taken place regarding the design has improved it. Kate has never been stubborn about any aspect of it. She listens to people, takes them seriously, and makes the Board feel their ideas are welcome – that we’re in a partnership. It helps impart a sense of ownership of the project and the future.”

The finished spaces also make a concrete difference in the lives of their occupants. The consolidation of a number of the clinics into a dedicated, attractive, and well-designed office in one floor of the Law School’s new wing has made a significant improvement in all aspects of their operations, says Clinical Professor of Law Carolyn McAllaster, who directs the AIDS Legal Project. “It’s moved us forward in leaps and bounds on any number of levels – facilitating essential collaboration among the clinical faculty, giving us easy access to our students and they to us, enhancing visibility of the clinics to the faculty and the rest of the University, and really boosting the respect our clients feel when they come here. That would not have happened if Kate had not been willing to support the initial idea of creating this space.”



## “Kate is the driving force behind the growth of the clinics.”

Carolyn McAllaster, clinical professor of law



Photo: Don Hamerman

## EXPANSION OF CLINICAL PROGRAMS

Clinical education has undergone its own transformation under Bartlett’s leadership. She has championed clinics as an integral part of a well-rounded legal education – places where students can learn and hone essential skills in problem-solving, team dynamics, legal judgment, and the ability to interact with colleagues and clients.

“Kate recognizes that we have an obligation to do what we can to prepare our students to adapt to a rapidly changing profession,” says Professor James Coleman, who leads the Death Penalty and Appellate Litigation Clinics as well as the Wrongful Convictions seminar, which has a strong clinical component. “What she has done for the clinics has been important, even foundational, as experiential learning is crucial for students.”

The Law School has opened five new clinics since 2002, with students clamoring to enroll in each. In addition to the AIDS Legal Project, which McAllaster founded in 1995, and the clinics taught by Coleman, the Law School now offers clinics focused on children’s education law, community economic development and transactional law, animal law, tax law, and the defense of Guantanamo detainees. Fundraising is currently underway for an environmental law and policy clinic that will be the School’s first truly interdisciplinary clinic in its collaboration with Duke’s Nicholas School for the Environment and Earth Sciences.



“It was leadership from the top-down that allowed these clinics to be created,” says McAllaster, stressing Bartlett’s strategic approach to clinical education in which she has surveyed the needs and interests of students and matched them with the needs of legally underserved communities.

“Kate has been careful to make sure that the clinics we offer provide high-quality, challenging experiences for students – something beyond routine legal work,” notes Clinical Professor Andrew Foster, director of the Community Enterprise Clinic, which engages students in a wide-range of transactional issues. “She has also made sure that the clinics relate to the curricular focuses of the Law School, so that students and faculty can make the connection between what’s happening in the classroom and what’s happening in the clinics. And she has done a great job of recruiting and retaining excellent clinical teachers, like Carolyn McAllaster and Jane Wettach [director of the Children’s Education Law Clinic], who are experienced, extraordinarily dedicated, and really excellent teachers.”

In addition to the substantive legal experience she received during consecutive semesters in the Children’s Education Law and Community Enterprise Clinics, Amy Roy ’07 calls her exposure to the “reality of being an attorney” extremely valuable. “I was given a high degree of responsibility over my clients and their legal issues that I could never have experienced inside a classroom or as a summer associate,” says Roy. “I have gained a much better understanding of how attorneys should handle and interact with their clients. I’ve learned that clients need nurturing and encouragement, but also want the truth; they want you to fix their problems and their deadlines are real ones. Embracing this reality and understanding each client’s needs and expectations is what it means to be an effective and successful advocate.

“I have no doubt that I will begin my career as an attorney next year with much more enthusiasm and confidence, and as a much better advocate for my clients because of my participation in the Duke Law clinics.”



THE DUKE BLUEPRINT TO  
LEAD WON THE ABA’S  
GAMBRELL AWARD FOR  
PROFESSIONALISM IN 2005

## FOCUS ON LEADERSHIP: THE DUKE BLUEPRINT

When she welcomes incoming students on the first day of their law school orientation, it has become Bartlett’s tradition to challenge students to take ownership of their time at Duke – “to become the person you wish to become” – through intellectual engagement, community involvement, and service.

Her guiding tool, to which students are introduced on their first day of orientation, is the Duke Blueprint to LEAD (Lawyer Education and Development), “the Blueprint,” which Bartlett introduced in 2002. Its seven principles – lead effectively, build relationships, embody integrity, engage intellectually, practice professionalism, serve the community, and live with purpose – have come to serve as a mission statement for student engagement and, in fact, for the entire Law School community.

Seeing the Blueprint as an opportunity to redefine excellence in legal education to encompass professional and personal skill development, Bartlett introduced it as a way of setting goals for students that emphasize positive vision, ethical reflection, and other values essential to leadership and professionalism. “From the beginning, Kate was committed to the Blueprint being more than just a lofty aspirational document,” says Associate Dean for Student Affairs Jill Miller, who helped craft the Blueprint and whose office bases its annual programming around its principles. “She presented it to the students as a necessary complement to the rigors of their studies, and as a challenge to be more than just their grades.”

“The Blueprint’s virtue is its simplicity,” says Ryan McLeod ’07, former treasurer of the Duke Bar Association (DBA). “It provides a



**“Kate’s emphasis on community and on student leadership, and her insistence that we view our job as not just training lawyers but training leaders, changes the expectations that we have for our students – holding them up to high standards academically, in terms of service, and in terms of community, are now the hallmark of this law school. It’s what makes us effective and it’s what makes our lawyers, when they graduate, so effective and well-regarded in the profession.”**

Professor James Coleman

mantra for our community, and it fosters an atmosphere of integrity and purpose in and out of the classroom. Perhaps even more important to me is the fact that the document has life outside our admissions brochures. Dean Bartlett, the Office of Student Affairs led by Associate Dean Miller and others, and now the student government, work purposefully to integrate the Blueprint's principles into the daily affairs of the Law School. Our student organizations and clubs are thinking about the Blueprint whenever they plan and execute their programs." Most impressive, adds McLeod, is how his classmates "embody" Blueprint principles. "While no one here reads the text of the Blueprint every day, we are consistently offered living examples of its impact."

Having also launched initiatives to support student leadership and ownership such as the "Community Roundtable," a monthly meeting of student leaders which she frequently attends, the 50-member Public Interest and Pro Bono Board, which coordinates student interest and enterprise in that area, as well as innovative curricular options for upper-year students, Bartlett's confidence in the commitment of students to take charge has been well rewarded. Students have enthusiastically launched symposia, conferences, service projects and courses, many of which have become Duke Law institutions.

"Dean Bartlett has always encouraged and supported student initiative," says Tyler Friedman '06 who, as a 2L, organized a day-long symposium on counterterrorism, bringing in experts from across the country. "She has really embraced ideas and contributions of all kinds."

Students have been challenged to carry a sense of ownership and initiative into their academic pursuits in a number of ways – through third-year "capstone" projects that allow them to perform advanced, in-depth work in an area of particular interest to them, independent study, or ad hoc seminars which students organize, and in which they take the lead in teaching.

With a strong interest in international law, Audry Casusol '06 welcomed the opportunity to craft classes specifically tailored to a particular international legal topic, and she took part in several, including one on the intersection between constitutional and public international law and another on the law of the sea. "Duke is really a playground for emerging legal exploration," says Casusol. "I am not sure that many law schools would be so receptive to having a handful of students with similar interests band together to craft their own tailored seminar. Duke not only facilitated but also encouraged such initiatives, thanks to a generous and supportive faculty willing to give their time to guide the seminars, and to Dean Bartlett's leadership."



BARTLETT REGULARLY MEETS WITH STUDENTS IN THE LAW LIBRARY READING ROOM.

Photos: Les Todd

## FOSTERING A COMMITMENT TO SERVICE IN LAW SCHOOL AND BEYOND

Last October, Bartlett was honored with Equal Justice Works' Dean John R. Kramer Award for her dedication to nurturing an outstanding spirit of public service at Duke. Associate Dean for Public Interest and Pro Bono Carol Spruill nominated her for the award, praising Bartlett's enhancement and support of the Law School's clinical programs, tireless promotion of public interest and pro bono work, support of the Law School's Loan Repayment Assistance Program (LRAP), and leadership through example; Bartlett served on the Durham County Board of Social Services from 1999-2005, serving as its chair in 2004-05. Duke Law students "stand in awe of Dean Bartlett's impressive dedication to the good of society," wrote 2006-07 DBA President Brett Hardy '07 in seconding the nomination, also noting Bartlett's encouragement for students to make community service an active part of their lives.



Bartlett deepened ties with international alumni and institutions, holding overseas meetings of the Law School's Board of Visitors in Geneva in 2003 and Beijing in 2005, among other international events.

**“From the start, Dean Bartlett has been clear that law isn’t just any old vocation; it is a vocation where you can really make a difference in the community and in the lives of individuals through leadership and service.”**

Captain Rodney Bullard '01, USAF

White House fellow 2005-06

Students have responded to the call, annually turning out in droves to help low-income taxpayers fill out their tax returns, making long-term commitments to be court-appointed representatives for allegedly abused and neglected children, spending their spring breaks doing public interest legal work in underserved communities throughout the South, and taking on pro bono or minimally paid legal internships during their summer breaks, among scores of other endeavors. They have had unflinching support from their dean.

Having co-chaired the Public Interest Law Foundation (PILF) Auction and Gala as a 2L and PILF itself as a 3L, Teresa Sakash '06 credits Bartlett with helping students break fundraising records to help finance public interest internships. “She was willing to call on all the resources she had access to, always connecting PILF with people she thought could be helpful. Whether reaching out to alumni or working with PILF and the DBA to bring together the first Duke Law Family Weekend in 2006, she looked for the potential synergies that were out there and brought them together. She clearly saw the potential for mutual benefit to the School, students, alumni, and the whole Law School culture; it helped turn the Auction and Gala into the flagship community event that it is.” And Bartlett’s example went beyond fundraising success, Sakash adds: “She helped me to see that you really can make things happen if you ask and if you put energy into them. She also showed me that there doesn’t need to be a distance between students and the administration; it can be a very collaborative process.”

Bartlett, along with husband Christopher Schroeder, Charles S. Murphy Professor of Law and Public Policy Studies, demonstrated her deep personal commitment to public interest work with the commitment of \$100,000 of personal funds to establish a sustainable endowment for LRAP for law students interested in pursuing public interest careers. The endowment “deeply touched” the entire student body, DBA President Hardy said at the time, and sparked other efforts, including a substantial gift from the Class of 2006 – doubled through Duke’s

Financial Aid Initiative – and a December marathon run by a group of students, faculty, and staff, which raised \$45,000.

The Honorable Allyson Duncan '75 of the United States Court of Appeals for the Fourth Circuit, recalls Bartlett’s steadfast support of LRAP before the BOV, of which Duncan is a member. “This is of considerable interest to me because I am in the public sector and have a keen sense of the salary disparities between public and private sector work, and the extent to which significant accumulation of debt circumscribes one’s employment options,” Duncan says. “Most members of the Board are in the private sector, and were less enthusiastic. They expressed a fair amount of skepticism. Yet, at the end of the exchange, Kate said, ‘I’ll take that as a strong positive,’ and moved right on. It endeared her to me because of the strength of her vision of what the School should be about, and her willingness to forge ahead with it, even if she has to bring us along after her.”

2006 graduates Zachary McNish and Garrett Levin were 2Ls when they approached Bartlett, on behalf of fellow students, about their concerns regarding restrictions in the Law School’s former loan forgiveness program. McNish notes how impressed he was by Bartlett’s dedication to fostering a sense of community and commitment to public interest at the Law School and by her willingness to take their input seriously. Levin also commends her honesty, openness, and generosity with her time and, later, with her money to establish the LRAP endowment.

“But her dedication to Duke goes beyond committees and financial commitments,” says Levin, who mentions her “hilarious” turns as judge of “Duke Law Idol” karaoke competitions and her turns at the microphone, most notably in a rendition of “Stand by Me” which she sang with him at the 2005 PILF auction. “When I originally approached her with the idea, she told me she would do it as long as it helped raise money for PILF. It’s yet another example of her complete dedication to Duke Law and to the people in this community.

“When I applied to law school I didn’t expect that the person running the place would work so relentlessly to improve its overall quality, commit large sums of her own money to see that improvements occur, sing karaoke in front of students and alums, all the while never seeking credit even when it was justly deserved and taking the criticism even when it wasn’t. In other words, I didn’t expect to find Dean Bartlett.”





**“Kate Bartlett is revered by the Board of Visitors. Everyone holds her in extremely high regard, even when she very pleasantly, but firmly, disagrees with some of the views that are espoused.”**

The Honorable Allyson K. Duncan '75, United States Court of Appeals for the Fourth Circuit, member, Duke Law School's Board of Visitors

## STRENGTHENING TIES WITH ALUMNI

“I think that the reason that Kate’s leadership style is so successful is that she is an absolutely genuine person,” says Candace Carroll '74, a life member of the BOV and currently the Law School’s representative to Duke’s Financial Aid Initiative. “She is intelligent, committed, and earnest, and you never hear a word out of her mouth that she said just because it’s what you want to hear. She’s a straight shooter. Everybody responds to that kind of person.”

That response has led, among other things, to unprecedented success in fundraising for the Law School. George Krouse '70 called her a “rainmaker” when he introduced her at a February reception held at Simpson Thacher & Bartlett, his New York law firm. During Bartlett’s tenure, cash Annual Fund contributions have more than doubled, from \$4.69 million raised in fiscal year 2000 to last year’s high of \$12.2 million. The book value of the School’s endowment has doubled, and the endowment per student has increased by 108 percent. She has spearheaded fundraising of \$9 million toward a \$10 million goal for the Financial Aid Initiative, and \$20 million toward the building renovations.

“Asking for money isn’t easy,” observes Buck Ferguson. “But Kate believes so deeply in the cause of the Law School, what it could be and what it needed to have to get there, that she has been enormously successful at it.”

“Nobody wants to say ‘no’ to Kate,” jokes Michael Dockterman '78, the incoming chair of the BOV. But Bartlett’s appeal goes well past fundraising, he adds. “It’s a combination of a lot of things: the tremendous respect that everybody has for her as a member of the academy and, more importantly, as somebody who deeply believes in the mission of the Law School. What Kate communicated through the Law School community was a sense of responsibility – to one another and to the community – a sense of caring and a sense of obligation to fulfill what lawyers can do in a society. And that the mission of the Law School was to help the people who entered as law students exit as lawyers ready, willing, and eager to fulfill those obligations.”

As BOV chair at the time, Krouse was a member of the Dean Search Committee when Bartlett was hired. “It took serious weighing in by [former Duke President] Nan Keohane to convince her to take the job,” says Krouse. “But the great thing about it is how well it worked out in the end, and how wonderful a job she did. Once she committed to do it, there was no question but that



Photo: Don Hamerman

### Dean Katharine T. Bartlett – In Her Own Words

On October 27, 2006, during Leadership Weekend, Dean Bartlett discussed her upbringing, career path, scholarly work, and leadership of Duke Law School with Alston & Bird Professor of Law Erwin Chemerinsky.

A webcast and transcript of “A conversation with Dean Katharine T. Bartlett” is available at <http://www.law.duke.edu/webcast/>.

she put every fiber of her being into it, and she showed a remarkable capacity to grow and almost shape the position in her own image.” A frequent recruiter at Duke and his firm’s former managing partner, Krouse points to the quality of the Duke graduates he hires and to the enormous success Bartlett has had recruiting faculty as key and concrete successes. “I don’t think we could have asked for the Law School to be left in better condition.” ♡

# Faculty Focus

## Jerome Reichman

**Working to bring essential medicines to the world's poor**



ONE OF THE WORLD'S top experts on the Agreement on Trade-Related Aspects of Intellectual Property Rights (the TRIPS agreement), Jerome Reichman, Duke's Bunyan S. Womble Professor of Law, is also a man with a mission: facilitating access to essential medicines in the world's poorest countries. These countries are also plagued by some of the world's worst public health epidemics; HIV/AIDS alone is estimated to afflict more than 40 million people in developing countries and those the United Nations designates as "least-developed."

Patent-protected medicines have long been out of reach for the vast majority of people in these countries, Reichman explains, partly because their governments agreed to abide by minimum intellectual property guarantees as a condition of membership in the World Trade Organization (WTO). However, through a legal process put in place by a 2001 WTO ministerial declaration issued in Doha, Qatar (the Doha declaration), and finally perfected in 2005 as an amendment to the TRIPS agreement, it became possible to circumvent some of those standards in the interest of facilitating access to essential medicines in the poorest nations.

As an external consultant to the Geneva-based United Nations Conference on Trade and Development (UNCTAD), Reichman is contributing his expertise to a reference guide for developing countries to help them use these TRIPS agreement flexibilities effectively. After its completion this summer, UNCTAD will hold training courses for officials in those countries to promote the advantages gained from pooling compulsory licenses, and offer guidance in negotiating and using them. An initial regional training course on TRIPS flexibilities involving

Botswana, Ethiopia, Kenya, and Tanzania was held in Addis Ababa in March.

Reichman credits the 2005 amendments with sparking new prospects for pharmaceutical procurement policies by poor countries and, in particular, for giving "legal feasibility" to his scheme for establishing regional pharmaceutical procurement centers in the poorest nations. This was initially conceived in 2002, he says, on the promise of the Doha declaration's acknowledgment that WTO members have a right to take full advantage of "flexibilities" in the TRIPS agreement in order to address public health crises.

One such flexibility allows governments to grant compulsory licenses to address national public health problems, Reichman explains. Over the objections of a patent rights holder, a government can authorize licensees to produce the patented goods, such as pharmaceuticals, in return for "adequate remuneration," which Reichman suggests should be the marginal cost of production plus four or five percent. Under the 2005 amendment, a developed country can issue a second compulsory license to support a first compulsory license in a developing country – one to supply drugs domestically, and another to produce medicines for export to a developing country that lacks manufacturing capacity. One payment is imposed in the developed country, at rates based on conditions in the developing country, and the goods can't be re-exported. "We can now actually supply these goods – these essential medicines – assuming developed countries enact enabling legislation," he says, noting that Canada, Norway, Korea, and India have already done so, with Switzerland and the EU expected to follow suit.

Other amendments gave the least-developed countries an exemption from some of their TRIPS obligations until 2013, and

a further exemption from patenting pharmaceuticals until 2016. Significantly, says Reichman, if a regional group of these countries associated themselves in a trade association, 50 percent of members of which are among these least-developed countries – “the poorest of the poor” – they could re-export goods imported under double compulsory licenses, including essential medicines, throughout the entire affiliated regional trade group. That, says Reichman, would make it possible to establish regional pharmaceutical supply centers with considerable economies of scale and scope.

One scenario he presented to UNCTAD last October proposes the creation of a loose trade agreement between 12 countries in sub-Saharan Africa and their subsequent establishment of a regional pharmaceutical supply center in a member country exempt from patent protections until 2016. The center’s board of directors, composed of member countries’ health ministers, would decide which essential medicines were needed regionally, grant the necessary compulsory licenses under the TRIPS agreement, and then endorse the licenses over to the central pharmaceutical supply center.

“Suddenly the directors find themselves in a very strong negotiating position vis-a-vis the pharmaceutical companies,” Reichman says. “The ministers, acting jointly, holding this bundle of compulsory licenses, can go to the original patent holder and offer the possibility of supplying the entire regional market, if it agrees to supply the drugs at truly affordable prices,” he says. “One of the things we have learned is that under the existing set of incentives, the manufacture of these drugs in developed countries is not being induced by markets in developing countries. So ... if in these markets they get the marginal cost of production plus a genuine royalty of five or six percent, they are receiving rewards that go far beyond their original investment calculus.” Through this arrangement, the patent holders would also be preserving their trademark and market share in the entire region against future competition, Reichman adds.

The ministers could offer “an even better deal” to the patent holder if the latter set up a regional factory, supervised production quality, and supplied the member states from the regional facility, says Reichman. “The manufacturer then becomes a power in the region, we get exchanges of know-how, we get spillovers, we get capacity building in these countries.” The certain spillover benefits to the region would justify a more generous royalty, he adds: “marginal price plus 10 or 12 percent.” He is passionate in insisting that the opportunity to build pharmaceutical production and capacity in Africa should not be missed. “Africa, as a continent, should not be dependent on foreign supply forever.”

Helping to build regional manufacturing capacity would also help satisfy a little known provision in the TRIPS agreement that imposes obligations on developed countries to encourage transfers of technology to the least developed countries in order to give them a viable technological base, Reichman points out. And if the original patent holder declined such an offer, the directors could approach countries with experience producing generics, such as India, China,

## Jerome Reichman: Recent related activities and scholarship

Co-Director, Task Force on Intellectual Property, Initiative for Policy Dialogue, Columbia University

*The Case for Government Oversight and Government Funding of Clinical Trials*, 4 *ECONOMIST’S VOICE* (Art. 3, January 2007) at: <http://www.bepress.com/ev/vol4/iss1/art3/> (with Tracy Lewis & Anthony So)

*Pathways Across the Valley of Death: Public-Private Partnerships to Accelerate Drug Discovery* (NIH grant paper in progress, with Arti K. Rai, Paul Uhler & Colin Crossman)

*The International Legal Status of Clinical Trial Data: From Private to Public Good?*, in *NEGOTIATING HEALTH* (P. Roffe et al. eds., Earthscan 2006)

*Access to Scientific and Technical Knowledge: UNESCO’s Past, Present, and Future Roles*, in *SIXTY YEARS OF STANDARD SETTING IN EDUCATION, SCIENCE, AND CULTURE*, (A.A. Yusuf ed., UNESCP Press, forthcoming 2007)(with Paul Uhler & Heather J. Ritch)

*INTERNATIONAL PUBLIC GOODS AND TRANSFER OF TECHNOLOGY UNDER A GLOBALIZED INTELLECTUAL PROPERTY REGIME* (Keith E. Maskus & J. H. Reichman eds., Cambridge Univ. Press 2005)

*The Globalization of Private Knowledge Goods and the Privatization of Global Public Goods*, 7 *JOURNAL OF INTERNATIONAL ECONOMIC LAW* 279-320 (2004) (with Keith Maskus), *reprinted in* *INTERNATIONAL PUBLIC GOODS AND TRANSFER OF TECHNOLOGY UNDER A GLOBALIZED INTELLECTUAL PROPERTY REGIME* (Cambridge Univ. Press 2005); *in* *INTELLECTUAL PROPERTY: BRIDGING AESTHETICS AND ECONOMICS* (Y. Gendreau ed., Themis 2006); and *in* *GLOBALIZATION AND INTELLECTUAL PROPERTY* (A. George ed., Ashgate Publishing 2006)

*Using Liability Rules to Stimulate Local Innovation in Developing Countries*, in *INTERNATIONAL PUBLIC GOODS AND TRANSFER OF TECHNOLOGY UNDER A GLOBALIZED INTELLECTUAL PROPERTY REGIME* (Keith E. Maskus & J. H. Reichman eds., Cambridge Univ. Press 2005) (with Tracy Lewis)

*Non-voluntary Licensing of Patented Inventions: Part I – Historical Perspective, Legal Framework under TRIPS, and an Overview of the Practice in Canada and the United States of America*, UNCTAD/ICTSD PROJECT ON IPRs AND SUSTAINABLE DEVELOPMENT, Issue paper No. 5, June 2003 (with Catherine Hasenzahl); *Part II – The Canadian Experience*, UNCTAD/ICTSD, Capacity Building Project on IPRs, October 2002; *Part III – The Law and Practice of the United States*, UNCTAD/ICTSD, Capacity Building Project on IPRs, March 2003 (with Catherine Hasenzahl)



## Faculty Focus

or Brazil, offering them a chance to develop a robust generic industry in Africa, which could subsequently convert to research.

Reichman has devised scaled-back alternatives to his original proposal, involving just two or three countries. “South Africa, for example, could join with two least-developed countries and still have the same capacity. You could do it with two countries, as long as one is a least-developed country, and still get all the advantages.”

His plan also has promise for countries still bound by TRIPS’ intellectual property guarantees – the poorest of the developing countries, such as Bolivia, where he spoke in January. “It isn’t possible in these countries to manufacture the drugs in one country and ship them to a second importing company, and re-export them to all other participating countries. But pooled procurement with separate deliveries, by country, still offers the

advantages of economies of scale. Three or four licenses could be pooled to make sure the demand for a specified pharmaceutical is of a sufficient scale from the beginning to justify the investment in producing it for export to these countries, or setting up production in one of these so that it could then be sold to the others under pooled compulsory licenses.”

In addition to creating economies of scale and scope, pooling compulsory licenses facilitates standardized procedures for their issue, cuts transaction costs, and raises the possibility for joint distribution facilities. “So long as each country singly goes through the process of issuing a compulsory license, it’s up against ‘big pharma,’ the repeat player,” he says. “But three or five countries working together have the advantage of numbers. It will be harder to threaten them with lawsuits in local courts, and they can

pool the costs of defending themselves if they need to.”

While Reichman observes enormous political will in certain quarters to help developing nations establish manufacturing capacity – he calls Germany particularly supportive – he acknowledges that his plans are vulnerable to other political pressures, to incompetence, or even to corruption. Some countries, he notes with frustration, have bargained away their TRIPS flexibilities pertaining to pharmaceuticals in favor of free-trade concessions elsewhere. Other challenges pertaining to quality standards and obtaining the active ingredients for drug manufacture he characterizes as solvable problems. “Bangladesh and Colombia have been able to meet pharmaceutical quality standards set by the WHO, and I have no doubt that if we have turnkey projects, we could do it in these countries.” ♣

## Chemerinsky named Duke’s Scholar/Teacher of the Year

**E**RWIN CHEMERINSKY, Alston & Bird Professor of Law and Political Science, was selected by a faculty committee as Duke’s 2006 University Scholar/Teacher of the Year. Renowned as a scholar of constitutional law and the federal courts, appellate advocate, author, Chemerinsky is praised as a passionate and accessible teacher both by law students and undergraduates at Duke. He was presented with the award at the University’s Founder Day celebration on Sept. 28. The award is sponsored by the General Board of Higher Education and Ministry of the United Methodist Church.

Chemerinsky, who came to Duke in 2004 from the University of Southern California, teaches courses in constitutional law, federal courts, and federal practice of civil rights and civil liberties. He also teaches constitutional law to

undergraduates in the Department of Political Science. His scholarly expertise is supplemented by an extraordinary depth of practical experience; throughout his academic career, Chemerinsky has been active as a public interest lawyer and appellate advocate, taking several cases to the United States Supreme Court.

A prolific writer, Chemerinsky has authored four highly praised books: *Federal Jurisdiction*, now in its fourth edition; *Constitutional Law: Principles and Policies*; *Constitutional Law*, a casebook; and *Interpreting the Constitution*, as well as over 100 law review articles. He also contributes frequently to newspapers and magazines, writing regular columns on the Supreme Court for *California Lawyer*, *Los Angeles Daily Journal*, and *Trial Magazine*, and is sought out as a commentator on legal issues for national and local media.

Rachel Wald, a senior majoring in political science, said Chemerinsky’s constitutional law class has been her favorite at Duke, and marvels at his ability to facilitate discussion in a class of 150 students. Law students are also lavish with their praise for Chemerinsky in and out of the classroom.

“It is rare that you meet a professor and individual with as good a heart as Professor Chemerinsky,” said Chris Richardson ’07, who worked with Chemerinsky on an appellate case. “From the classroom to the courtroom, he respects and treats everybody with grace and humility. He stands as an example to me, and to everybody at Duke, of what an attorney should be in their practice and how we should treat others in general.”

The University Scholar/Teacher of the Year Award was established in 1981 by the Division of Higher Education and Ministry of the United Methodist Church to recognize outstanding faculty members for their dedication and contributions to the learning arts and to their institutions. Selection criteria include a demonstration of exceptional teaching, recognized concern for students and colleagues, a record of significant contributions to the scholarly life of the University, and commitment to high standards of professional and personal life. ♣

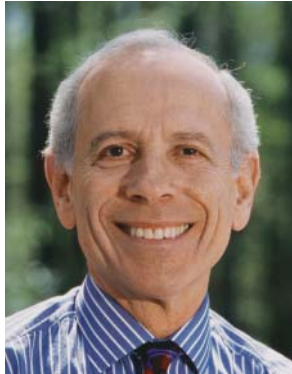


## Horowitz, Bradley, and Morris receive appointments within Departments of State and Defense

**P**ROFESSOR DONALD HOROWITZ has been appointed to the Secretary of State's Advisory Committee on Democracy Promotion, and Professors Curtis Bradley and Madeline Morris have been appointed to the Secretary of State's Advisory Committee on International Law. Morris, additionally, has recently been appointed chief counsel to the Office of the Chief Defense Counsel in the Office of Military Commissions of the Department of Defense.

The Secretary of State's Advisory Committee on Democracy Promotion, which held its inaugural meeting in November in Washington, D.C., includes 15 academics and leaders of institutions and organizations who work globally in democratization, electoral system reform, constitution-building, and the promotion of human rights and civil society, among other areas. Secretary of State Condoleezza Rice established the Committee to provide her and the administrator of the Agency for International Development (USAID) with advice on issues related to democracy promotion in the formulation and implementation of foreign policy and foreign assistance, according to a statement from the U.S. Department of State.

Horowitz, James B. Duke Professor of Law and Political Science, has written extensively on the problems of divided societies and issues related to constitution building. His books include *The Deadly Ethnic Riot* (2001), *Ethnic Groups in Conflict* (1985; 2d ed. 2000), and *A Democratic South Africa? Constitutional Engineering in a Divided Society* (1991), and he has also published an extensive study of Islamic law and the theory of legal change. He has consulted widely on institutions and policies that might be adopted to promote democracy and reduce ethnic strife in such areas as



DONALD HOROWITZ



CURTIS BRADLEY



MADELINE MORRIS

Russia, Romania, Nigeria, Tatarstan, Fiji, and Northern Ireland.

The Advisory Committee on International Law brings together professors, practitioners, and policymakers who are expert in international law to provide timely and relevant advice on significant issues of international law to Secretary Rice and her legal adviser. The Advisory Committee typically meets twice a year at the State Department.

A specialist in international law and U.S. foreign relations law, Bradley, Richard and Marcy Horvitz Professor of Law, joined the Duke faculty in 2005 after teaching at the University of Virginia and University of Colorado law schools. In 2004 he served as counselor on international law in the Legal Adviser's Office of the U.S. State Department. He has written numerous articles concerning both international law and U.S. foreign relations law and has co-authored two casebooks, *Foreign Relations Law: Cases and Materials* (with Jack Goldsmith), and *International Law* (with Barry Carter and Phillip Trimble). He is currently working on a book concerning international law in the U.S. legal system. Bradley is the director of Duke Law School's Center for International and Comparative Law.

An expert in public international law

and, in particular, international criminal law and international criminal jurisdiction, Morris was also recently appointed chief counsel to the Office of the Chief Defense Counsel for the detainees at Guantanamo in their proceedings before U.S. military commissions, United States Department of Defense. Also the director of the Law School's Guantanamo Defense Clinic, Morris has served as advisor to the chief defense counsel, Col. Dwight Sullivan, since 2005.

Morris has served as senior legal counsel, Office of the Prosecutor, Special Court for Sierra Leone; has provided consultation to the U.S. State Department, Office of War Crimes Issues; and has served as advisor on justice to the president of Rwanda, as special consultant to the secretary of the U.S. Army, as co-convenor of the Inter-African Cooperation on Truth and Justice program, and as consultant and adjunct faculty member of the U.S. Naval Justice School. She is a member of the Advisory Board of the American Bar Association's Central and East European Law Initiative, and has published widely in the areas of public international law, international human rights, international criminal law, and international criminal jurisdiction. ♣

## Associate Dean Spruill wins Duke's diversity award



Associate Dean for Public Interest and Pro Bono and Senior Lecturing Fellow Carol Spruill was honored with Duke University's 2006 Blue Ribbon Diversity Award on Nov. 1. This award recognizes a demonstrated commitment to the spirit of diversity, leadership through positive interaction between persons of different cultural backgrounds, and a respect for differing values and points of view within the University.

"Carol works tirelessly to imprint the Duke Law School experience with a common commitment to diversity – diverse peoples, diverse community organizations, diverse ideas and causes, and diverse political leanings," said Dean Katharine T. Bartlett, who nominated Spruill for the award. "She integrates diversity of background and points of view in the speakers she brings to campus, the multitude of activities she organizes, and the pro bono opportunities she cultivates for students. She ... serves as the quiet conscience for majority students on diversity issues."

"In my time at Duke Law, she has been supportive and encouraging of my search for personal fulfillment and professional development through pro bono work," Sonja Ralston Elder JD/MPP '09 wrote to the nominating committee. "Beyond the identifying characteristics of race, gender, status, and background, Dean Spruill seeks to unlock the potential of every individual, and it is that potential that holds more power than any demographic."

"When I was a law student, Carol Spruill was a constant support to me in pursuing a job in the poverty law field ... and also helped those who were going to go on to private practice. And it is through this help that I think Carol truly makes an enormous mark," said John Coburn '95, an attorney with Health & Disability Advocates in Chicago. "[Her programs] give these current and future leaders an important experience in working with lower income individuals that they do not forget. And with these experiences, they help build policies, infrastructure, and community that include everybody." ♡

## Faculty Notes

### Katharine T. Bartlett

A Conversation Among Deans from "Results: Legal Education, Institutional Change, and a Decade of Gender Studies," 29 *Harvard Journal of Law & Gender* 465-484 (2006) (with Edward Rubin & W.H. Knight)

Recipient, 2006 Dean John R. Kramer Award, Equal Justice Works, Washington, D.C., October 2006

### Sara Sun Beale

2006 Supplement to GRAND JURY LAW AND PRACTICE (2d ed. 1997)

Teachers Manual to FEDERAL CRIMINAL LAW AND ITS ENFORCEMENT (4th ed. 2006)

*The News Media's Influence on Criminal Justice Policy: How Market Driven News Promotes Punitiveness*, 48 *William & Mary Law Review* 397 (2006)

Speaker, "The Many Faces of Over-criminalization: From Morals and Mattress Tags to Overfederalization," Conference, International Society for Reform of Criminal Law, Brisbane, Australia, July 2006

Lecturer, U.S. Federal Criminal Law, Monash University School of Law, Melbourne, Australia, July 2006

Participant, Department of Justice Program on Electronically Stored Information, Washington, D.C., August 2006

Faculty member, Program in Anglo American Law, University of Navarra, Pamplona, Spain, October 2006

Reporter, Criminal Rules Committee meeting, Amelia Island, Florida, October 2006

Member, Dean Search Committee, Duke Law School, May-December 2006

Law School Representative, Duke University Academic Council (continuing)

Director, International Society for Reform of Criminal Law (continuing)

Member, Board of Directors, Center for Law, Ethics, and National Security (continuing)

Reporter, Judicial Conference Advisory Committee on Criminal Rules (continuing)

### Stuart Benjamin

*Evaluating E-Rulemaking: Public Participation and Political Institutions*, 55 *Duke Law Journal* 893-941 (2006)

*Who's Afraid of the APA? What the Patent System Can Learn from Administrative Law*, 95 *Georgetown Law Journal* 270-336 (2006) (with Arti K. Rai)

### Donald Beskind

PROBLEMS IN TRIAL ADVOCACY, 2007 EDITION (NITA 2006)

Lecturer, "Jury Selection: Identifying Problem Jurors," Association of Trial Lawyers of America, New Lawyer's Division, Seattle, July 2006

Lecturer, "Eliciting Juror Bias: The Tort Reform Questions," Colorado Trial Lawyers of America, Copper Mountain, Colorado, August 2006

Moderator, "New Secrets of Success," Association of Trial Lawyers of America's 20th Annual Weekend with the Stars, New York City, December 2006

North Carolina Legal Elite, *Business North Carolina*, January 2007

North Carolina 2006 Super Lawyers

### James Boyle

THE SHAKESPEARE CHRONICLES, A NOVEL (Lulu, 2006)

*Constitutional Circumvention*, *Financial Times* (FT.com), June 13, 2006

*A Closed Mind About An Open World*, *Financial Times* (FT.com), August 7, 2006

*A View From (Under) the Long Tail*, *Financial Times* (FT.com), September 28, 2006



*State Intervention For Me, But Not For Thee*, Financial Times (FT.com), November 7, 2006

*Breaking the Deal*, Financial Times (FT.com), November 16, 2006

## Curtis Bradley

*Case Comment, 'Sanchez-Llamas v. Oregon'*, 100 American Journal of International Law 882 (2006)

*'Missouri v. Holland'*, in FEDERALISM IN AMERICA: AN ENCYCLOPEDIA (Joseph Marbach, Ellis Katz & Troy E. Smith eds., 2006)

International Law Workshop, "Sosa, Customary International Law, and the Continuing Relevance of *Erie*," Northwestern University School of Law, September 2006

Faculty Workshop, "Unratified Treaties, Domestic Politics, and the U.S. Constitution," Florida State University School of Law, October 2006

International Law Workshop, "Unratified Treaties and the U.S. Constitution," Harvard Law School, October 2006

Commentator, Annual International Law in Domestic Courts Workshop, University of San Diego Law School, December 2006

Appointed member, Secretary of State's Advisory Committee on International Law

## Paul Carrington

*Testamentary Incorrectness: A Review Essay*, 54 Buffalo Law Review 693-716 (2006) (reviewing SAMUEL P. KING & RANDALL W. ROTH, BROKEN TRUST: GREED, MISMANAGEMENT & POLITICAL MANIPULATION AT AMERICA'S LARGEST CHARITABLE TRUST (2006))

Speaker, "Private Enforcement of Environmental Law," Max Planck Institute of Comparative Law, Hamburg; University of Ghent Law Faculty, Ghent, October 2006

Speaker, "Private Legal Deterrence of Corrupt Practices," Transparency International, Berlin, October 2006

## Erwin Chemerinsky

*The Assault On The Constitution: Executive Power And The War On Terrorism*, 40 U.C. Davis Law Review 1-20 (2006)

*Assessing Chief Justice William Rehnquist*, 154 University of Pennsylvania Law Review 1331-1364 (2006)

*The Assumptions of Federalism*, 58 Stanford Law Review 1763-1791 (2006)

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*Judicial Restraint: How Kermit Roosevelt III's Judicial Theory Undermines the Very Case for Judicial Philosophies*, 3

Democracy: A Journal of Ideas (Winter 2007) (reviewing KERMIT ROOSEVELT III, THE MYTH OF JUDICIAL ACTIVISM: MAKING SENSE OF SUPREME COURT DECISIONS (Yale University Press, 2006))

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*Speakers Cornered: Cheney's Leaking Represents An Abuse Of Power, Not Freedom Of Speech*, Slate Magazine, July 25, 2006, at <http://www.slate.com/id/2146477/>

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*Let All Criminal Defendants Pick Their Lawyers*, Daily Journal, Aug. 18, 2006

*Navy Is Wrong to Force Out Guantanamo Lawyer*, Daily Journal, October 21, 2006

*New Rules For Detainees Still Fall Short*, Raleigh News & Observer, September 10, 2006, at A31

*On the Roberts Court, the Police Get More Freedom*, Daily Journal, July 21, 2006

*Schools Must Be Able to Limit Abusive Speech*, Daily Journal, May 18, 2006

*Standing Up To Injustice In A Crisis*, Raleigh News & Observer, Oct. 20, 2006, at A15

*State Supreme Court in 'Copley' Undermines Accountability of Police*, Daily Journal, September 9, 2006

*The Supremes*, Daily Journal, September 20, 2006

*The Supremes: All Eyes Are on the Roberts Court and Justice Anthony Kennedy's Potential Swing Vote*, 26 California Lawyer 20 (October 2006)

*Use Careful Procedures*, National Law Journal, June 5, 2006, at 27

Counsel, *Renda v. City of Lubbock*, United States Court of Appeals for the Fifth Circuit, July 2006

Speaker, "Recent Developments in Constitutional Law," National Association of Appellate Court Attorneys, Richmond, VA, July 2006; ACLU of Southern California, Los Angeles, July 2006; Videoconference for federal judges, Federal Judicial Center, Washington, D.C., July 2006

Speaker, "Supreme Court Review," Workshop for Federal Magistrate Judges, New York City, July 2006; Workshop for Federal Bankruptcy Judges, San Diego, August 2006; Practising Law Institute, New York City, August 2006; Workshop for Federal District Court Judges, Denver, August 2006; Supreme Court Review Program, Pepperdine University, Malibu, August 2006; Tenth Circuit Judicial Conference, Colorado Springs, September 2006; Florida Judicial Conference, Jacksonville, September 2006; Utah Judicial Conference, Park City, September 2006; Federal Bar Association, Los Angeles, September 2006; Idaho Judicial Conference, Sun Valley, October 2006; Business and Litigation Roundtable, Dallas, October 2006; Touro Law School, Huntington, NY, October 2006; New York Appellate Judges' Conference, Cooperstown, October 2006; Seventh Circuit Judicial Conference, Lake Geneva, WI, October 2006; New Jersey Judicial Conference, Newark, November 2006; Nevada Bar Association, Las Vegas, December 2006; San Francisco Bankruptcy Forum, December 2006

Speaker, "Recent Developments in Habeas Corpus Law," National Conference for Federal Defenders, Pittsburgh, August 2006

Speaker, Constitution Day Speech, Charleston School of Law, Charleston, SC, September 2006

Speaker, "Public Interest Law: Its Role and Its Challenges," DePaul Law School, Chicago, September 2006

Keynote address, "The Threats to Civil Liberties," ACLU of Colorado, Denver, September 2006

Keynote address, "The Threat to Judicial Independence," National Conference of Women Judges, Las Vegas, October 2006

Speaker, "Judicial Review to Advance Liberty and Equality," Conference on

## Faculty Notes

Constitutional Interpretation for the 21st Century, Vanderbilt University, Nashville, October 2006

Speaker, "Recent Developments in Civil Rights Law," Practicing Law Institute, New York City, October 2006

Speaker, "Constitutional Issues in the New Bankruptcy Law," National Conference of Bankruptcy Judges, San Francisco, November 2006

Speaker, "Debate on Civil Liberties and the War on Terrorism," Oregon Bar Association, Portland, November 2006

Counsel, *Wilkinson v. Polk*, United States Court of Appeals for the Fourth Circuit, November 2006

Speaker, "Ethics for Appellate Judges," and "Perspectives on Death Penalty Litigation," National Appellate Judges Conference, Dallas, November 2006

Speaker, "Justice Brandeis and Privacy," Conference on Justice Brandeis, University of Louisville Law School, November 2006

Speaker, "Perspectives on Charter Reform," Long Beach City Council, December 2006

Counsel, *Cagliotti v. District Hospital Partners*, District of Columbia Court of Appeals, December 2006

### George C. Christie

Faculty, Duke in Geneva Program in Transnational Law, July 2006

Principal presenter, "Conflicting Approaches in the Adjudication of Human Rights Cases," Conference on Human Rights Litigation, Université Libre de Bruxelles, Brussels, October 2006

### Charles Clotfelter

*Federal Oversight, Local Control, and the Specter of 'Resegregation' in Southern Schools* (NBER Working Paper No. 1086, January 2005), 8 *American Law & Economics Review* 1-43 (Summer 2006) (with Helen F. Ladd & Jacob L. Vigdor)

*Patron or Bully? The Role of Foundations in Higher Education*, in RECONNECTING EDUCATION AND FOUNDATIONS: TURNING GOOD INTENTIONS INTO EDUCATIONAL CAPITAL 211-248 (Ray Bacchetti & Thomas Ehrlich eds., 2007)

*Teacher-Student Matching and the Assessment of Teacher Effectiveness*, 41 *Journal of Human Resources* 778-820 (Fall 2006) (with Helen F. Ladd & Jacob L. Vigdor)

Presenter, "The Squeeze on Families: Rising Costs, Growing Debt, and Access to College," The Politics of Inclusion: Higher Education at a Crossroads Conference, UNC Chapel Hill, September 2006

Presenter, "Absent Teachers and their Effect on Achievement Gaps," APPAM, Madison, WI, November 2006

Presenter, "How and Why do Teacher Credentials Matter for Student Achievement?," Meetings of the Southern Economic Association, Charleston, SC, November 2006

Panelist, "Jump Start Your Career: Ph.D. 0 to 4+ Years," meetings of the Southern Economic Association, Charleston, SC, November 2006

Presenter, "The Academic Achievement Gap in Grades 3 to 8," Workshop on Black-White Inequality, University of Chicago, December 2006

### James E. Coleman, Jr.

*Genetics and Responsibility: To Know the Criminal from the Crime*, 69 *Law & Contemporary Problems* 115-164 (Winter/Spring 2006) (with Nita A. Farahany)

Special editor, *The Impact of Behavioral Genetics on the Criminal Law*, 69 *Law & Contemporary Problems* (Winter/Spring 2006) (with Nita A. Farahany)

*Response to Professor Sander: Is It Really All About the Grades?*, 84 *North Carolina Law Review* 1823-1839 (2006) (with Mitu Gulati)

Member, Dean Search Committee, May-December 2006

### James D. Cox

*Does the Plaintiff Matter?: An Empirical Analysis of Lead Plaintiffs in Securities Class Actions*, 100 *Columbia Law Review* 101-155 (with Randall S. Thomas)

*The Oligopolistic Gatekeeper: The U.S. Accounting Profession*, in AFTER ENRON: IMPROVING CORPORATE LAW AND MODERNIZING SECURITIES REGULATION IN EUROPE AND THE U.S. 269-316 (2006)

*The Role Of Empirical Evidence In Evaluating The Wisdom Of The Sarbanes-Oxley Act*, 40 *University of San Francisco Law Review* 823-844 (2006)

Panelist, "White Collar Criminal Prosecutions after Sarbanes-Oxley," ABA National Institute on Securities Fraud, Washington, D.C., September 2006

Commentator, "Hedge Funds and Shareholder Activism," Vanderbilt University School of Law, Nashville, October 2006

Presenter, "The Designated Underwriter in Sovereign Debt Offerings," University of Illinois College of Law, October 2006

Participant, U.S. Chamber of Commerce Study Group to Reform Securities Class Actions, New York City, August 2006

Member, AALS Audit Committee

Member, ABA Business Law Section, Committee on Corporate Laws

Member, Business and Finance Committee, Duke Trustees; Duke University

Chair, Dean Search Committee, Duke Law School, May-December 2006

Chair, University Priorities Committee, Duke University

Member, Central Campus Planning Committee, Duke University

Member, Master Plan Oversight Committee, Duke University

### Richard Danner

Panelist, "Exploring Uncharted Territory: The Culture and Context of the University," American Association of Law Libraries Annual Meeting, St. Louis, July 2006

Panelist, "Managing Beyond the Library: Successful Management of IT Departments by Law Librarians," American Association of Law Libraries Annual Meeting, St. Louis, July 2006

Moderator, "Trends in Legal Education and Law Practice," American Association of Law Libraries Annual Meeting, St. Louis, July 2006

Participant, Board of Directors' meetings and annual conference, International Association of Law Libraries, St. Petersburg State University, St. Petersburg (and Moscow), Russia, September 2006

Conference organizer and presenter, "Legal Information and the Development of American Law: Further Thinking about the Thoughts of Bob Berring," Boalt Hall School of Law, Berkeley, October 2006

### Deborah A. DeMott

RESTATEMENT (THIRD) OF AGENCY (2006) (Reporter)

*Breach of Fiduciary Duty: On Justifiable Expectations of Loyalty and Their Consequences*, 48 *Arizona Law Review* 925-956 (2006)

*Inside the Corporate Veil: The Character and Consequences of Executives' Duties*, 19 *Australian Journal of Corporate Law* 251-267 (2006)

*The Texture of Loyalty*, in CORPORATE GOVERNANCE POST-ENRON: COMPARATIVE PERSPECTIVES (British Institute of International & Comparative Law, 2006)

Lecturer, "Disloyal Agents," Meador Lecture, University of Alabama School of Law, November 2006

Lecturer, "Guests at the Table?: Independent Directors in Family-Controlled Public Companies," W.E. Hearn Lecture,

University of Melbourne Law School,  
December 2006

Member, Dean Search Committee, Fuqua  
School of Business

Faculty Co-Chair, Committee on Facilities  
and Environment, Duke University

Chair, Nominating Committee,  
Order of the Coif

## Robinson O. Everett

*Postscript* to, George C. Chalou, *A  
Pioneering Effort in Television: The U.S.  
Court of Military Appeals*, 53 FEDERAL  
LAWYER 29 (September 2006)

Recipient, General Practice Section Life-  
time Achievement Award, North Carolina  
Bar Association, Annual Meeting, Atlantic  
Beach, June 2006

Attendee, National Conference of  
Commissioners on Uniform State Laws,  
Hilton Head, SC, July 2006

Participant, ABA Standing Committee on  
Armed Forces Law, ABA Annual Meeting,  
Honolulu, August 2006

Chair, LAMP Committee meeting, North  
Carolina State Bar Meeting, Pinehurst, NC,  
July 2006

Attendee, Conference of the National  
Institute of Military Justice, Washington  
College of Law, American University,  
November 2006

Attendee, ABA's 16th Annual Review of the  
Field of National Security Law, Washington,  
D.C., November 2006

Counselor, ABA Standing Committee on  
Law and National Security, Washington,  
D.C., December 2006

Member, American Inns of Court  
Foundation Board of Directors

Member, ABA Standing Committee on  
Armed Forces Law

Member, Board of Directors, North Carolina  
Institute for Constitutional Law

## Peter Fish

*Crossing Judge Parker's Luten Bridge:  
Partisan Politics, Economic Visions, and  
Government Reform in Retrospect and  
Prospect: A Commentary to Professor  
Richman*, 84 North Carolina Law Review  
1913-1926 (2006)

*Fortuna; Granville Devisee v. Allen;  
Judiciary, Federal; Latimer v. Poteat; and  
Ogden v. Witherspoon (Blackledge)*, in  
ENCYCLOPEDIA OF NORTH CAROLINA 463; 524-  
525; 640-642; 664; 842-843 (William S.  
Powell ed., 2006)

Chair, Committee on Courses of the Arts &  
Sciences Council, Duke University

Member, Assistant Dean of Arts & Sciences  
Search Committee, Duke University

Member, Trustee Nominating Committee of  
the Academic Council, Duke University

## Catherine Fisk

*Credit Where It's Due: The Law and Norms  
of Attribution*, 95 Georgetown Law Journal  
49-117 (2006)

Panelist, "Should Compensation to  
Employee Inventors be Mandatory in the  
U.S.?" Loyola Law School IP Special Focus  
Conference on Employee Inventors, Los  
Angeles, September 2006

Panelist, "A Hearing on Safety and Health  
Conditions at Smithfield Packing Plant,"  
convened by the Justice @ Smithfield  
Campaign and the First Baptist Church,  
Fayetteville, NC, September 2006

Co-convenor and moderator, Symposium  
on Makeup, Identity Performance  
& Discrimination, Duke Law School,  
October 2006

Presenter, "Assembly Line Creativity:  
The Transformation of Innovation Within  
Corporations, 1875-1930" Intellectual  
Property / Labour Law Seminar, London  
School of Economics, December 2006

Elected, Board of Trustees, Law & Society  
Association

## Mitu Gulati

*The Story of Jespersion v. Harrah's: Makeup  
and Women at Work*, in EMPLOYMENT  
DISCRIMINATION STORIES 105-152 (Joel Wm.  
Friedman ed., 2006) (with Devon Carbado  
& Gowri Ramachandran)

*Response to Professor Sander: Is It Really  
All About the Grades?*, 84 North Carolina  
Law Review 1823-1839 (2006) (with James  
E. Coleman, Jr.)

*Introduction: A New Legal Realist  
Perspective On Employment Discrimin-  
ation*, 31 Law & Social Inquiry 797-799  
(2006) (with Laura Beth Nielsen)

Co-convenor and moderator, Symposium  
on Makeup, Identity Performance &  
Discrimination, Duke Law School,  
October 2006

## Paul H. Haagen

Presenter, "Regulating International  
Athletics," Capital University of Economics  
and Business, Beijing, June 2006

Moderator, "Gambling as a Positive Good  
in Professional Sports," Duke Law School,  
November 2006

Presenter, "Social Networking Sites and  
Intercollegiate Athletics," 5th Annual  
Intercollegiate Athletics Forum, New York  
City, December 2006

Chair, Academic Council, Duke University

## Clark Havighurst

*Cases Before High Court*, National Law  
Journal, January 15, 2007, at 7 (Antitrust Law)

*Contesting Anticompetitive Actions Taken  
in the Name of the State: State Action  
Immunity and Health Care Markets*, 31  
Journal of Health Politics, Policy & Law  
587-607 (2006)

*Distributive Injustice(s) in American Health  
Care*, 69 Law & Contemporary Problems 7-  
82 (Autumn 2006) (with Barak D. Richman)

*Foreword: Health Policy's Fourth  
Dimension*, 69 Law & Contemporary  
Problems 2-6 (Autumn 2006) (with Barak  
D. Richman)

*Libertarian Health Policy*, 25 Health  
Affairs 1740-41 (2006) (reviewing MICHAEL  
F. CANNON & MICHAEL D. TANNER, HEALTHY  
COMPETITION: WHAT'S HOLDING BACK HEALTH  
CARE AND HOW TO FREE IT (2005))

Special Editor, *Symposium: Who Pays?  
Who Benefits? Distributional Issues in  
Health Care*, 69 Law & Contemporary  
Problems (Autumn 2006) (with Barak D.  
Richman)

*Reviving Managed Health Care with Health  
Savings Accounts*, 24 Health Affairs 1490-  
1500 (2005) (with Mark A. Hall)

*Unhealthy Subsidies*, Cato Unbound,  
January 12, 2007 at: [http://www.  
cato-unbound.org/2007/01/12/](http://www.cato-unbound.org/2007/01/12/)

## Donald Horowitz

Presenter, Keynote Address, Oxford Center  
for Research in Inequality, Human Security,  
and Ethnicity, Oxford, UK, October 2006

Presenter, Keynote Address, Conference on  
Islam, International Law and the Prospects  
for a Democratic Iraq," Whittier Law School,  
Costa Mesa, CA, March 2006

Appointed member, Secretary of State's  
Advisory Committee on Democracy  
Promotion, 2006-08

## Judith Horowitz

Planner & presenter, alumni meetings in  
London & Oxford, UK, October 2006

Member, Pre-selection Committee for the  
Palestinian Rule of Law Program, Open  
Society Institute, New York, December 2006

Member, Postgraduate Legal Education  
Committee, ABA, 2006-07

## David Lange

2006 Supplement to INTELLECTUAL PROPERTY:  
CASES AND MATERIALS (2d ed. 2003) (with  
Mary LaFrance & Gary Myers)

Presenter, excerpt from, *No Law:  
Intellectual Property in the Image of an  
Absolute First Amendment* (upcoming,  
with H. Jefferson Powell), International  
Conference on Intellectual Property and



# Faculty Notes

Technology, Albany Law School, New York City, October 2006

## **Sarah Ludington**

*Reining in the Data Traders: A Tort for the Misuse of Personal Information*, 66 Maryland Law Review 140-193 (2006)

## **Martin Lybecker**

*New Developments in Bank Securities Regulation*, 114 Trust & Investments 30 (Nov.-Dec. 2006)

Co-chair, Financial Services Institute 2006, ALI-ABA Advanced Course of Study, Washington, D.C., February 2006

Speaker, "The Changing Role and Responsibilities of Fiduciaries," Corporate Funds Roundtable, Institutional Investor Institute, Washington, D.C., March 2006

Speaker, "Does Your Family Office Need to Register as an Investment Advisor?," Institute for Private Investors, Boston, April 2006; Annual Meeting, New York City, May 2006

Speaker, "Investment Management Developments," 2006 Lawyers Council Meeting, Financial Services Roundtable, Washington, D.C., May 2006

Speaker, "The Intersection of Federal Securities Regulation and Banking," Banking Law II, ABA Second Annual National Institute, Chicago, September 2006

Member, Advisory Board, ABA/ABA Money Laundering Enforcement Conference, Washington, D.C., October 2006

Speaker, "Bank Regulatory Issues," Investment Management Regulation, ALI-ABA Advanced Course of Study, New York City, December 2006

## **Jennifer Maher**

Presenter, "Attorney Exchanges Between NC Bar Association and Foreign Bar Associations," North Carolina Board of Trustees, October 2005

Elected chair, North Carolina Bar Association International Law & Practice Section

## **Francis E. McGovern**

*The Evolution of Asbestos Bankruptcy Trust Distribution Plans*, 62 New York University Annual Survey of American Law 163-185 (2006)

*A Model State Mass Tort Settlement Statute*, 80 Tulane Law Review 1809-1826 (2006)

Speaker, "Ethics in Class Actions," University of San Francisco Law School, October 2006

Commentator, "Brickman's Mass Fraud in Mass Torts," The Federalist Society, Washington, D.C., October 2006

Speaker, "Legal Strategy," Consensus Building Institute, Boston, October 2006

Speaker, "Claims Resolution Facilities," Stanford Law School, Palo Alto, November 2006

Speaker, "The Relationship between Judge and Judicial Adjuncts," "The Art and Science of Serving as a Special Master in Federal and State Courts," and "Judges' Perspectives on Use of Masters: What They Do Well and What They Can't Do Well," ALI-ABA, San Francisco, November 2006

Speaker, "Designing Claims Resolution Facilities," Harvard Law School, Boston, November 2006; Stanford Law School, Palo Alto, November 2006

Speaker, "Evaluating and Equalizing Personal Injury Damages in the United States," Risques, Assurances, et Responsabilités Conférence, Paris, November 2006

Speaker, "Rule of Law in Time of Calamity," ABA Section of Litigation, Chicago, December 2006

Keynote Speaker, Mealey's Asbestos Bankruptcy Conference, Philadelphia, December 2006

Speaker, "The Assessment and Equalization of Damages for Personal Injuries in the United States," Cour de Cassation, Paris, December 2006

## **Thomas Metzloff**

Distinctive Aspects of American Law Documentary Series: *Kelo v. New London* (2006), *Lee v. Weisman* (2006), and *Swedenberg v. Kelly* (2006) (with Sarah Wood & Todd Shoemaker, videographer)

Presentation, "Critical Issues in Constitutional Law," CLE, North Carolina Public Lawyers, Raleigh, September 2006

Presentation, "Separation of Church and State Under the First Amendment," Program on Federal Courts and the Constitution for High School and College Teachers, Providence, Rhode Island, November 2006

## **Ralf Michaels**

*EU Law as Private International Law? Re-Conceptualising the Country-of-Origin Principle as Vested Rights Theory*, 2 Journal of Private International Law 195-242 (2006)

*The Functional Method of Comparative Law*, in OXFORD HANDBOOK OF COMPARATIVE LAW 339-382 (Mathias Reimann & Reinhard Zimmermann eds., 2006)

*Two Economists, Three Opinions? Economic Models for Private International Law – Cross Border Torts as Example*, in AN ECONOMIC ANALYSIS OF PRIVATE INTERNATIONAL LAW 143-184 (Jürgen Basedow & Toshiyuki Kono eds., Mohr Siebeck 2006)

*Two Paradigms of Jurisdiction*, 27 Michigan Journal of International Law 1003-1069 (2006)

Presenter, "The Applicability of the UNIDROIT Principles," workshop on The UNIDROIT Principles of International Commercial Contracts, Oxford University, UK, July 2006

Presenter, "The Reluctant World Court: Three Readings of the Supreme Court Decision in *Empagran*," Conference on International Law after the Three Worlds, American University, Washington, D.C., September 2006

Presenter, "The True New Lex Mercatoria," Conference on Governing Contracts – Public and Private Perspective, Osgoode Hall Law School, Toronto, November 2006

Presenter, "Functionalist Comparative Law – Bottom Up or Top Down?," Conference on The "Bottom-Up-Approach" to Comparative Law, Leuven University, Leuven, Belgium, December 2006

## **Robert Mosteller**

EVIDENCE: CASES AND MATERIALS (7th ed., 2007) (with Broun & Giannalli)

McCORMICK ON EVIDENCE (6th ed. 2006) (with others) (practitioner ed., 2 vol.)

McCORMICK ON EVIDENCE (6th ed. 2006) (with others) (1 vol. ed.)

*Davis v. Washington and Hammon v. Indiana: Beating Expectations*, 105 Michigan Law Review First Impressions 6 (2006) at: <http://students.law.umich.edu/mlr/firstimpressions/vol105/mosteller.pdf>

Presenter, "U.S. Supreme Court Preview," Duke Law School, August 2006

## **Joost Pauwelyn**

*Blood Diamonds' Many Facets* (Op-ed), Raleigh News & Observer, Jan. 11, 2007 at A13 (with Barak Richman)

*Non-Traditional Patterns of Global Regulation: Is the WTO 'Missing the Boat'?*, in CONSTITUTIONALISM, MULTILEVEL TRADE GOVERNANCE AND SOCIAL REGULATION 199-227 (Christian Joerges & E.-U. Petersmann, eds.)

*Book Review*, 100 American Journal of International Law 986-991 (2006) (reviewing DEBORAH Z. CASS, THE CONSTITUTIONALIZATION OF THE WORLD TRADE ORGANIZATION: LEGITIMACY, DEMOCRACY, AND COMMUNITY IN THE INTERNATIONAL TRADING SYSTEM (2005))

## H. Jefferson Powell

*Constitutional Virtues*, 9 Green Bag 2d 379-389 (2006)

Panelist, "Constitution Day: The Constitution and the War on Terror," Duke Law School, September 2006

Panelist: "The Use of International and Foreign Law in Interpreting the U.S. Constitution," Duke Law School, October 2006

## Jedediah Purdy

*History, Human Nature, And Property Regimes: Filling In The Civilizing Argument*, 50 St. Louis University Law Journal 735-750 (2006) (Comment on Carol Rose's 2005 Childress Lecture)

*The Limits of Courage and Principle*, 104 Michigan Law Review 1501-1521 (2006) (reviewing MICHAEL IGNATIEFF, *THE LESSER EVIL: POLITICAL ETHICS IN AN AGE OF TERROR* (2004))

*The New Biopolitics: Autonomy, Demography, and Nationhood*, 2006 Brigham Young University Law Review 889-955

*The New Open Society: Has The New Utopia Promised By The Tech Boom's Cyber-Prophets Lived Up To Its Billing? Depends On The Book*, American Prospect, November 5, 2006 (reviewing CASS SUNSTEIN, *INFOTOPIA: HOW MANY MINDS PRODUCE KNOWLEDGE* (2006) and YOCHAI BENKLER, *THE WEALTH OF NETWORKS: HOW SOCIAL PRODUCTION TRANSFORMS MARKETS AND FREEDOM* (2006))

*The Promise (and Limits) of Neuro-economics*, 58 Alabama Law Review 1 (2006)

## Arti Rai

*Harnessing and Sharing the Benefits of State Sponsored Research*, 21 Berkeley Technology Law Journal 1187-1213 (2006) (with Rebecca S. Eisenberg)

*Who's Afraid of the APA? What the Patent System Can Learn from Administrative Law*, 95 Georgetown Law Journal 270-336 (2006) (with Stuart Minor Benjamin)

## Jerome Reichman

Presenter and evaluator, Workshop on Procuring Essential Medicines in Developing Countries, Open Society Institute, New York, July 2006

Principal presenter, "Compulsory Licensing of Patented Inventions in United States Law and Practice," International Association for Teaching and Research in Intellectual Property (ATRIP), Annual Conference, Parma, Italy, September 2006

Principal presenter, "Patent Harmonization and the Draft SPLT," EU Conference on

Intellectual Property Issues, Helsinki, Finland, September, 2006; Conference on Current Issues in Patent Law, University of Turin Law School, Turin, Italy, October 2006

Principal presenter, "Patents, the WTO and Access to Medicines," Duke Law School, September 2006

Master classes, various topics, World Intellectual Property Law Academy (WIPO Academy), University of Turin, LLM Program, Turin, Italy, October 2006

Principal presenter and commentator, "Access to Information: Database Protection" and "Compulsory Licensing of Drug Patents," Chicago-Kent College of Law Conference on Intellectual Property, Trade and Development, Chicago, October 2006

Principal presenter, "Regional Approaches to Intellectual Property, Drugs Regulation, Procurement and Trade," United Nations Conference on Trade and Development (UNCTAD), Seminar on Intellectual Property Arrangements: Implications for Developing Country Productive Capabilities in the Supply of Essential Medicines, Geneva, October 2006

Commentator, Interdisciplinary Conference on the Impact of Technological Change on the Creation, Dissemination and Protection of Intellectual Property, Albany Law School, Cornell Club, New York, October 2006

Principal presenter, "Does Intellectual Property Harm or Help Developing Countries?," Federalist Society Annual Meeting, Intellectual Property Section, Washington, D.C., November 2006

Principal presenter, "Compulsory Licensing of Patented Inventions under the Amended TRIPS Agreement" and "The Prospects for Regional Pharmaceutical Supply Centers," Bolivian Pharmaceutical Association, Conference on Access to Medicines, La Paz, Bolivia, December 2006

Principal presenter, "Alternatives to Patents: A Compensatory Liability Regime," Workshop on the Universalization of Legal Systems: History and Theory, University of Rome "La Sapienza," Rome, December 2006

## William A. Reppy Jr.

Speaker, "Estate Planning for Pets," Animal Law Workshop, University of California-Los Angeles, August 2006

Speaker, "Current Issues in North Carolina Animal Law," North Carolina Department of Justice, Raleigh, November 2006

Speaker, "North Carolina's Unique Law for Civil Suits to Enjoin Animal Cruelty," Dog Adoption Welfare Group, Santa Barbara, CA, December 2006

## Barak Richman

Special Editor, *Symposium: Who Pays? Who Benefits? Distributional Issues in Health Care*, 69 Law & Contemporary Problems (Autumn 2006) (with Clark C. Havighurst)

*Blood Diamonds' Many Facets* (Op-ed), Raleigh News & Observer, January 11, 2007 at A13 (with Joost Pauwelyn)

*A Bridge, a Tax Revolt, and the Struggle to Industrialize: The Story and Legacy of 'Rockingham County v. Luten Bridge Co.'*, 84 North Carolina Law Review 1841-1912 (2006) (with Jordi Weinstock & Jason Mehta)

*The Corrosive Combination of Nonprofit Monopolies and U.S.-Style Health Insurance: Implications for Antitrust and Merger Policy*, 69 Law & Contemporary Problems 139-158 (Autumn 2006)

*Distributive Injustice(s) in American Health Care*, 69 Law & Contemporary Problems 7-82 (Autumn 2006) (with Clark C. Havighurst)

*Foreword: Health Policy's Fourth Dimension*, 69 Law & Contemporary Problems 2-6 (Autumn 2006) (with Clark C. Havighurst)

*The King of Rockingham County and the Original Bridge to Nowhere*, in *CONTRACT STORIES* 306-336 (Douglas G. Baird ed., 2006)

*The Unintended Consequences of United States v. Nektalov*, N.Y. Law Journal August 10, 2006, at 2.

Presenter, "Ethnic Networks, Extralegal Certainty, and Globalisation: Peering into the Diamond Industry," Legal Certainty Beyond the State: Autonomous Structures in Globalized Exchange Processes, Onati International Institute for the Sociology of Law, Onati, Spain, September 2006

Member, Dean Search Committee, May-December 2006

## Thomas D. Rowe Jr.

2006 Supplement to *CIVIL PROCEDURE* (2004) (with Sherry and Tidmarsh)

2006 Supplement to *FEDERAL COURTS IN THE 21ST CENTURY: CASES AND MATERIALS* (2d ed. 2002) (with Fink, Mullenix & Tushnet)

"Inextricably Intertwined" Explicable at Last? Rooker-Feldman Analysis After the Supreme Court's Exxon Mobil Decision, 1 Federal Courts Law Review 367-392 (2006) (with Edward L. Baskauskas)

Speaker, "Authorized Managerialism Under the Federal Rules - and the Extent of Convergence with Civil-Law Judging," Southwestern University Law Review Symposium on the U.S. District Court for

# Faculty Notes

the Central District of California, 1966-2006: Text and Context, October 2006

Straus Distinguished Visitor, Pepperdine University School of Law, Malibu, CA, Fall 2006

Consultant, U.S. Judicial Conference Advisory Committee on Civil Rules

Member, Planning Committee, AALS 2007 Annual Meeting Workshop on Remedies

Member, Members' Consultative Groups on Principles of the Law of Aggregate Litigation and Restatement (Third) of Restitution and Unjust Enrichment, American Law Institute

## James Salzman

CONCEPTS AND INSIGHTS IN ENVIRONMENTAL LAW (Foundation Press, 2d ed. 2006) (with Barton Thompson, Jr.)

INTERNATIONAL ENVIRONMENTAL LAW AND POLICY (Foundation Press, 3d ed. 2006) (with D. Zaelke & D. Hunter)

*A Field of Green? The Past and Future of Ecosystem Services*, 21 *Journal of Land Use & Environmental Law* 133-151 (2006)

*In Defense of Regulatory Peer Review*, 84 *Washington University Law Quarterly* 1-48 (2006) (with J.B. Ruhl)

*Thirst: A Short History of Drinking Water*, 17 *Yale Journal of Law & the Humanities* 94-121 (2006)

Presenter, "Ecosystem Services and the Public Trust Doctrine: Working Change From Within," Bridging the Divide, University of South Carolina School of Law, Columbia, September 2006

Presenter, "Sustainable Consumption and the Law," Vanderbilt University, Nashville, October 2006

Participant, "Natural Capital," Workshop on Ecosystem Services, World Wildlife Fund, Washington, D.C., November 2006

Presenter, "Negligence in the Air: Duty of Care in Climate Change Litigation," Pennsylvania Law Review Annual Conference on Climate Change Liability, Philadelphia, November 2006

## Richard Schmalbeck

*Post-disaster Tax Legislation: A Series of Unfortunate Events*, 56 *Duke Law Journal* 51-100 (2006) (with Ellen P. Aprill)

*The Impact of Tax-Exempt Status: The Supply-Side Subsidies*, 69 *Law & Contemporary Problems* 121 (Autumn 2006)

Moderator, "What is Tax Reform?," Law & Society Conference, Baltimore, July 2006

Member, Membership Review Committee, Association of American Law Schools

Member, Test Design and Research Committee, Law School Admissions Council

## Christopher H. Schroeder

ENVIRONMENTAL REGULATION: LAW, SCIENCE, AND POLICY (Aspen Publishers, 5th ed. 2006) (with Robert Percival, Alan Miller & James Leape)

ENVIRONMENTAL LAW: STATUTORY AND CASE SUPPLEMENT WITH INTERNET GUIDE 2006-2007 (with Robert V. Percival)

## Steven Schwarcz

*Financial Information Failure and Lawyer Responsibility*, 31 *Journal of Corporation Law* 1097 (2006)

*Ohio Supreme Court Decision Jeopardizes the Financeability of Government Receivables*, 59 *U.C.C. Bulletin* 1 (Sept. 2006) (with Eric Marcus)

*The Public Responsibility of Structured Finance Lawyers*, 1 *Capital Markets Law Journal* 6-20 (2006)

Presenter, "To Make or To Buy: In-House Lawyering and Value Creation," Faculty Workshops, University of Georgia School of Law, Athens, October 2006; Wake Forest University School of Law and Babcock School of Management, Winston-Salem, October 2006; Washington University School of Law, St. Louis, October 2006

Appointed, Editorial Advisory Board, *American Securitization*

## Neil S. Siegel

*Beware the Anti-Freedom Amendment*, *Raleigh News & Observer*, June 9, 2006, at A15

*Commandeering and Its Alternatives: A Federalism Perspective*, 59 *Vanderbilt Law Review* 1629-1691 (2006)

*Detainees and the Constitution*, *Raleigh News & Observer*, Sept. 27, 2006, at A13

*Race-Conscious Student Assignment Plans: Balkanization, Integration, and Individualized Consideration*, 56 *Duke Law Journal* 781-860 (2006)

*Some Modest Uses of Transnational Legal Perspectives in First-Year Constitutional Law*, 56 *Journal of Legal Education* 201-215 (2006)

Presenter, "U.S. Supreme Court Preview," Annual Meeting of Southeastern Association of Law Schools, Palm Beach, Florida, July 2006

Presenter, "The U.S. Supreme Court," Duke Law School, July 2006

Presenter, "U.S. Supreme Court Preview," Duke Law School, August 2006

Lecturer, "The Court, the Constitution, and the Country," Constitution Day

Address, Westchester Community College, Westchester, New York, September 2006

Presenter, Appellate Practice Course, Duke Law School, September 2006

Presenter, "The General Welfare Clause and the Theory of Public Goods," Law and Economics Workshop, Boalt Hall School of Law, University of California, Berkeley, October 2006

Presenter and participant, "Theorizing the Law/Politics Distinction: Neutral Principles, Affirmative Action, and the Enduring Insight of Paul Mishkin," Conference in Honor of Paul Mishkin, Boalt Hall School of Law, University of California, Berkeley, October 2006

Presenter, "Use of International and Foreign Law in Interpreting the U.S. Constitution," American Constitution Society, Duke Law School, October 2006

Presenter and Participant, "International Delegations and the Values of Federalism," Duke-Harvard International Delegations Workshop, Duke Law School, November 2006

Instructor/Lecturer, "Recent Decisions of the U.S. Supreme Court," Winter Judicial Conference, Tulsa, Oklahoma, November 2006

Presenter, "Preparing for and Taking Final Exams," Duke Law School, November 2006

Presenter, "Race-Conscious Student Assignment Plans: Balkanization, Integration, and Individualized Consideration," Education Law and Policy Society, Duke Law School, November 2006

Instructor/Lecturer, "U.S. Supreme Court Case Review," Annual Conference of Judges, Bloomington, Minnesota, December 2006

## Scott Silliman

Presenter, "Interrogation, Detention and Extraordinary Rendition: Issues of Law and Policy," Intelligence Fellows Program, CIA University, Wye Conference Center, Maryland, August 2006

Witness, Senate Judiciary Committee hearings "*Hamdan v. Rumsfeld*: Establishing a Constitutional Process," United States Senate, Washington D.C., July 2006

Witness, Senate Armed Services Committee Hearings "To Continue to Receive Testimony on Military Commissions in Light of the Supreme Court Decision in *Hamdan v. Rumsfeld*," United States Senate, Washington D.C., July 2006

Participant, Meeting of members and staff of the House Armed Services Committee on proposed legislation regarding military commissions, United States House of



Representatives, Washington D.C., August 2006

Presenter, "The Detention, Interrogation and Prosecution of Terrorists," Raleigh Kiwanis Club, August 2006

Panelist, "Reexamining the Balance of Power Through Guantanamo Bay: A Discussion of *Hamdan v. Rumsfeld*," Duke Law School, September 2006

Presenter, "Current Issues in the War on Terrorism," Duke Chapter of the American Inns of Court, Duke Law School, September 2006

Presenter, "Legal and Policy Issues in the President's Domestic Surveillance Program," Constitutional Rights Section of the North Carolina Bar Association, Cary, September 2006

Panelist, "Constitution Day: The Constitution and the War on Terror," Duke Law School, September 2006

Panelist, "How Should We Interpret *Hamdan v. Rumsfeld*," University of North Carolina-Chapel Hill School of Law, September 2006

Presenter, "Issues of Law and Policy in the War on Terrorism," University of North Carolina Adventures in Ideas program, Friday Center, Chapel Hill, September 2006

Presenter, "International Law and the War on Terrorism," Shaftsbury Society — John Locke Foundation, Raleigh, October 2006

Panelist, "Press Coverage and the War on Terrorism," Duke Magazine and Duke News Service, Duke Law School, October 2006

Panelist and Participant, "Detaining and Prosecuting Terrorists: *Hamdan* and Beyond," American Bar Association conference on National Security Law in a Changed World: The Sixteenth Annual Review of the Field, Washington D.C., November 2006

## Carol Spruill

Presenter, "The Oprah Carol Show: Sexual Harassment Among Attorneys," NC Association of Women Attorneys Annual Convention, Asheville, October 2006

Recipient, Women of Wisdom Award, from the NC Association of Women Attorneys, Asheville, October 2006

Recipient, Duke University's Blue Ribbon Diversity Award, November 2006

Presenter, "The Poverty IQ Test," North Carolina Pro Bono Institute, NC Bar Association, Cary, November 2006

Keynote Speaker, "Celebrating Gains & Recognizing Challenges: Advances in Laws Affecting Women Over the Last Thirty Years," NC Women's Forum 30th Anniversary Convention, Winston-Salem, November 2006

Member, NC Equal Access to Justice Commission

Member, Equal Justice Works National Advisory Committee

Member, North Carolina Bar Association Law School Liaison Committee

Member, North Carolina Bar Association Public Service Advisory Committee

Member, Women's Forum of North Carolina

## Neil Vidmar

"*Judicial Hellholes: Medical Malpractice Claims, Verdicts, and the 'Doctor Exodus' in Illinois*, 59 *Vanderbilt Law Review* 1309-1342 (with Kara MacKillop)

*Million Dollar Medical Malpractice Cases in Florida: Post-Verdict and Pre-Suit Settlements*, 59 *Vanderbilt Law Review* 1343-1381 (2006) (with Kara MacKillop & Paul Lee)

Punitive Damages: Empirical Data about Jury and Judge Behavior, Brief of Neil Vidmar et al. Amici Curiae in support of Respondent, *Phillip Morris, USA v. Williams*, No. 05-1256 (U.S. Supreme Court, September 15, 2006) (with others)

Special editor, *Sequestered Science: The Consequences of Undisclosed Knowledge*, 69 *Law & Contemporary Problems* (Summer 2006) (with David Michaels)

*Trial By Jury Involving Persons Accused of Terrorism or Supporting Terrorism*, in *LAW AND PSYCHOLOGY* 318-337 (Belinda Brooks-Gordon & Michael Freeman eds., 2006)

*When Jurors Talk About Their Verdict*, in *JURY ETHICS: JUROR CONDUCT AND JURY DYNAMICS* 237-245 (John Kleinig & James P. Levine eds., 2006)

Presenter, "Juries and Punitive Damages," AEI-Brookings First Annual Judicial Symposium on Civil Justice Issues, Georgetown University Law Center, Washington D.C., December 2006

Co-presenter, "Legal Malpractice: A Preliminary Inquiry," presented at First Annual Conference on Empirical Legal Studies, University of Texas at Austin School of Law, October 2006

Discussant, on Avraham and Schanzenbach, Tort Reform and Private Health Insurance Coverage, at First Annual Conference on Empirical Legal Studies, University of Texas at Austin School of Law, October 2006

Panelist, "*Phillip Morris v. Williams*," American Constitution Society, National Press Club, Washington, D.C., October 2006

Participant, Citizen Participation in East Asian Legal Systems, Cornell Law School, Ithaca, September 2006

## Alan Weinberg

Participant, North Carolina Taxpayer Advocate's monthly forum to provide feedback to the State Taxpayer Advocate on national and local issues facing the Internal Revenue Service, October 2006

Attendee, Southeast Bar Liaison Committee Annual Meeting, October 2006

Trainer, "Dealing with the Internal Revenue Service in Collections," Legal Aid of North Carolina Pro Bono panels, Greenville, NC, August 2006; Greensboro, NC, December 2006

Attendee, annual seminar of Internal Revenue Service National Director of Low-Income Taxpayer Clinics, December 2006

## Jonathan Wiener

*Better Regulation in Europe*, 59 *Current Legal Problems* 447-518 (2006)

Speaker, "Can We Reconstruct Climate Policy?" International Energy Agency, Paris, May 2006

Speaker, "Better Regulation," University College London, Faculty of Law, London, May 2006

Speaker, "Climate Change Policy: National Interests and International Action," Transatlantic Dinner Dialogue, Ecologic, Berlin, June 2006

Speaker, "Making Better Regulation Even Better," conference on Administrative Simplification, French Ministry of Finance, Paris, June 2006

Speaker, "The Tragedy of the Uncommons: Catastrophic Risks and Institutional Response," University of Pennsylvania Law School, Philadelphia, September 2006

Speaker, "Perception of Risk: What Consequences for Environmental Policy in the USA and Europe," Embassy of the United States, Paris, October 2006

Speaker, "How American Environmental Regulation Reconciles the Public Interest and Economic Interests," Université de Nanterre, Faculté du Droit, Paris, October 2006

Speaker, "Risk Policies in Europe and the U.S.," Centre du Droit de l'Environnement de Strasbourg (CDES), Université Robert Schuman - Strasbourg, October 2006

Speaker, "Reciprocal Inspiration - Legal Borrowing - in Environmental Law and Risk Regulation," Conference on "Beyond the Judicial Dialogue: Reciprocal Inspiration among Supreme Courts and the Globalization of Law," Cercle France-Amériques, Paris, October 2006

Speaker, "Closing Comments," Symposium on Responses to Global Warming: The Law, Economics, and Science of Climate Change,

## Faculty Notes

University of Pennsylvania Law School,  
Philadelphia, November 2006

Speaker and session chair, "Better  
Regulation in Europe," annual meeting of  
the Society for Risk Analysis, Baltimore,  
December 2006

Speaker, "Adverse Effects under U.S. Law,"  
workshop on "Approaching Adversity,"  
Dose-Response Specialty Group, Society  
for Risk Analysis, Baltimore, December  
2006

Elected president, Society for Risk Analysis,  
December 2006

### Lawrence A. Zelenak

*Of Head Taxes, Income Taxes, and  
Distributive Justice in American Health  
Care*, 69 *Law & Contemporary Problems*  
103 (Autumn 2006)

*The Sometimes-Taxation of the Returns to  
Risk-Bearing Under a Progressive Income  
Tax*, 59 *SMU Law Review* 879-915 (2006)

*Taxing Endowment*, 55 *Duke Law Journal*  
1145-1181 (2006)

Presenter, "Justice Holmes, Ralph  
Kramden, and the Civic Virtues of a Tax  
Return Filing Requirement," University  
of Toronto Faculty of Law Tax Policy  
Seminar, Toronto, September 2006;  
Arizona State University School of Law  
Faculty Workshop, Tempe, October 2006;  
Harvard Law School Tax Policy Seminar,  
Cambridge, November 2006

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# Profiles

## For Peter Kahn '76, with thanks

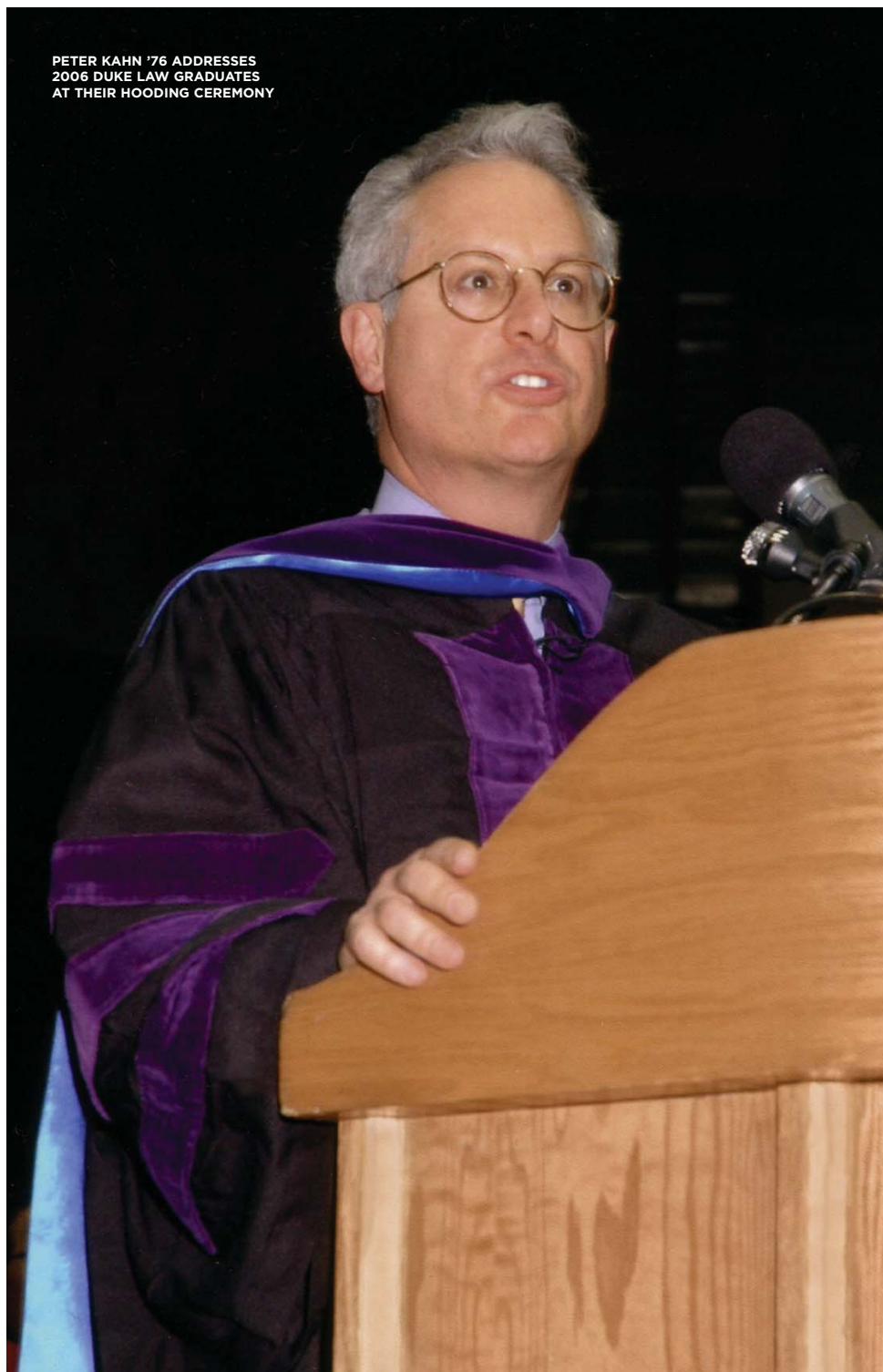
**A**DDRESSING GRADUATES at their spring hooding ceremonies, Board of Visitors Chair Peter Kahn '76 routinely welcomes them to the “family” of Law School alumni, urging them to stay connected and involved with Duke – both for the benefit of their own careers and to ensure that future law students have the same opportunity to attain the first-rate education that they have just completed.

Kahn has demonstrated tireless devotion to that cause through his leadership, since 2001, of the body of Law School alumni and friends that closely advises Dean Katharine Bartlett. “Peter has been an absolutely reliable advisor and chair of the Board of Visitors. There is not an issue of importance to the Law School to which he has not added value,” says Bartlett.

In his last year as chair – his term ends June 30 – Kahn has worked tirelessly to find Bartlett’s replacement as a member of the Dean Search Committee, whose efforts resulted in the appointment of The Honorable David F. Levi as the next Law School dean.

“In a process that went on for eight months, being at times more like a marathon than a search, Peter was absolutely resilient,” says Professor James Cox who headed the Committee. “He drew upon the rich array of contacts his law firm has enjoyed to get leads on possible candidates and to reference candidates already in the pool. But his real contribution was his wisdom and judgment which, in the end, paid out great dividends for Duke.”

A partner at Williams & Connolly in Washington, D.C., with an active international litigation practice, Kahn expresses enormous pride in the many ways the Law School has advanced in recent years: its depth of faculty hires and cementing of top-level strength in strategic areas of legal scholarship; the strength of its inter-



PETER KAHN '76 ADDRESSES  
2006 DUKE LAW GRADUATES  
AT THEIR HOODING CEREMONY





**KAHN WITH HIS FAMILY — WIFE DEBBIE AND CHILDREN JAKE AND ALYSSA T'09**

disciplinary ties to other Duke programs and schools; its almost complete physical transformation; the increasing placement of graduates in significant clerkships; the growth of the international and clinical programs; and the strength of its reputation with members of the bench and bar, to name just a few.

Kahn is passionate about the need for lawyers to function as leaders in their practices, in business, and in their communities, and he is delighted the Law School has made leadership and ethics a foundation of legal education through the Duke Blueprint to LEAD. “A leader, in my mind, is one who is able to make the hard decisions, dealing with all aspects of the problem and bring out the best in people to help make those difficult decisions,” Kahn says. “Lawyers are no longer just counselors and advisors, but often the actual decision-makers. We need to be able to bring many resources to bear on a problem and be comfortable in the multifaceted arenas lawyers now play in, such as business, public policy, and politics, and we need to know how to work in teams with lawyers and non-lawyers alike.”

Kahn has been the “quintessential chair” for the Board, says member Buck

Ferguson '70. “His leadership style is very diplomatic, [focused on] building consensus, respectful, and dedicated. He and ‘Dean Kate’ have been a wonderful team that has worked in synch to achieve many important goals.” Ferguson particularly praises Kahn’s focus on Duke’s international presence by holding regular Board meetings in foreign locations where there is a cluster of international alumni.

“We need to show our international alumni that they are important to us. As the world grows smaller, it is important for all Duke alumni to connect on a personal and professional basis,” says Kahn of the meetings held in Geneva in 2003 and Beijing in 2005; a third is planned for Munich in 2008. The trips abroad have also allowed the Board to connect with the Law School’s summer institutes and offered “fabulous” opportunities for BOV members to bond, Kahn adds.

“We come from all parts of the country, we don’t practice law together, and we meet twice each year in Durham. These trips give us a chance to spend quality time together and to develop the trust and confidence in our colleagues that is essential for an effective advisory board.” Kahn adds that his involvement with the

BOV has led him to establish deep personal friendships with alumni, faculty, and administrators he would otherwise not have had the opportunity to meet.

Generous with his resources as well as his time, Kahn, his wife Debbie, and children Alyssa T’09 and Jake, have supported the Law School in a number of key ways, dedicating a faculty office in the new wing, and supporting both the Annual Fund and the Distinguished Speaker Series, an effort that brings prominent leaders and thinkers to Duke. The Kahns have also recently revised their estate plans to include a gift for the Kahn Family Scholarship Fund for the Law School, transforming a scholarship they initially funded in 2006 as part of Duke’s Financial Aid Initiative. It’s in this area of planned giving that Kahn sees a job left undone – and where he issues a challenge to all of his colleagues on the Board of Visitors.

“We need 100 percent BOV participation in the Heritage Society,” Kahn says. “Planned giving from a broad base of alumni can serve as a much needed annuity for the Law School. If we want others to join in, the signal has to come from the top – from the Board – to put their money where their hearts are. And Duke Law School is a more than deserving institution.” ♣



**“I see the scholarship as a way of benefiting and giving back to two places – Israel and Duke – that I care a lot about.”**

Robert Moskowitz '77

## Robert Moskowitz '77: Making connections between Duke and Israel

An economics major in college, Robert Moskowitz says he always knew his strengths lay in the financial arena, “negotiating transactions, playing with numbers, working on deals.” These have served him well during a stellar career in private equity finance as, he says, has his decision to pursue a law degree instead of an MBA.

“On a global basis, I got a better background to do what I do in law than if I had gone to business school. You can’t pick up the kind of training you get in law school, or the type of training or experience you get practicing law at a major corporate law firm.”

Moskowitz joined Fried Frank Harris Shriver & Jacobson in New York on graduating from Duke, focusing on mergers and acquisitions, as well as cross-border corporate and tax transactions during three years in the firm’s London office. He took the lead role in client Shamrock Holdings’ 1985 \$400 million buyout of

Central Soya, then the third-largest soybean processing company in the United States. The work was pivotal in his career; Moskowitz spent the next year focused almost exclusively on the Central Soya purchase, re-financing, and the sale of its ancillary businesses – four branded food labels – finally leaving Fried Frank to become Shamrock’s general counsel in Los Angeles.

With a little bit of “Shamrock luck,” Moskowitz recalls, Shamrock closed its sale of Central Soya to one of Italy’s largest conglomerates on Friday, October 16, 1987, three days before the stock market crashed. “‘Black Monday’ created a lot of good opportunities for us,” he says. It also unofficially marked the start of his transition away from the role of general counsel and into Shamrock’s private equity side, leading to his current focus: investments in Israeli-based companies.

A small joint venture between Central Soya and a kibbutz was Moskowitz’s entrée to Israel, where he found a number of opportunities for Shamrock to make “small investments,” through the late 1980s, TV and cable start-ups among them. Pleased with the return on those investments, in 1995 Shamrock purchased a 20 percent stake in Koor Industries, then Israel’s largest industrial holding company.

“That was our largest investment and a terrific one for us,” Moskowitz says, noting that Shamrock netted a 30 percent annual return when it sold its Koor stake in 1997 to a group led by Charles Bronfman.

The contacts Moskowitz made through the Koor investment led to others and, in 1999, Shamrock joined with an Israeli partner to back Polish entrepreneurs in the establishment of Poland’s first privately-owned, fixed line telephone company, now known as Netia.

### ALUMNI PROFILE

Investing \$40 million, Shamrock and their partners raised almost a billion dollars in the European and American debt and equity market, bringing in Telia, the Swedish telecommunications giant, as a strategic operating partner. Shamrock sold its interest to Telia in early 2000 when Netia stock was trading in the U.S. at \$35 per share; a year later it plummeted “to about one dollar” when the telecom bubble collapsed. “It was one of my better exits and one of which I am particularly proud, for recognizing that it was the right time to get out,” says Moskowitz.

Other deals, including one in the military communications sector that Moskowitz calls “the single best investment we made anywhere in the world,” have established Shamrock – which counts the Roy E. Disney family as a key client – as one of the largest foreign non-strategic investors in Israel. In 2004,

Shamrock established its first stand-alone fund, which Moskowitz now heads, dedicated solely to investing in private equity in Israel.

“Israel is a relatively small place when it comes to the business community, and we built up a network of contacts and relationships with people who either served as management teams in our various companies, or have partnered with us in deals,” says Moskowitz. The Shamrock Israel Growth Fund, now with \$125 million under management, makes investments in companies headquartered in Israel or with significant research, development, or production there. These include several investments in kibbutz-based companies, including Teva-Naot footwear, a supplier of valves for European automotive fuel tanks, a manufacturer of agricultural plastics, and a manufacturer of hoists for GM light trucks and SUVs.

His frequent trips to Israel – at least six each year – have resulted in many friendships as well as business contacts. “I probably have more friends in Tel Aviv than I have in any other particular place,” says Moskowitz. He has also made deep connections with Duke alumni in Israel, one of whom, Avraham Ortal LLM ’96, SJD ’98, serves as Shamrock’s lead Israeli attorney.

Moskowitz has stayed connected to the Law School through membership on the Board of Visitors and his reunion committees, and has also established a scholarship fund which gives preference to Israeli lawyers seeking to pursue LLM degrees at Duke. “It’s a great thing for lawyers in Israel to be able to come to Duke – Avi [Ortal] is very happy with the time he spent there – but for a lot of them, the expense is prohibitive. I see the scholarship as a way of benefiting and giving back to two places – Israel and Duke – that I care a lot about.” ♣

## Duke Financial Aid Initiative

“WE ARE SO GRATEFUL to alumni like Robert Moskowitz who help us offer merit scholarships to talented LLM students,” says Associate Dean for International Studies Judy Horowitz. “Duke competes for top students not only with LLM programs in the United States, which are growing in number and size, but also with new English-language programs in other countries where tuitions are substantially lower. Our LLM students, who

have graduated from the best law schools in a wide range of countries, bring their comparative law knowledge, cultural differences, and language abilities to enrich the educational experience of all students at the Law School.”

To help Duke Law School in its recruitment efforts, we hope you will consider a donation to the LLM scholarship fund. For more information, contact

Sarah West, associate dean for Alumni & Development, at (919) 613-7175 or [west@law.duke.edu](mailto:west@law.duke.edu).

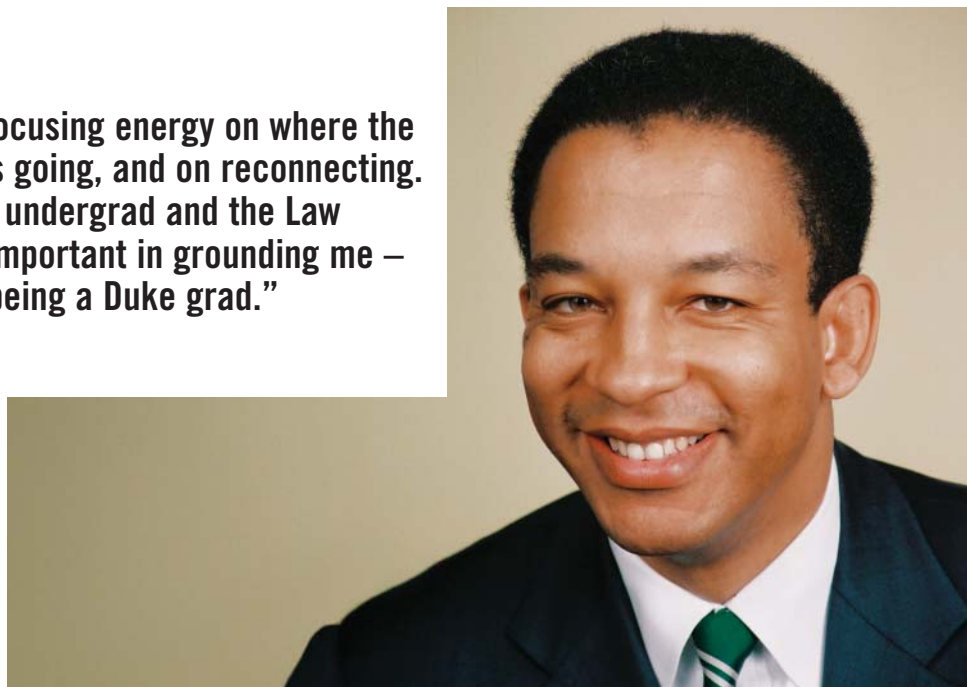


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**“I’m looking forward to focusing energy on where the Law School is, where it’s going, and on reconnecting. Connections to both the undergrad and the Law School have been very important in grounding me – I relate very heavily to being a Duke grad.”**

Rob Harrington '87



## Rob Harrington '87: Committed to community involvement

**A**LTHOUGH HE HAS lived in Charlotte, North Carolina, since 1999, Rob Harrington has deep roots in New Orleans – a sister, her family, and many friends and colleagues from the 11 years he practiced law there. That gave him reason enough to track Hurricane Katrina closely as it bore down on the city in August 2005. Given his position as co-chair of the Lawyers' Committee for Civil Rights Under Law, Harrington knew he could offer concrete assistance in the storm's aftermath. A non-profit organization established in 1963 at the behest of President Kennedy, the Lawyers' Committee marshals the pro bono resources of lawyers to address issues of equal opportunity and civil rights throughout the country.

“Barbara Arnwine [’76], the executive director of the Lawyers' Committee, called me the day before Katrina hit and said, ‘Rob, this is going to be huge. We have to help.’ So we were there from the time the storm hit until today,” Harrington says with pride. In fact, the Lawyers' Committee – through its staff attorneys and the assistance of lawyers around the country – has been integrally involved in assisting communities throughout the Gulf Coast.

“We knew there was at least the potential for problems with housing and the equita-

ble distribution of resources in the storm's immediate aftermath,” Harrington recalls. “We had to strategically address the challenge of getting resources to folks who are traditionally left out.”

In fact, issues relating to Hurricane Katrina have “spanned all of what we do,” says Harrington – housing, community development, voting rights, environmental justice, business development, and education. Within weeks, the Committee became counsel of record against FEMA, “to basically force FEMA to follow its governing statutes,” says Harrington. The Committee's Housing Project has been active both in helping other community organizations assist in the recovery, and in challenging the “amazing housing discrimination” that was pervasive after the storm, with landlords refusing to rent to minorities, and municipal regulations in parishes near New Orleans disproportionately blocking the resettlement of minorities in neighboring parishes.

“We've also been very involved in helping out with the post-Katrina elections, which have been very difficult because so many of the polling places had been destroyed or moved,” Harrington continues, giving full credit to Arnwine's “boundless energy” as well as the Committee's staff. “And there is obviously environmental fall-

out and concern – questions about how you rebuild the area to avoid some of the traditional environmental justice issues that we have had in that part of Louisiana.”

Harrington will stay on the Committee's Board, and hopes to remain on the executive committee when his term as co-chair ends in September, but has taken on a number of new projects. A new member of the Law School's Board of Visitors, Harrington is also the chair-elect of the Board of Charlotte's Levine Museum of the New South, which focuses on Southern history post-Reconstruction.

“I worry that clients will ask, ‘When do you practice law?’” Harrington says with a laugh. “The answer is, a lot!” A partner with Robinson Bradshaw & Hinson in Charlotte, Harrington maintains a broad commercial litigation practice spanning the areas of trade practice disputes, fiduciary bank work, and employment related litigation. But his firm's tradition of actively supporting pro bono and community service – a continuing legacy, he says, of the firm's founding partners, who include Russell Robinson '56, chairman of The Duke Endowment – has helped Harrington to act on his own commitment to volunteerism. His work earned him the honor of being named a “Diversity Catalyst” by *Charlotte Magazine* in 2004, after he took a leadership role in establish-

### ALUMNI PROFILE

ing a Mecklenberg County Bar committee dedicated to dealing with issues of diversity in the county bar and within law firms.

“Our firm has always viewed practice a little bit differently. We all work hard and have very challenging practices. But we also emphasize the need for balance and community involvement – everything from Russell’s chairmanship of The Duke Endowment, to coaching Little League. These are bedrocks of the firm.”

Harrington says that only the prospect of joining Robinson Bradshaw could have dislodged him and his wife, Sharon Carr Harrington ’89, from their lives in New Orleans, where they were “firmly embedded,” he as a partner at Stone Pigman and involved in community work, and she as the director of the city’s Department of Sanitation. He was actively recruited by other Duke alumni at the Charlotte firm after he acted as its local counsel on a case in federal court in New Orleans, and then met Robinson at the American Law Institute when both were advisors on its Agency Project.

“Sharon and I thought about it for a year. We’re both Carolina natives, and figured that if we were ever going to come back closer to our respective homes and parents, that was the last time we’d do it.” He and Sharon, who is director of development for the Arts and Sciences college at the University of North Carolina – Charlotte, have no regrets. “Charlotte is a great place to be a Duke grad,” he says.

A “double-Dukie,” Harrington hopes to deepen his ties to his alma mater, starting with his involvement with the Board of Visitors. “I’m looking forward to focusing energy on where the Law School is, where it’s going, and on reconnecting. Connections to both the undergrad and the Law School have been very important in grounding me – I relate very heavily to being a Duke grad.” He notes that Professor Deborah DeMott recommended him for the ALI Agency Project, on which she served as reporter, and their common Law School ties led to an easy bond between him and Barbara Arnwine – a life member of the BOV – at the Lawyers’ Committee.

“One of the reasons that I enjoy recruiting for my firm is that it brings me back to the Law School twice each year. I just like being in the building.” ♡

**“As an assistant United States attorney, I thought of myself a lot like an investigative journalist with a subpoena. When you look at things like that there is a world of possibilities.”**

Mark Califano ’88



## Mark Califano ’88: Expert investigator

**M**ARK CALIFANO ’88 joined the Independent Inquiry Committee (IIC) investigation of the U.N.’s Oil-for-Food Program in 2004, after 12 years as a federal prosecutor in Connecticut. As the IIC’s chief legal counsel, he led investigative teams drawn from 24 countries, working out of offices in New York, Paris, and Baghdad, in the tracking of illegal kickbacks and manipulation of the program that involved more than 2,400 companies worldwide. In doing so, Califano drew upon his experience handling money-laundering, Internet, political corruption, and terrorism cases, many of which involved complex cross-border investigations. These taught him to appreciate the IIC’s unique ability to secure and collect evidence quickly.

“As a prosecutor, I had to make formal treaty requests to collect evidence over-

seas, a process that takes months, if not years. With the IIC, our diplomatic status, and the fact that we were not treaty-bound allowed us to travel anywhere in the world on a moment’s notice to collect evidence. It made us enormously effective.”

The fact that the investigative team had access to all of the U.N. records relating to the Oil-for-Food Program also facilitated the cooperation of foreign regulators, many of whom were simultaneously trying to unravel trails of criminal activity, he says. “We could put the U.N. records together in a way that would allow a [foreign] prosecutor or regulator to figure out a deal very quickly – which banks to go to and which principals to talk to. We offered that in exchange for getting their assistance in getting access to bank accounts and letters of credit,” says Califano.

Coordination, cooperation, and communication across jurisdictions was key

### ALUMNI PROFILE

to the investigation's success, he says. "You have to work with, as opposed to against, authorities and governments in other jurisdictions. It takes patience and a great deal of communication. I recognized, as we became more successful at it in the Oil-for-Food investigation, that as much experience and success I had as a prosecutor, it was nowhere near what could be done and what is possible." (For more on the IIC investigation, see page 8.)

As a prosecutor with the U.S. Attorney's Office for the District of Connecticut, Califano indeed had considerable success. An early highlight was his lead role in investigating and securing convictions against members of an extended family for laundering money from a relative's Florida narcotics operation, including money stolen from other Miami narcotics traffickers.

As senior computer crimes prosecutor for his district, Califano led the investigation and prosecution of Russian and Eastern European hackers who broke into scores of U.S. financial institutions, stealing confidential financial data and extorting the institutions, including Internet service providers. Unable to secure cooperation from the Russian government, Califano and his team received Department of Justice approval to set up an elaborate sting operation involving a fake Internet security company. "They said they were security experts, so we gave them systems to break into and

tracked what they were doing, matching it to patterns of activity in the intrusions we were investigating around the country. It literally gave us a fingerprint of what they were doing," Califano explains. Califano also supervised one of the few cross-border searches ever to withstand legal challenges, which led to the convictions of two of the ringleaders of the hacking and extortion group.

Other highlights of his career as a prosecutor include the dismantling of the Fairlight warez group, the second-largest software piracy organization in the world; successfully challenging the attorney-client privilege of the investment firm that had conspired to bribe the treasurer of the state of Connecticut; and investigating and prosecuting notorious hedge fund operator Martin Frankel and two dozen associates, whose embezzlement of hundreds of millions of dollars caused the failure of a number of insurance companies throughout the South.

"As an assistant United States attorney, I thought of myself a lot like an investigative journalist with a subpoena. When you look at things like that there is a world of possibilities," says Califano. In fact, he came to law school with a view to becoming an investigative journalist, but changed his plans after "falling in love" with trial practice as a 2L and interning with Robert Bennett and Carl Rauh, former U.S. attorneys in criminal defense practice. At Bennett's urging,

Califano clerked, after graduating, with Judge Stanley Sporkin of the United States District Court for the District of Columbia, a former head of the SEC Enforcement Division and CIA general counsel.

"[Sporkin] was a great believer in following your intellect and following where your nose guides you, and in the truth," Califano recalls. "He started me on a career of taking you where your mind leads you."

Califano returned as an associate to Bennett's firm for more than two years while looking for a position as an assistant U.S. attorney, eventually taking the post in Connecticut, where his partners felt he would be exposed to the broadest range of cases. "It was all that and more," he says.

Now head of litigation for GE Commercial Finance, where he oversees operations in 35 countries, Califano continues to be involved in complex international cases. He remains passionate about prosecutions and investigations, and encourages all lawyers to get involved in endeavors like the Oil-for-Food investigation and other areas of public service.

"Every lawyer who worked on that committee with us thought it was one of the seminal experiences of their careers. My message to young lawyers is to use the law like you would anything else. Don't just limit yourself to a law firm, but open yourself up. Lawyers are nothing but social engineers. They can and should have a place in all parts of society." ♣



# Cheryl Scarboro '89: Building securities cases from the ground up

**I**N FEBRUARY, Cheryl Scarboro, an associate director in the Division of Enforcement at the Securities and Exchange Commission (SEC), secured the first settlement paid by a U.S. company – more than \$7.5 million – arising out of corruption in the United Nation’s Oil-for-Food Program. Houston-based El Paso Corporation, a natural gas supplier, agreed to forfeit more than \$5.5 million in profits and pay \$2 million in penalties to settle charges filed by the SEC under the Foreign Corrupt Practices Act; those charges alleged El Paso paid kickbacks to the government of Saddam Hussein in its purchases of Iraqi oil under the Program, thus diverting the money from its intended humanitarian purposes.

“The Commission’s complaint alleged that El Paso paid bribes in connection with the Program, primarily through third parties,” Scarboro explains. “We brought the civil action against them because the company did not record the illegal payments in its books, and it failed to implement adequate internal controls to prevent the payment of bribes.”

Apart from its legalities, the El Paso case illustrates a key appeal that enforcement work has for Scarboro: variety. “Insider trading, accounting fraud, market manipulations – they are all very different,” says Scarboro, who was promoted to the position of associate director in October. “The facts differ, and the players differ. You need to understand

the securities laws, accounting principles, how the financial markets operate, how stocks trade, and how they can be manipulated – it can be very complicated, and each case is very different. You are really learning something new all the time.”

Scarboro joined the SEC in 1992, having gotten a taste for securities-related work in the context of white-collar defense cases that she handled as an associate at Sutherland Asbill & Brennan in Atlanta. She found she enjoyed both the work and the relative autonomy given to junior attorneys. “You are principally in charge of running investigations,” she says. “I liked building the cases from the

**“Insider trading, accounting fraud, market manipulations – they are all very different ... You are really learning something new all the time.”**

Cheryl Scarboro '89



**ALUMNI PROFILE**

ground up: marshalling the facts, putting the pieces of the puzzle together, figuring out who did what. I have also enjoyed helping to make bigger decisions – figuring out the appropriate charges to bring and the appropriate relief to seek – as I have moved up the ranks.” Those moves included serving as counsel to former SEC Commissioner Arthur Levitt from 1996 to 1998 and, since 2001, as assistant director in the Division of Enforcement.

Among her varied cases, Scarboro has led the investigation of financial fraud charges against Kmart’s former chief executive officer and chief financial officer, alleging they made material false statements about the company’s liquidity directly prior to its 2002 bankruptcy filing, thus misleading the investing public. Those actions are in litigation, while separate charges

against former Kmart employees relating to premature recording of vendor allowances that had the effect of artificially inflating earnings, have settled. Other recent settlements Scarboro has overseen include those of insider trading charges against the former chief financial officer of Capital One Financial Corporation for trading in the company’s stock, and a \$25 million settlement of financial fraud charges against Doral Financial Corporation, a bank holding company that overstated its income by approximately \$1 billion between 2000 and 2004. In that case, the Commission alleged that Doral Financial improperly accounted for the purported sale of approximately \$4 billion in mortgages to another bank.

While many cases she deals with arise through self-reporting by companies and individuals, Scarboro and her team have to “stay ahead of what’s out there” in terms of potential violations. “We do our own homework, pay attention to what’s going on in the industry, and what areas look like they might be ripe for abuse.”

That scrutiny is increasingly being directed toward individuals who aid and abet the primary violator in securities fraud, Scarboro observes, such as attorneys, accountants, and vendors who may help public companies commit fraud by drafting false invoices or making false statements to auditors regarding future deals. She oversaw the charges, for example, filed against Kmart vendors over allowances which they claimed to have paid to the retailer to reserve shelf and promotional space, but in fact had not – misstatements regarding income that could mislead investors.

“I think the message in all of these is that we’re going to look hard not only at the primary violator, but at other parties that may have some liability themselves. You will continue to see cases against lawyers, accountants, and counterparties to transactions who may not have falsified their own books and records but may have, in some significant way, aided another public company in doing so.” ♡

## Amy Pope '01: Crafting a career at the intersection of civil rights and criminal law

AMY POPE traces her interest in civil rights and law back to hearing the stories of Holocaust survivors she met in the primarily Jewish neighborhood of Pittsburgh where she grew up. “Their stories of discrimination and what they had to endure profoundly affected me,” she says. That early interest was cemented during two years spent as a paralegal in the Department of Justice following college, which included a rotation in the Civil Rights Division. “I loved what I did as a paralegal in the Division, and felt that if I could do what the lawyers were doing, that could only be better.”

Pope returned to the Division as a prosecutor after a clerkship with Judge Kim McLane Wardlaw of the United States Court of Appeals for the Ninth Circuit, spending four years handling cases of police misconduct, hate crimes, and human trafficking. The trafficking cases in particular, which involved children, domestic laborers, and forced sex-trade workers, showed her how closely immigration ties into civil rights.

“These sensitized me to the challenges that immigrants face when they come to the United States, and how they can be exploited,” she says. “Civil rights violations occur in many areas, but it seems that in many people’s minds it is still okay to discriminate against immigrants. And the role of civil rights is to protect the most vulnerable people in the country, many of whom don’t have a voice.”

Victims of trafficking are particularly vulnerable, Pope says. “Traffickers teach their victims to be afraid of the authorities, telling them that they will be jailed or shipped home by police if discovered.” Because many victims come from countries where police are viewed as corrupt, they are often loathe to reach out for help in any event, and key witnesses often share those fears. That’s why Pope hopes immigration reform will find a way to bring illegal immigrants safely “out of the shadows.”

“We have to give those who are otherwise law-abiding, hardworking people a way to be in the country legally. They are the ones who have information, but who don’t come forward for fear of deportation. Those people are also the most ripe for exploitation by their employers or even by countrymen who are here legally.”

Such was the case of Theresa Mubang, who Pope prosecuted for bringing young girls from her native Cameroon to the United States to work as domestic slaves – one was just 11-years-old. “Mubang told one girl’s parents that she was giving her a wonderful opportunity to have access to an American education and other opportunities, and that she would treat the girl as her own daughter. In fact, she did not even allow her to go to school, but kept her in the house to cook and clean,” Pope recalls. When neighbors passed along their suspicions to authorities, Mubang sent the girl back to Cameroon and brought over another one from the same community.

Having traveled to Cameroon with federal investigators to interview the girls’ families, Pope says she was struck by how touched some of them were that the United States would care about how their children were treated. “It brought home to us that we were doing something truly worthwhile.”

Pope is currently taking her interest in affecting policy at the intersection of civil rights and criminal law in a new direction, having joined the Senate Judiciary Committee staff of Senator Diane Feinstein (D-CA) in September. An advisor to the senator on issues relating to immigration, civil rights, constitutional law, and homeland security, Pope says it was both challenging and exciting to take charge of a Committee hearing for the first time in late January; she prepared the research and witness list for a hearing, which Feinstein chaired, on the effectiveness of the four-



AMY POPE '01

year-old US-VISIT program, which monitors entry into the United States. “The hearing followed up on a Government Accountability Office report which cited problems implementing the program at the land borders,” Pope explains. “We were looking at what needs to be fixed.”

Pope is unabashed in her appreciation of the opportunities she found at Duke Law School, where she says she was “very deliberate” in laying the groundwork for the career path she has chosen. In addition to serving as editor-in-chief of *Law & Contemporary Problems*, she spent semesters in the Criminal Litigation and Death Penalty Clinics working with Professor James Coleman, who she counts as a mentor, as she does Dean Katharine T. Bartlett, who Pope “idolized” as a gender scholar and teacher. “Duke was a small school where I felt tremendous support from the faculty and where I knew I could really get things done. There was money available, there was advice available, and there were supportive people. That gave me a lot of confidence.” ♡

### ALUMNI PROFILE

# Chris Murray '07: Making Duke Law history

Chris Murray '07 claimed a piece of Duke Law history on Jan. 30, as the first student to argue a case in the U.S. Court of Appeals for the Fourth Circuit. A student in the School's new Appellate Litigation Clinic, Murray presented oral arguments before a three-judge panel on behalf of North Carolina inmate Carl Lyons, arguing that the 30-year sentence Lyons received for kidnapping and forcible rape was unconstitutional and that the case should be reheard.

Murray delivered what Professor James Coleman described as a brilliant performance. Coleman attended the argument in Richmond along with a Duke cheering section that included the students who worked with Murray to write the appellate brief and prepare and hone his arguments through moot practice sessions.

"Chris fielded some difficult questions and was clear, direct, and persuasive in his responses," said Coleman, who leads the Clinic along with Professors Catherine Fisk and Erwin Chemerinsky. But Murray says it was often difficult to tell how well the argument was proceeding.

"Facing a panel of federal circuit court judges is an intimidating and humbling experience," Murray said. "It is hard to tell how well you are doing when you are up there. You are just trying to answer the judges' questions as directly and persuasively as possible."

Yet, he says, "from the questions, I could tell that the panel was engaged in the legal issues of the case. Hopefully that will bode well for our client." In addition to learning from the students on the litigation team and the professors leading the Clinic, Murray says "the most rewarding aspect of the case was having the opportunity to help a real-life client. Here our client received a sentence that was unconstitutional; it is really something to fight to fix an injustice like that."

Murray says his interest in the Appellate Litigation Clinic stemmed from his involvement as a 2L with the Law School's Guantanamo Defense Clinic, which solidified an interest in civil liberties. A member of the Clinic's inaugural class, Murray calls the protection of detainees' rights one of the "most significant constitutional issues of

our time. It implicates so many things: How much authority does the president have? Are courts able to check that power, and to what extent do non-citizens have civil rights when detained by the government? Those are extremely important questions."

After graduating with degrees in finance and international studies from the University of Pennsylvania in 2000, Murray worked at an investment banking firm in Santiago, Chile, and later studied the post-NAFTA business environment in Mexico City on a Fulbright Fellowship. A JD/LLM student, Murray says he has seen, through his study of international subjects, the impact the rule of law can have on society.

## STUDENT PROFILE

"The legitimacy of the military commissions that will try detainees depends on them being run by law, and the legitimacy of the war on terror depends on how other countries perceive how we're doing that. An essential part of upholding the rule of law and an essential part of our criminal justice system is having faith that the legal system and the courts will reach the right outcome. I feel strongly that when we participate in the process, our role is to emphasize the importance of the Constitution and to make the sort of arguments that demonstrate why the system is flawed."

As learning experiences, Murray calls the Appellate Litigation and Guantanamo Defense Clinics exceptional. "There are



"You see that the real difference between countries that are successful – that respect minority rights and have civil rights – and countries with dictatorships and are in peril is that the successful countries have a strong rule of law in place. Lawyers play a critical role in upholding that. I've always had a goal of contributing to society in that way."

Continuing his involvement with the Guantanamo Defense Clinic, now as a teaching assistant, gives Murray the opportunity to do just that – as he assists the military defense team and their non-military counterparts to prepare briefs and craft legal arguments.

few chances as a law student to jump into a case that is actually going on, that's live, where the work you're doing has direct impact. In that sense it has been extremely rewarding, and given what's at stake, I feel very proud to have been a part of it."

After graduation Murray will work as an associate at Covington and Burling in Washington, D.C., and hopes to eventually clerk. "I am excited about the prospect of practicing law, and if I can do that in a way that is challenging and interesting, but also contributes to society, that will be the goal. That's why I came to law school." ♣

– Tricia Horatio



# Around the Law School



Renderings: Dongik Lee

## Building Community:

Renovating the library and building the new Star Commons

By Thomas Metzloff

THOSE RETURNING to the Law School after a few years away are pleasantly surprised by how much the building has changed. With new classrooms, a new facade, and a new addition, it has never looked better. It may come as a surprise, then, that despite all the recent building and renovation, the Law School is about to embark on the largest building project in its history.

The project includes many different elements, including building a stunning new

public space, renovating the library, and adding special outdoor spaces. These seemingly disparate elements in fact all have a common theme: to create special places, both formal and informal, for the Duke Law community to gather.

Initially, the plan was to enclose the current Alumnae Courtyard, but that plan proved to be logistically difficult and prohibitively expensive. We then turned our attention to the large space at the corner of Towerview Road and Science Drive. As

the plans developed, it became clear that this was the perfect location. The Star Commons – named after Stanley Star '61 who has made a lead gift – will become the new focal point of our community life.

With ideal natural light and a prominent location, it will also become an important part of the Law School's exterior – a shining jewel that will help define the Law School's image. The Star Commons will be over 4,200 square feet of space within a three-story glass enclosure. With balconies that



# Around the Law School

THE STAR COMMONS, AS SEEN FROM THE CORNER OF SCIENCE DRIVE AND TOWERVIEW ROAD

look into the space, an adjacent café, and outdoor patio, it will provide comfortable seating for more than 150 people to read, study, eat lunch, or work together. It will also be able to host large lectures for over 350 attendees or dinners for over 200 people.

The notion of the public “commons” is a strong one in history. A commons is defined as a tract of land owned or used jointly by the residents of a community, usually a central square or park in a city or town. This new space will truly be the Law School’s “commons,” to be enjoyed all members of the Law School community.



## Library

The project also includes a renovation of the Law Library, with the aid of a foundational \$6.5 million gift from The Duke Endowment. This includes an exterior renovation to the facade to add all new larger windows in the reading room and mezzanine, and to replace the old brick with the new “Duke brick” that was used so successfully on the front of the Law School and the new addition. The plans also include adding several large windows on the second floor of the library. Bringing natural light to this level will provide the opportunity to create new study spaces on that level.

On the inside, the main reading room has been completely re-conceptualized. There will be fewer books on the main level as the goal is to provide easy access not only to library services, but to those of the computing, Web, and media departments. A single point of service near the renovated entrance to the library will make it easy for students to obtain reference help, check out books, and get computing assistance. The seating will be rearranged to take advantage of the new two-story glass window walls, and will permit the reading room to become a light-filled center of our community’s intellectual life.



## Special outdoor places

The project also includes the creation of two special outdoor venues that will allow the community to enjoy the natural beauty of the Duke campus.

The Beber Sculpture Garden is almost complete. Made possible by a generous gift from Robert '57 and Joan Beber WC '56, the woodlands garden features several pieces of outdoor sculpture by prominent North Carolina artists. The area includes a patio with “Duke stone” walls as well as a less formal area with tables set in the woodlands. Several of the sculptures are arranged around a lawn area with a brick seating wall.

“Marcy’s Garden,” named in honor of the late Marcy Horvitz, by Richard Horvitz '78, will be located along Science Drive in front of the building. Marcy’s Garden will include a long Duke stone wall with special seating areas, lush plantings, and a large lawn area, and will provide a special place for students to enjoy the outdoors while reading, studying, or talking with others.

Construction is scheduled to start in May 2007. The current estimates are for a 15-month construction window, with estimated completion for all parts of the project by mid-August 2008. As with our prior projects, construction photographs and further information will be posted on the Duke Law Web site. Please check often to see the progress. ♡

## New initiatives help students, alumni launch academic careers

**D**UKE LAW SCHOOL has initiated a number of programs to assist young scholars, students, and alumni who are interested in academic careers.

### Visiting Assistant Professors Program

Zephyr Teachout '99 and Shawn Bayern will join the law faculty for two academic years, beginning in July 2007, under the Law School's new Visiting Assistant Professors (VAP) Program. Each will teach one course per year while working on scholarship, with a view to entering the law school teaching market in the 2008 season. The Law School received more than 50 applications from exceptionally strong candidates for these two openings.

Teachout is currently the national director of the Sunlight Foundation in Washington, D.C., where she is creating a policy platform for transparency in Congress. She has previously been a lecturer at the University of Vermont, and a research fellow at the Berkman Center for Internet & Society at Harvard Law School, as well as director of internet organizing for Howard Dean's 2004 presidential campaign. In addition to practicing law in Burlington, Vermont, Teachout has clerked for Chief Judge Edward R. Becker of the U.S. Court of Appeals for the Third Circuit, worked as a staff attorney at the Center for Death Penalty Litigation in Durham, and co-founded Durham's Fair Trial Initiative, a non-profit dedicated to recruiting and training young lawyers to become capital trial attorneys. At the Law School, Teachout served as editor-in-chief of the *Duke Law Journal*.

Bayern will come to Duke Law School after completing a clerkship with Judge Harris L. Hartz of the U.S. Court of Appeals for the Tenth Circuit. A 2006 graduate of the University of California, Berkeley School of Law, Bayern graduated first in his class, and served as editor-in-chief of the *California Law Review*. While in law school he also co-taught a seminar on contract law theory. Bayern is the author of numerous articles on law and on computer programming, as well as one book, *JSTL in Action* (2003).

### Resources for alumni

The Law School's Academic Careers Committee offers alumni interested in entering the teaching market practice with job talks, help scheduling workshops at Duke and elsewhere, and assistance organizing faculty for references, advice, and feedback. A new Emerging Duke Scholars Colloquium offers an opportunity for graduates to present drafts of their scholarship and obtain feedback from experienced scholars. This is a good opportunity for graduates to get advice not only about the substance of their scholarship, but also about the placement of articles and general preparation for the teaching market.

### Resources for students

Current students can present and receive feedback on scholarship through a student scholarship colloquium in a format similar to that used in academic "early stages" colloquia. Spaces are also reserved for interested students at faculty workshops.

For more information, contact Bruce Elvin, associate dean for Career and Professional Development at (919) 613-7084 or [elvin@law.duke.edu](mailto:elvin@law.duke.edu), or visit <http://lawweb.law.duke.edu/career/careerpaths/academic>.

## Center for International and Comparative Law thrives on faculty's scholarly depth, diversity

**D**UKE LAW SCHOOL HAS ESTABLISHED the Center for International and Comparative Law to coordinate and support the School's programs, resources, and events relating to those areas. Richard and Marcy Horvitz Professor of Law Curtis Bradley, who directs the Center, says that its establishment is a testament to the Law School's growing strength in international and comparative law, which starts with one of the largest and most diverse faculties in the country.

"Ten full-time faculty members specialize in some aspect of international or comparative law, which is an extraordinary number given the relatively small size of the School. We have experts in international trade law, European Union law, U.S. foreign relations law, the laws of war, and international intellectual property, investment, and environmental law, just to name a few, with a range of intellectual perspectives about the proper role for international law and its status in the U.S. legal system."

The Center is an ideal vehicle for coordination and promotion of the various high level conferences and collaborations with which faculty members are involved, Bradley says. It also deepens the rich international and comparative law curriculum through initiatives such as its sponsorship of the Global Law Workshop, in which faculty and students come together to discuss works-in-progress by top visiting scholars in the field, and it enhances the intellectual life of the Law School through an ambitious roster of speakers and panel discussions. Through the fall semester the Center sponsored such events as a panel discussion on the United Nations' Oil-for-Food Program with former Federal Reserve Chairman Paul Volcker; a lecture by John Bellinger III, legal adviser to the secretary of state on transatlantic differences in approaches to international law and institutions; the fifth annual Herbert L. Bernstein Memorial Lecture in International and Comparative Law, delivered by Dean Zhu Suli, of Peking University School of Law; and the Duke-Harvard Foreign Relations Workshop on the topic of international delegations and the U.S. Constitution.

"This Center recognizes the astounding growth of international studies at Duke Law School, and provides the necessary organizational structure to coordinate and add to the School's rich array of research and teaching activities," says Dean Katharine T. Bartlett. "Professor Bradley is exceptionally collaborative and interdisciplinary, and one of the top international law scholars in the country. He is the ideal person to lead this effort." ¶

For more information on the Duke Center for International and Comparative Law visit <http://www.law.duke.edu/cicl/>.



### Bellinger lauds CICL

John Bellinger III, legal adviser to the secretary of state, praised Duke's launch of the Center for International and Comparative Law when he spoke at the Law School Nov. 15 as an essential affirmation that those subjects are key to legal curricula.

"To make clear its relevance to all facets of legal training, these disciplines must incorporate the rigor, creativity, and focus that we see in our domestic subjects," Bellinger said, offering the scholarship of the Center's director, Professor Curtis Bradley, "as a wonderful example of how to integrate the international and foreign law with the study of the U.S. Constitution and federal courts system."





# COMMUNITY EFFORT

## Marathon benefits Loan Repayment Assistance Program

**B**RAVING HILLS, headwinds, and temperatures in the low-20s, 19 members of the Law School community ran, race-walked, and walked Charlotte's "Thunder Road" Marathon course on Dec. 9, spiring each other towards personal best performances and making sure that public interest legal work was the clear winner. Backed by pledges from students, faculty, staff, and alumni, the "Running for Justice" team members raised more than \$45,000 for the Law School's Loan Repayment Assistance Program (LRAP), which helps new graduates in public service offset student debt; their salaries are often far lower than those of classmates in the private sector.

Professor Curtis Bradley spearheaded the Running for Justice effort, putting out a school-wide call for participants at the start of the fall term. "We wanted to get students, faculty, administrators, and staff all training and running together for a great cause," said Bradley, who ran the full Charlotte course, his second marathon, in 4:08:40. Professor Doriane Coleman, a former international track athlete who ran a half-marathon in Charlotte in 1:59:57, set the team record in pledges, raising almost \$14,000, and securing a donation of team jerseys from Nike.



THE TEAM SHIRT

RYAN CROSSWELL '07



PROFESSOR  
DORIANE COLEMAN

## The frontrunners

Their respective times of 2:45:05 and 2:56:36 ensure that 3Ls **Ryan Crosswell** and **Jim Sherwood** qualified for the prestigious Boston Marathon. Crosswell, completing his first marathon, placed eighth among the 840 runners who completed the full 26.2 mile course. The “brutal” weather wasn’t the hardest part of the race for the Pennsylvania native. “The most difficult part was balancing it with finals,” he said. “For two nights before the race I forced myself to stay in bed for eight hours, but before that, it was all nighters and four- and five-hour naps.” But the cause was worth it, said Crosswell, who may qualify for loan repayment assistance as a Marine second lieutenant.

“People come to law school with high ideals that can be easily lost when law firms start offering the ‘rock star’ treatment,” he said, admitting that “the money issue” and law school debt was the only thing that gave him pause about joining the Marines. The highlight of his run, in fact, was seeing a fellow Marine start the race carrying an American flag.

## Role reversal

Running his second marathon, Professor **Paul Haagen** also qualified for Boston, crediting the support he received from **Curt Clausen ’07**, a three-time Olympic race-walker. “Curt was race-walking at the same pace I was running. He asked me what my goal was, and I somewhat reluctantly admitted that I was going to try for the Boston qualifying time. He took that on as a challenge, paced me, and cajoled me into making it. When the headwind got bad around mile 21, he had me draft behind him. It was a nice reversal of roles – he was the expert teacher and I the student.” Haagen finished the race in 3:41:36, placing second in his age group; Clausen race-walked to a 3:41:37 finish.



## “I DID IT!”

**Kim Burrucker**, left, director of Pro Bono and Public Interest, trumpeted her grand achievement – completing her first half-marathon – to supporters via e-mail. Having conquered a steep uphill stretch to reach mile-marker 12, Burrucker thought she would be ready to run the last 1.1 miles. “My legs said differently,” she said. “This is when real friendship came into play. When I turned the last corner and the finish line was less than 500 feet away, there was [Associate Dean for Student Affairs] **Jill Miller**, wrapped in a tin foil blanket and yelling, ‘Come on Kimmie, you can do it!’ I ran across the finish line.”

“This is a remarkable achievement and one that makes me so proud to part of this community,” said Dean Katharine Bartlett, who added that the cause was near and dear to her heart. “At what other law school do students, staff, and faculty get together and challenge themselves in this extraordinary way for the benefit of the community? Thank you, thank you, thank you.” The Law School celebrated the runners’ achievement with a community breakfast on Jan. 11. ♡

## The Race Roster

“Running for Justice” team members who completed full and half marathons:

**Brenda Berlin**, Supervising Attorney, Children’s Education Law Clinic

**Curtis Bradley**, Richard and Marcy Horvitz Professor of Law

**Kim Burrucker**, Director, Public Interest and Pro Bono

**Curt Clausen ’07**

**Doriane Coleman**, Professor of Law

**Brett Cornwright**, Director of Publications

**Ryan Crosswell ’07**

**Paul Haagen**, Professor of Law

**Lucy Haagen**

**Naura Keiser ’09**

**William Laxton ’08**

**Sarah Ludington ’92**, Senior Lecturing Fellow

**Jill Miller**, Associate Dean for Student Affairs

**James Salzman**, Professor of Law

**Christopher Schroeder**, Charles S. Murphy Professor of Law and Public Policy Studies

**Jim Sherwood ’07**

**Matthew Wolfe ’08**

**Lawrence Zelenak**, Pamela B. Gann Professor of Law

**Xiaolu Zhu ’09**

### Law firm associates: Have you considered a judicial clerkship?

**T**HE HONORABLE William H. Pauley III '77 suggests that you do. While he reserves one of his three clerkship positions in the U.S. District Court for the Southern District of New York for a new graduate, he regularly hires clerks who have practiced for two or more years. More and more judges are following this trend, he says.

"A clerk with law firm experience has been in the trenches and understands the litigation process. It's an excellent foundation for a clerkship because trial court clerkships are primarily about moving cases through the pipeline."

Noting that he treats clerks much like associates at a law firm, Pauley says that he depends on their insights gleaned from experience. Taking a hiatus from practice to clerk can also facilitate an associate's later success in the law firm setting. "Everyone is looking for attorneys with a broader perspective on the practice of law," Pauley says. "There is no better place to get that experience than in a district court clerkship. It is an introduction to the 'black box' called the courthouse."

Justin Letts '04 clerked for The Honorable Algenon L. Marbley of the U.S. District Court for the Southern District of Ohio after his first year at Jones Day in Columbus, Ohio. Letts observes that "employers tend to be more receptive to associates who want to clerk for local judges because the attorney is likely to return to the same employer after the clerkship, and will bring specific knowledge that can aid colleagues with respect to case strategy and procedures." Letts and Pauley also note that on the federal level, clerks with prior legal experience also enjoy higher pay – in some cases up to \$30,000 more than a recent graduate.

The Law School's Career & Professional Development Center is available to help alumni organize their clerkship applications. "We can offer the best guidance if alumni contact us at the beginning of the process," says Gina Manke, the Career Center clerkship manager. Among Manke's tips for success: Obtain letters of recommendation from faculty who know you well or colleagues with whom you have worked closely, as judges give considerable weight to recommendations; contact recommenders well in advance of submitting your application; and start with a broad list of judges to whom you would like to apply. ♣

For assistance with clerkship applications, contact [clerkshipmanager@law.duke.edu](mailto:clerkshipmanager@law.duke.edu).

#### Judge Pauley's tips for successful clerkship applications:

- Apply early. When considering applications from practitioners, judges aren't bound by the application dates that apply to student applicants. Submit your application in late spring or early summer to get ahead of the Labor Day 3L rush.
- Experience counts. Note experience with depositions, discovery applications, and motions on your resume. Writing skills are crucial, so include original work product with your application.
- Clerk for a court where you intend to practice in the future, so that you can get a sense of the dynamics of that court and the bar in that area.
- Expand your professional portfolio. "You can judge candidates by their experience in areas such as evidence, federal courts, civil procedure, securities, and antitrust," Pauley says.

### Duke trustees approve new joint degree programs

**D**UKE UNIVERSITY'S BOARD OF TRUSTEES has approved two new dual degree programs at the Law School: a three-year JD/DESS (Diplôme d'études supérieures spécialisées) in global business law, a partnership with two top French universities, and a JD/MEMP (Masters of Engineering Management) in cooperation with the Pratt School of Engineering.

The Global Business Law JD/DESS degree program is a partnership with University of Paris I and Sciences Po in Paris. The program involves two years of study at Duke, where students must complete at least 62 credits towards the JD degree, including all required courses. During two semesters in Paris, students must complete 11 required courses and four electives at Paris I and Sciences Po, primarily master's degree level courses in global business law and economics and, if needed, an introduction to French law.

Duke joins a select group of American law schools in offering the JD/DESS, which is open to

20 French students and 10 U.S. students each year; law schools at Columbia, Cornell, Georgetown, and Northwestern Universities, the University of Pennsylvania, and the University of Virginia also offer the program.

"Law practice in most fields is increasingly international, and law graduates who have had meaningful international experience are highly sought after by U.S. law firms," said Dean Katharine T. Bartlett. "In thoroughly integrating U.S. and European legal studies, the JD/DESS program provides one more vehicle to equip Duke graduates to practice law in the global context."

Establishing a dual degree in law and engineering management responds to a demand from applicants to Duke Law School and the Pratt School of Engineering, and builds on the Schools' existing partnership in offering a three-year JD in combination with an MS in biomedical, electrical and computer, or mechanical engineering. Students enrolled in the new program will begin

their studies in June instead of August, and will be required to complete 72 credits at the Law School and 30 in the Master of Engineering Management Program.

Duke has long been a leader in interdisciplinary education among law schools, having launched its JD/LLM program, combining a JD with a Master of Laws in international and comparative law in 1985. Currently, approximately 25 percent of Duke Law students are enrolled in a dual degree program; in addition to offering a JD/MA/MS program in cooperation with one of 19 departments in Duke's graduate school, the Law School offers a JD/MBA in collaboration with the Fuqua School of Business; a JD/MPP (Masters in Public Policy) in collaboration with the Terry Sanford Institute of Public Policy; a JD/MEM (Master of Environmental Management) in collaboration with the Nicholas School for the Environment and Earth Sciences; and a JD/MTS (Master of Theological Studies) in collaboration with the Divinity School. ♣



# Alumni Notes

TELL US WHAT YOU ARE DOING:  
[www.law.duke.edu/alumni](http://www.law.duke.edu/alumni)



**Russell M. Robinson II '56**, founding partner at Robinson, Bradshaw & Hinson in Charlotte, was honored, along with his wife, Sally (WC '55), with Duke's Distinguished Alumni Award, during the Duke University Founders' Day celebration in September. Russell and Sally are the first alumni couple to receive the award. They have been active in many philanthropic and civic endeavors both in their hometown of Charlotte and at Duke. Russell has chaired The Duke Endowment since 2001 and Sally was a long-time Duke University trustee. They were profiled in the Sept.-Oct. 2006 issue of *Duke Magazine*.

Photo: Angus Lamond

## Duke Law Half Century Club

**Charles F. Blanchard '49**, a founding member of Blanchard, Jenkins, Miller, Lewis and Styers in Raleigh, was awarded the highest honor bestowed by the United Nations Association of Wake County at its 50th Anniversary celebration on October 26, 2006 – the Dag Hammarskjold Award – for his 50 years of “outstanding service and leadership to the association.” Charles is a past president of the Wake County Bar Association, the N.C. Academy of Trial Lawyers, and the International Society of Barristers. He also previously served as a member of the Duke Law Alumni Association board of directors.

**Harris James George '53**, attorney in Towson, MD, has released a memoir of short stories titled *By George*. He writes about his year living in the fabled “Duke Law Cabins.” Harris later transferred to the University of Maryland Law School.

**S. Perry Keziah '54**, a partner at Keziah Gates & Samet in High Point, NC, has been selected by his peers for inclusion in *The Best Lawyers in America* for 2007. The designation denotes a high degree of peer recognition and professional achievement.

**David H. Allard '56**, retired federal administrative law judge, of Evans, GA, has published *Uncle Clayton – A Soldier's Life in Letters*, a collection of letters written by his great-uncle who served in the 9th U.S. Army infantry beginning in 1898. Profits from the book will go to fund the scholarship David started in honor of his great-uncle at Jefferson Community College in New York. The book can be found at <http://rosedogbooks-store.stores.yahoo.net/unclsoliinle.html> or by calling (800) 834-1803.

## Class of '58

**John F. Lowndes**, a founding partner with Lowndes Drosdick Doster Kantor & Reed in Orlando, has been selected by his peers for inclusion in *The Best Lawyers in America* for 2007 for his work in real estate law.

## Class of '63

**Gary C. Furin** of Atlanta has been listed in Martindale-Hubbell's *Register of Preeminent Lawyers* in the area of immigration law. Gary was also the first recipient of the American Immigration Lawyers Association's “Outstanding Article on Immigration and Nationality Law” honor. He has served the Atlanta chapter of the AILA as chairman for two terms.

# Alumni Notes

## Class of '64



**J. Robert Elster**, a partner with Kilpatrick Stockton in Winston-Salem, NC, has been selected by his peers for inclusion in *The Best Lawyers in America* for 2007 for his work in commercial litigation, medical malpractice law, and personal injury litigation.

## Class of '67

**Calvin J. Collier** was the 2006 recipient of the Miles W. Kirkpatrick Award by the Federal Trade Commission (FTC). Cal, who was chairman of the FTC in 1976-77, was cited for his contributions to the agency.

**Hubert Grissom**, litigation director for the Advocacy Center for Persons with Disabilities in Tampa, FL, has written his third play, "BapBomb." The play, named for the FBI code for the 1963 Alabama church bombing, is set in 1988 and deals with the issue of hate crimes.

## Class of '68



**P. Thomas Boroughs**, a partner at Holland & Knight in Orlando, has been named the 2006 Member of the Year by the Florida Municipal Electric Association (FMEA). Tommy was honored for his role as commissioner and immediate past president of the board of OUC, the second largest municipal utility in Florida. FMEA represents the unified interest of 33 public power communities across Florida.



**James H. Kelly, Jr.**, a partner with Kilpatrick Stockton in Winston-Salem, NC, has been selected by his peers for inclusion in *The Best Lawyers in America* for 2007, for his work in insurance law and personal injury litigation.

**Robert Marquis**, a member of Woolf, McClane, Bright, Allen & Carpenter in Knoxville, TN, has been selected by his peers for inclusion in *The Best Lawyers in America* for 2007, for his work in employee benefits law, tax law, and trusts and estates. Bob has also been recognized as being among the group of attorneys who have been listed in the publication for 20 years or longer.

**Jerrold Shenkman** was appointed vice president and general counsel of Medical Resources, Inc. Jerrold was previously a principal with Kalison, McBride, Jackson & Murphy, a law firm specializing in the health care field. He is also a senior lecturer at the School of Public Health at the New York Medical College in Vahalla, NY.

## Class of '69

**Charles L. Becton**, a member of Becton, Slifkin & Bell in Raleigh, has been awarded a Pursuit of Justice Award from the Tort Trial and Insurance Practice Section of the American Bar Association. The award recognizes civil litigation lawyers who have shown outstanding merit and excelled at ensuring access to justice.

**Norman Donoghue II**, a retired partner of Dechert LLP, serves as director of planned giving for the Philadelphia Orchestra.

**John D. Englar**, an executive-in-residence faculty member at Duke's Fuqua School of Business, has been elected to the board of directors of Delphi Corporation, the largest U.S. auto parts maker, which is reorganizing in Chapter 11.

## Class of '70

**Eugene E. Derryberry**, a lawyer with Gentry Locke Rakes and Moore in Roanoke, VA, has been selected by his peers for inclusion in *The Best Lawyers in America* for 2007. Gene has also been named to Virginia's "Legal Elite" by *Virginia Business* magazine.

## Class of '71

**Joan Cooney**, supervising judge of New York Family Court for the Ninth Judicial District, retired in October. Joan's retirement plans include working on a statewide initiative allowing children in foster care to attend their original school.

**James R. Fox** has been appointed general counsel and secretary of Pike Electric Corporation in Mount Airy, NC. Pike Electric is one of the largest providers of outsourced electric distribution and transmission services in the United States.

## Class of '72

**Stephen J. Bronis**, a partner with Zuckerman Spaeder in Miami, was profiled in *The Best Lawyers in America* for 2006 and was ranked in *Chambers USA's 2006* "America's Leading Business Lawyers." Steve was also named 2006 "Best of the Bar" by *South Florida Business Journal*; "Florida Legal Elite" by *Florida Trends*; and "Top Attorney" in *South Florida Legal Guide* for 2006. Steve is serving as co-chair of the American Bar Association's White Collar Crime Division and has been elected to its Criminal Justice Section Council.

**Robert H. Michelson** of Racine, WI, has been named a "Wisconsin Super Lawyer" for 2006, as published in *Wisconsin Super Lawyers* magazine and *Milwaukee Magazine*. Bob is also state chairman of the National Association of Consumer Bankruptcy Attorneys, and has served as Racine's municipal judge for 28 years.

**David A. Thomas** was named the Rex E. Lee endowed chair and professor of law at the J. Reuben Clark Law School, Brigham Young University, where he has taught since 1974. David has published more than 40 books and several dozen articles, including the 15-volume treatise, *Thompson on Real Property*. He was named "Law School Professor of the Year" in 1998, 2000, and 2005.



**James W. Ummer**, partner at Rothman Gordon in Pittsburgh, has been selected by his peers for inclusion in *The Best Lawyers in America* for 2007 for trusts and estates law.

## Class of '73

**Kenneth L. Armstrong** has been elected to a judgeship in the Chancery Court in Memphis, TN. Kenny previously served as clerk and master of the Chancery Court.

**Daniel T. Blue, Jr.** has been selected by Governor Mike Easley to fill the N.C. General Assembly seat of recently deceased Representative Bernard Allen. Dan's term will run through 2008. Dan served in the N.C. House of Representatives from 1980-2002.

**Ward Greene**, president and managing partner with Greene & Markley in Portland, OR, has been elected to serve a four-year term on the Oregon State Bar Board of Governors.

**Don Mayer**, professor of management at Oakland University's School of Business, has begun his 16th year teaching international law, legal environment of business, and business ethics. Don's research and writings on law and ethics appear this year in *Business Ethics Quarterly*, the *Business Ethics Journal*, and the *American Business Law Journal*.

**Jeff Nickloy**, senior attorney with Campbell Kyle Proffitt in Noblesville, IN, has been awarded a "2006 Presidential Citation" by the Indiana State Bar Association, for contributions to the profession of law and to the citizens of Indiana. The award was based on volunteer work done to rewrite the advertising rules for lawyers in Indiana. It was Jeff's second such citation for work in the field of legal ethics.

## Class of '74



**James Good**, an attorney with Pierce Atwood in Portland, ME, has been selected by his peers for inclusion in *The Best Lawyers in America* for 2007 for his work in tax law.

**Lawrence O. Gostin**, associate dean for research and academic programs and professor of law at Georgetown University Law Center and professor of public health



at Johns Hopkins University, was awarded the Distinguished Career Award from the Centers for Disease Control in Atlanta. The award recognizes an individual whose career has been devoted to using law to improve public health both nationally and globally. Larry heads both the World Health Organization committee on the legal and ethical aspects of public health interventions for pandemic influenza and the National Academy of Science's committee on genomics in public health in the 21st century. He is health law and ethics editor of the *Journal of the American Medical Association* and director of the Center for Law and the Public's Health at Johns Hopkins and Georgetown.

**Donna Gregg** has been appointed senior policy advisor to Richard Russell, United States ambassador to the World Radiocommunications Conference. The World Radiocommunications Conferences, held every three years, are organized by the International Telecommunication Union to review and, if necessary, revise the radio regulations, the international treaty governing the use of the radio-frequency

spectrum, and the geostationary-satellite, and non-geostationary-satellite orbits.

**Paul Mandelkern** of Lowndes, Drosdick, Doster, Kantor & Reed of Orlando, FL, has been named a partner in the firm. Paul's primary areas of practice include corporate and securities, healthcare, and mergers and acquisitions.

**Luther E. (Chip) Milspaw, Jr.** of Harrisburg, PA, recently enjoyed a week in Arizona at the International POPS (Parachutists over Phorty Society) and SOS (Skydivers over Sixty) conference. While there, 60-year-old Chip completed his 200th skydive with a 60-year-old pilot flying a 60-year-old airplane, and accompanied by other skydivers 60 and older. He was joined in the adventure by one of his five daughters, Alexandra, a senior at Lehigh University, who completed her 100th jump while there.

**Rory R. Olsen**, a probate judge in Harris County, TX, has published his first novel, *Good Will Win In The End*. More information about the book can be found at the publisher's web site, <http://www.booklocker.com/books/2610.html>. Rory's personal web site is <http://www.goodwillwinintheend.com>.

## Class of '75

**Eric Drewry** and his family have moved back to the United States after more than 15 years in Asia. Eric received a PhD in Linguistics in 2003 from the University of Delaware and is presently an associate professor in the College of Liberal Arts and Sciences at Azusa Pacific University in Azusa, CA.

**Thomas P. Miller** has joined the American Enterprise Institute in Washington, D.C., as a resident fellow. Previously a senior health economist for the Joint Economic Committee of the U.S. Congress, Tom studies health care policy and regulation.

## Class of '76

**Robert E. McCorry, Jr.** has become of counsel to the firm of McCorry and Gannon in Pawtucket, RI.

## Class of '77

**Michael John Gallagher**, a partner with Davis Graham & Stubbs in Denver, has been elected to the American College of Trial Lawyers. In recent years, Michael's practice has focused on litigation involving the electric utility and mining industries.



## SHARE IN DUKE'S INVESTMENT EXPERTISE

Duke can now invest charitable remainder trusts with the university's endowment. While past performance is no guarantee of future growth, Duke's 16.3 % average annual compounded return over the past ten years makes its endowment performance among the best in the nation. The income from these trusts can be based upon a percentage of the trust's value each year, allowing any growth to benefit both you and Duke Law School.

To learn more about gifts that can provide you with an annual income as well as immediate tax benefits, please contact: Katharine B. Buchanan, JD (T '92) at (919) 613-7217 or [buchanan@law.duke.edu](mailto:buchanan@law.duke.edu).





## RALPH EVERETT '76

In January 2007, Ralph Everett capped nearly 30 years of involvement in legal and governmental affairs in Washington, D.C., when he became president and CEO of the Joint Center for Political and Economic Studies. Founded in 1970 in the wake of the civil rights movement, the Joint Center is one of the nation's premier think tanks on a broad range of public policy issues concerning African Americans and other people of color.

Everett brings broad expertise to his new position; a partner at the Washington office of Paul, Hastings, Janofsky & Walker since 1989, he served as the office's managing partner, as well as a member of the Policy Committee and co-chair of the firm's Federal Legislative Practice group. Moreover, Everett has substantial experience negotiating policy positions with members of Congress – a skill that will come in handy at the Joint Center. In

1982, he became the first African American to head a U.S. Senate committee staff when he was appointed by Senator Ernest F. Hollings (D-SC) to be the Democratic staff director and minority chief counsel of the Committee on Commerce, Science and Transportation. When Democrats won majority control of Congress in 1986, he was named staff director and chief counsel of the full committee.

Twenty years later, Everett took over the Joint Center's leadership as another Democratic majority was sworn in on Capitol Hill. For Everett, the 2006 congressional election brought another exciting development: "Five African Americans are now heading committees in the House of Representatives," he says. "It's truly amazing how far America has come."

Everett plans to direct much of his energy to providing Congress with ideas that he hopes will drive new policy. Issues close to his heart include increasing economic opportunities – "leveling the playing field" – for African Americans; increasing their participation in political affairs; addressing racial disparities in health care; and seeking new strategies to help more minorities attain advanced degrees. "In today's world education is more crucial than ever if you want to get ahead in society," Everett says. "It has really become a requirement for families hoping to make a living."

Everett plans to campaign for his causes with methods he honed during his years on Capitol Hill, particularly as staff director for the Senate Commerce Committee. "The secret to getting things through Congress," he says, "is to come to every meeting overly prepared, to be fast on your feet, and maybe most important, to know how to work with people with different beliefs. People who don't agree with you can sometimes teach you a lot more than people who do." — *Paula Edelson*



**Timothy Meredith** has won a retention election for a 10-year term on the Maryland Court of Special Appeals. Tim was appointed to the court in August 2004.



**Heloise C. Merrill**, a partner at Parker Poe Adams & Bernstein in Charlotte, has been selected by her peers for inclusion in *The Best Lawyers in America* for 2007 for employee benefits law. Heloise has also been named a fellow of the American College of Employee Benefits Counsel.

**James L. Miraldi**, a partner with Miraldi & Barrett, began a six-year term in January 2007 as a judge in the Court of Common Pleas for Lorain County, OH.



**C. Thomas Work**, a shareholder and chair of Stevens & Lee's estates & trusts department in Reading, PA, chaired the subcommittee that drafted the Pennsylvania Uniform

Trust Act, which now constitutes more than one-third of the entire Pennsylvania Probate, Estates, and Fiduciaries code. Tom authored a substantial portion of the new statute. The nationally-recognized project and subcommittee will serve as a model for several states looking to enact a single, organized trust code.

## Class of '78

**John Hasnas**, associate professor of business at the McDonough School of Business at Georgetown University, has published, *Trapped: When Acting Ethically Is Against the Law*, a book on the ethics of the federal government's campaign against white collar crime.



**Renee J. Montgomery**, a partner with Parker Poe Adams & Bernstein in Raleigh, has been selected by her peers for inclusion in *The Best Lawyers in America* for 2007

for administrative law and health care law and to *Law and Politics* magazine's "North Carolina Super Lawyers" for 2007 in the area of business litigation.

**Craig Runde**, an instructor at the Leadership Development Institute at Eckerd College in St. Petersburg, FL, has co-authored *Becoming a Conflict Competent Leader*, published jointly by Jossey-Bass and the Center for Creative Leadership.

**Gregory Wetstone** has joined the American Wind Energy Association (AWEA) as senior director for Government and Public Affairs. He was previously chief environmental counsel for the House Energy and Commerce Committee's Health and Environment Subcommittee, and for more than 10 years served as director of advocacy at the Natural Resources Defense

Council. Most recently he was director of U.S. operations for the International Fund for Animal Welfare.

### Class of '79

**Chris A. Rallis** joined ImmunoBiosciences in Raleigh as chief executive officer in April 2006. Chris is the former president, chief operating officer, and director of Triangle Pharmaceuticals, Inc.



**Juliann Tenney** has been named director of compliance and ethics at Duke University. The Office of Compliance and Ethics is responsible for the coordination of all compliance activities on campus. Juli was previously associate dean for compliance at the School of Medicine.

**Thomas R. West**, an attorney at Poyner & Spruill in Raleigh, has been appointed to a three-year term on the Board of Advisors of the Sarah P. Duke Gardens at Duke University. Tom also serves as vice chair of Pfeiffer University's Board of Trustees.

**Jon C. Yergler**, a partner with Lowndes Drosdick Doster Kantor & Reed in Orlando, has been selected by his peers for inclusion in *The Best Lawyers in America* for 2007 for his work in real estate law.

### Class of '80

**Thomas Giegerich** has joined McDermott Will & Emery in New York as partner. Tom heads the firm's federal tax practice. He was previously a partner with Dewey Ballantine.

**James I. Howard** of Edmonton, KY, was appointed to the Kentucky State Court of Appeals in September, by Governor Ernie Fletcher.

**Russell Jones** recently published an article in the *Creighton Law Review*, "The Right of Publicity, The First Amendment, and Constitutional Line Drawing - A Presumptive Approach" (39 *Creighton L. Rev.* 939, June 2006). Russ was selected for the second year in a row for inclusion in *Best Lawyers in America* for 2006, for intellectual property law. He was also named a "Missouri-Kansas Super Lawyer" in 2005 and 2006.

**Mark J. Prak**, a partner with Brooks, Pierce, McLendon, Humphrey & Leonard in Raleigh, has been appointed a member of the American Judicature Society's National Advisory Council. Mark was recently named one of North Carolina's "Super Lawyers" in the area of First Amendment/media law.

**David C. Reeves** was appointed associate general counsel at Kansas City Southern, a transportation holding company with railroad investments in the U.S., Mexico, and

Panama. David was previously with Baker & Miller of Washington, D.C.

### Class of '81

**Sharon Wasserman** joined the California office of The Nature Conservancy as a senior attorney in September 2005, and recently became the managing attorney for the California program. She and **Steve Wasserman '79** live in San Francisco and have two children, Allison and Joshua.



**Cynthia L. Wittmer**, a partner with Parker Poe Adams & Bernstein in Raleigh, has been elected as a 10th Judicial District Bar Councilor for the Wake County Bar Association.

**Michael Young**, a partner with Willkie Farr & Gallagher in New York, has been named one of the "100 most influential people" by *Accounting Today* magazine. Michael practices in the areas of securities and accounting fraud and is the author of *The Financial Reporting Handbook* (Aspen 2003).

### Class of '82

**P. Russell Hardin** of Atlanta has been named president of the Robert W. Woodruff Foundation, the Joseph B. Whitehead Foundation, the Lettie Pate Evans Foundation, and the Lettie Pate Whitehead Foundation. The four independent foundations share a common administrative arrangement and support a wide range of causes in Atlanta and the Southeast.

**Donald C. Lampe**, of Womble Carlyle Sandridge & Rice, has been elected chair of the Committee on Consumer Financial Services of the Business Law Section of the ABA. Don is a member of the firm's capital markets practice group in both the Charlotte and Greensboro, NC offices.

**Mark D. Shepard**, an attorney with Babst, Calland, Clements and Zomnir in Pittsburgh, has been selected by his peers for inclusion in *The Best Lawyers in America* for 2007 for his work in commercial litigation.



**Joel B. Toomey**, a partner at Peek, Cobb & Edwards in Jacksonville, FL, has joined the Million Dollar Advocates Forum, a California-based organization limited to attorneys who have acted as principal counsel in at least one case in which their client received a million dollar-plus verdict, award, or settlement.

### Class of '83

**Ben Fountain** has written a book of short stories, *Brief Encounters With Che Guevara*, published by Ecco, an imprint of HarperCollins Publishers. Border's has chosen Ben's collection of stories for its "Original Voice" campaign; Barnes & Noble

has included it in its "Discover Great New Writers" campaign; and the Independent Booksellers of America named it a "Book Sense Pick." Ben and his wife, **Sharon L'82**, and family, live in Dallas. For more information visit: [www.harpercollins.com/authors/30481/Ben\\_Fountain/index.aspx](http://www.harpercollins.com/authors/30481/Ben_Fountain/index.aspx)



**R. Douglas Harmon**, a partner with Parker Poe Adams & Bernstein in Raleigh, has been selected by his peers for inclusion in *The Best Lawyers in America* for 2007 for securities law and mutual fund law.

**Bruce Ruzinsky**, a partner with Jackson Walker in Houston, has been named a "Texas Super Lawyer" as published in *Texas Monthly*. Bruce heads the firm's bankruptcy section and chairs its diversity committee.

**Nancy Zisk** has been named associate dean for academic affairs at Charleston School of Law in Charleston, SC. Nancy joined the law school when it opened in 2004, teaching torts as an assistant professor. She has also taught at Washington College of Law at American University.

### Class of '84

**Leslie W. Chervokas** has joined Cadwalader, Wickersham & Taft in New York as special counsel in the financial restructuring department. Leslie focuses her practice on the insolvency aspects of structured finance transactions. She was previously a senior associate at Schulte Roth & Zabel in New York.

**Darah Headley** has retired from the practice of law for health reasons. She and her husband, Lyn Fowler, and their children live in Crosby, TX.

**Pope "Mac" McCorkle**, principal of McCorkle Policy Consulting in Chapel Hill, has been appointed chairman of the North Carolina Progress Board by Governor Mike Easley. The Board is an independent proponent for strategic thinking, action, and accountability, which keeps leaders and citizens focused on long-term goals and needs within the state.



**Steven A. Scolari**, a partner at Stradley Ronon in Philadelphia, was elected to the Main Line Chamber of Commerce board of directors for a three-year term. He serves as co-chair of the Chamber's Leadership Main Line Program.



**John F. "Sandy" Smith**, a senior partner with Morris, Manning & Martin in Atlanta, has been named one of Georgia's "Legal Elite" as published in *Georgia Trend* magazine.

# Alumni Notes

**Geoff Weirich**, a partner with Paul, Hastings, Janofsky & Walker in Atlanta, has been named co-chair of the Equal Employment Opportunity Law Committee of the ABA's section of Labor and Employment Law for a two-year term. Geoff, a fellow of the College of Labor and Employment Lawyers, has been listed for several years in *The Best Lawyers in America*, *Chambers USA*: "America's Leading Business Lawyers," and *Georgia's Super Lawyers*. Geoff was also named to the inaugural *Lawdragon 500* "New Stars, New Worlds" list published in 2006.

## Class of '85

**William W. Horton**, an attorney with Haskell Slaughter Young & Rediker in Birmingham, AL, has been selected by his peers for inclusion in *The Best Lawyers in America* for 2007. He was also a recent panelist on "Internal Investigations: Perspective from the Government, Inside and Outside Counsel" at the National Institute on Securities Fraud in Washington, D.C., which was sponsored by the ABA Criminal Justice Section, Section of Litigation, and Section of Business Law. Bill is the chair of the program committee for the ABA Health Section and serves in leadership roles with the American Health Lawyers Association.

**Jeff Lane** has been appointed chief of staff to Senator Ken Salazar (D-CO). Jeff was chief of staff for former Senator John Edwards (D-NC) until 2002, when he joined Womble Carlyle Sandridge & Rice as an attorney. Jeff has 20 years' experience working on Capitol Hill, having been a legislative director for former Senator Jim Sasser (D-TN), an administrative assistant for former Majority Leader Tom Daschle (D-SD), and chief council for legislation and regulation for the Small Business Administration.



**William McMillan** has joined Kilpatrick Stockton as partner in the Atlanta office's financial transactions, real estate, and restructuring department. Bill focuses on real estate finance, asset securitization, bankruptcy, department reorganization, and creditors' rights.

**Marshall Orson** has co-founded Devonwood Media, a firm based in Marietta, GA, specializing in media strategy, media relations, and video production. Marshall and his partners, all news industry veterans from major networks, work closely with law firms and their clients to address long-term media opportunities, crisis management, and media communications.

## Class of '86



**Jeffrey T. Lawyer**, a partner with Kilpatrick Stockton in Winston-Salem, has been selected by his peers for inclusion in *The Best Lawyers in America* for 2007 for his work in tax law.

**Gwynn T. Swinson**, vice president of government and community affairs and external relations at Duke University Medical Center and Health Systems and adjunct associate professor of trial law at UNC-Chapel Hill, has been appointed by Governor Mike Easley to the State and Local Fiscal Modernization Study Commission. Gwynn is the former secretary of the N.C. Department of Administration.

## Class of '87

**Suk-Ho Bang**, professor of law at Hongik University in Seoul, Korea, has been appointed to the board of directors of the Korean Broadcasting System, representing academia.

**Carl David Birman** and his wife, Beth, announce the birth of their son, Jared Grayson Birman, on April 19, 2006.

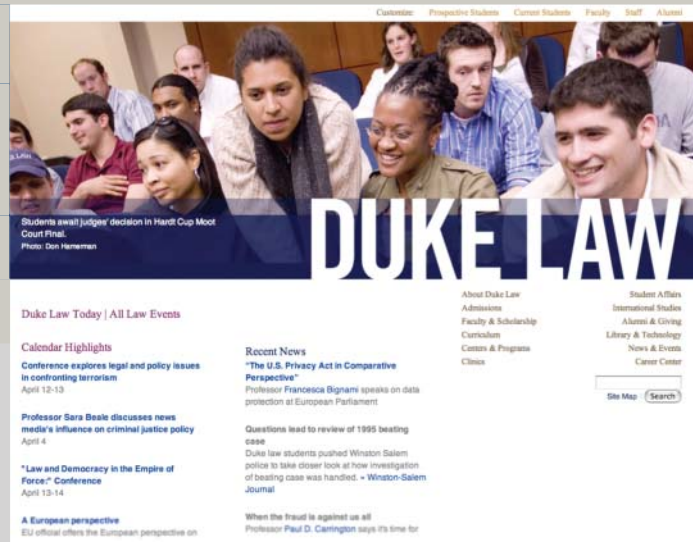
**Jennifer N. Carson** is a French teacher at Blair Middle School in Norfolk, VA. Jennifer won the Norfolk Public Schools' Inspiration

# A NEW DAY ON THE WEB [www.law.duke.edu](http://www.law.duke.edu)

We have redesigned the Duke Law Web site with a new look and feel to better reflect the entire Law School community. New features include:

- "Customize" option on the homepage
- More dynamic, frequently changing content
- An updated section for alumni ([www.law.duke.edu/alumni](http://www.law.duke.edu/alumni))
- Interactive photo galleries
- and more!

Visit [www.law.duke.edu](http://www.law.duke.edu) today and give us your feedback!



### HAVE NEWS TO SHARE? TELL US!

Go to [www.law.duke.edu/alumni/news/classnotes](http://www.law.duke.edu/alumni/news/classnotes). We will pull submissions to include on the alumni homepage. We look forward to your contribution.



Award as "Most Outstanding in Foreign Language Education."

**Cheryl Ryan** and her husband, Jay, announce the birth of their daughter, Catherine Clare Ryan, on March 19, 2006. Cheryl is a member at VanNess Feldman in Washington, D.C.

**Emily O. Wingfield** of Henrico, VA, has been appointed chief deputy director of the Department of Health Professions for the Commonwealth of Virginia. Emily has served for the past six years as an assistant attorney general with the Health, Education, and Social Services Division and Special Prosecutions Section of the Virginia Attorney General's Office.

### Class of '88



**Christoph Ann** has received the 2006 Best Teacher Award at Munich Technical University, where he holds the chair in corporate and intellectual property law. Christoph taught at Duke Law School in 2005.

**Kathleen M. Hamm**, managing director with Promontory Financial Group, was named head of the firm's Securities Practice Group. Promontory is a regulatory, compliance, and crisis-management consulting firm serving the financial services industry and other industries throughout the world.

**Lisa Reed** was recently named assistant dean at the Pamplin School of Business at the University of Portland. She is responsible for special initiatives that include developing the international component of the undergraduate and graduate programs and increasing education in the areas of sustainability and entrepreneurship within the business school.

**Michael Scharf**, professor of law at Case Western Reserve University, has written *Saddam on Trial: Understanding and Debating the Iraqi High Tribunal*, published by Carolina Academic Press. Michael is the director of the Cox International Law Center and assisted the Iraqi High Tribunal during the trial.

**David L. Veator**, an attorney with Greenberg Traurig in Boston, has been named to the State Ethics Commission by Massachusetts Governor Mitt Romney. The five-member Commission enforces the Commonwealth's conflict of interest laws.

### Class of '89

**Sean Callinicos** and his wife, Carolina Leal Callinicos, announce the birth of their first child, Alexandra Leal Callinicos, on December 24, 2006, in Washington, D.C. Sean is vice president of federal government affairs for the vaccine

company Sanofi Pasteur, a unit of Paris-based Sanofi-Aventis.

**Laura Deaton** has joined the Charleston Symphony Orchestra as chief operating officer. Laura recently completed a management consulting contract with the YMCA of Greater Charleston (SC).

**Cheryl Scarboro** has been appointed associate director of the Division of Enforcement at the Securities and Exchange Commission. Cheryl has served as assistant director since 2001. Prior to joining the SEC, Cheryl was with Sutherland Asbill & Brennan in Atlanta. (See profile, page 52.)

**David Starr** has been promoted to vice president/deputy general counsel of Belo Corporation, a multimedia news and information company based in Dallas.

**Debby Stone** has sold her law practice, Stone Law Associates, and is now a principal with InterVision Group, a professional coaching company in Atlanta. Debby also co-founded Corner Office Coaching, which focuses on coaching and consulting for lawyers and their firms. She has been named senior editor for *The Complete Lawyer E-zine*, where she is a contributing writer.

**Margaret Wachenfeld** has joined the United Nations agency UNICEF as a senior policy adviser in the Brussels office. Margaret was previously principal external human rights adviser to the International Finance Corporation (IFC), the private sector arm of the World Bank Group, in addition to advising the European Bank for Reconstruction and Development and the European Investment Bank. Prior to this advisory work, Margaret was a staff member at IFC, working on environmental and social issues in IFC's investments in developing countries.

### Class of '90

**Roger W. Byrd** has re-joined Nixon Peabody in Rochester, NY, as a partner in the business group. Roger was formerly with Choice One Communications, where he was senior vice president and general counsel.

**Michael Gay**, partner with Foley & Lardner in the Orlando office, became managing partner on March 1, 2007.

**James J. Hocter**, partner with Lowndes Drosdick Doster Kantor & Reed in Orlando, has been selected by his peers for inclusion in *The Best Lawyers in America* for 2007 for his work in corporate law.

**David Hostetler** has been named acting executive director of the Center for Law and the Humanities, a non-profit organization based in North Carolina. The mission of the Center is to foster renewal

for lawyers and to revive the ideals of the profession; it will offer retreats, seminars, and other services at all levels of the legal profession. David continues to serve as legal director at the Center for School Leadership at the University of North Carolina-Chapel Hill. He is also principal of Lex-IS Services, a firm offering legal consulting and training for public, private, and charter school leaders. David and his wife, Doreen, reside in Durham with their four children.

**Donald M. Nielsen**, an attorney with Bell, Davis & Pitt, in Winston-Salem, has been named one of North Carolina's "Legal Elite" as published in the January 2007 issue of *Business North Carolina*.

**Jacqueline O. Shogan**, an attorney with Thorp Reed & Armstrong, in Pittsburgh, has been appointed to a two-year term as president-elect of the non-profit Neighborhood Legal Services Association. The organization provides free legal services to people in need and low-income individuals.

**Nir Yarden** has joined Bryan Cave in New York as partner. Nir concentrates his practice in the areas of corporate finance and securities and hedge funds. Nir was previously with Greenberg Traurig in New York.

### Class of '91

**Douglas Brooks** and his partner, Rusty Wolf, announce the birth of their daughter, Sophia Louise Brookswolf, on September 12, 2006.

**Juraj Strasser**, chief counsel for the European Bank for Reconstruction Development, has recently relocated to Moscow.

### Class of '92

**Michael A. O'Hara** has formed a boutique investment banking and financial advisory firm, Consensus Advisors, in Boston.

**Edward Trent** and his wife, Sarah, announce the adoption of Hayden and Maggie Trent in June 2006. The Trents live in Jacksonville, FL, where Ed is a shareholder in Akerman Senterfit.

**Don R. Willett** and his wife, Tiffany, announce the birth of their second child, Shane-David, on November 13, 2006 in Austin, TX. Shane-David is named after his uncle, U.S. Army Captain Shane Mahaffee, who gave his life earlier in the year in Iraq. Don was re-elected in November to his seat on the Texas Supreme Court.

**Raphael Winick** married Catherine Saldutti on September 16, 2006 in Milford, PA. Raphael and Catherine live in New York City, where he teaches classes in intellectual property as an adjunct professor at

# Alumni Notes

Fordham Law School and is assistant general counsel for ESPN.

## Class of '93



**Jeffrey A. Benson**, a partner with Kilpatrick Stockton in Raleigh, has been selected by his peers for inclusion in *The Best Lawyers in America* for 2007 for his work in real estate law.

**Susan Bock** is living in Lake Oswego, OR, with her husband, Charles, and children, Colin and Phoebe. Susan continues to work as counsel for the Eugene-based law firm, Arnold Gallagher Saydack Percell Roberts & Potter, practicing in the area of estate planning.

**David C. Gibbs III** of Gibbs Law Firm in Seminole, FL, has written *Fighting For Dear Life: The Untold Story of Terri Schiavo and What It Means For All of Us* about his experience as counsel for the parents of Terri Schiavo. More information can be found at: [www.fightingfordearlife.com](http://www.fightingfordearlife.com).

**David Goldstein** has joined ClickSoftware as general counsel. ClickSoftware is a provider of field service optimization solutions based in Tel Aviv, Israel.

**Eduardo Hauser** has launched an electronic publishing company, DailyMe, based in Hollywood, FL. Eduardo was previously executive vice president for AOL Latin America, Inc. For more information visit [www.DailyMe.com](http://www.DailyMe.com)

**Robert R. Marcus**, an attorney with Smith Moore in Greensboro, NC, has been named a "North Carolina Super Lawyer" as published in *Super Lawyers* and *Charlotte* magazine.

**Leslie Leatherwood Nelson** has joined the FBI as associate division counsel in Tampa, FL. Leslie and her husband, David, have two children, Emma and Nicholas.

## Class of '94



**Rindala Beydoun** has been named partner at Vinson & Elkins. Rindala is a member of the firm's business and international law section in the Dubai office.



**Russell B. Killen**, a partner with Parker Poe Adams & Bernstein in Raleigh, has been selected by his peers for inclusion in *The Best Lawyers in America* for 2007 for construction law. Russell has also been named to North Carolina's "Legal Elite" by *Business North Carolina* magazine, and to *Law and Politics* magazine's "North Carolina Super Lawyers" for 2007 in the area of construction/surety.

**Kevin Korengold** has been appointed general counsel of Dalkia, a European energy services provider with a presence in 38 countries.

**Kevin Lally** has been named acting deputy chief of the terrorism and organized crime section for the Criminal Division of the U.S. Attorney's Office of the Central District of California in Los Angeles.

**Stacie Strong** has appeared onstage in Dance Chicago, a month-long performance series spotlighting the diversity of Chicago's professional dance community. The piece, "Ain't Nothin' But The Blues," was a world premier by internationally acclaimed choreographer Mark Yonally.

## Class of '95

**Doug Chalmers** has been elected partner at McKenna Long & Aldridge in Atlanta. He practices in the area of commercial litigation, insurance coverage litigation, and government ethics and election law.

**Stephen Erickson** and his wife, Suzanne, announce the birth of their twin boys, John Carpenter and David Stengel, on March 3, 2006. Stephen is general counsel for Schlotzsky's Ltd. in Austin, TX.

**Marc Eumann**, district court judge at Bonn District Court in Bonn, Germany, has been temporarily assigned to sit on the Court of Appeals for the Cologne Circuit until June 2007. Marc will hear appeals cases in insurance law matters while serving on the court's ninth panel.



**Sonja Henning** has been elected partner at Tonkon Torp in Portland, OR, where her practice focuses on labor and employment law. She also serves on the board of Portland Public Schools.

**Erika King Lietzan** has been elected partner at Covington & Burling. Erika practices in the food and drug group in the Washington, D.C., office, focusing her practice on FDA regulation of prescription and over-the-counter drugs, biologics, and medical devices.

**Jules Dowler Shepard** has published a book on gluten-free cooking, *Nearly Normal Cooking for Gluten-Free Eating: A Fresh Approach to Cooking and Living Without Wheat or Gluten*. You can find more information about the book, published in November 2006, at: [www.nearlynormalcooking.com](http://www.nearlynormalcooking.com).

**Jacinda Townsend** has joined the English department of Southern Illinois University at Carbondale as an assistant professor. She was previously a lecturer in creative writing at Missouri State University and the 2003-04 Carol Houck Smith fiction fellow at the Wisconsin Institute of Creative Writing.

Jacinda has published several short stories and is currently working on a novel.

**Mark Uyeda** has joined the staff of Commissioner Paul S. Atkin, at the U.S. Securities and Exchange Commission in Washington, D.C. as counsel. He was previously chief advisor to the California Corporations Commissioner in Sacramento, having been appointed by Governor Arnold Schwarzenegger in 2004.

**Brian Wyatt** and his wife, Brooke, announce the birth of their daughter, Haley Jaye Wyatt, on June 20, 2006. Brian is associate general counsel at Hospital for Special Surgery in New York City.

## Class of '96

**Paul Brathwaite**, executive director of the Congressional Black Caucus, has been named to *Roll Call's* "Fabulous Fifty" list of movers and shakers on Capitol Hill. Paul is responsible for coordinating domestic and foreign policy legislative initiatives for the 43-member Caucus.

**William J. Ching**, a partner with Nelson Mullins Riley & Scarborough in Atlanta, has been named a "Georgia Rising Star" for 2006 by *Georgia Super Lawyers*. All Georgia Rising Stars are 40 or younger, or have been in practice for 10 years or less. Billy focuses his practice on complex corporate finance, merger and acquisition, and strategic transactions.

**Joshua Kreinberg** has joined Spark Networks, a provider of online personals services in the U.S. and internationally, as general counsel. Spark, a U.K. company, is headquartered in Beverly Hills, CA, and is traded on the American and Frankfurt stock exchanges.

**Vijaya Rangaswami** has returned to the House Ways and Means Committee as deputy staff director for the Trade Subcommittee. Viji was previously at the Carnegie Endowment for International Peace, studying how U.S. trade policy decisions affect developing countries. Her previous tour with the Committee was as minority trade counsel. Viji is also an adjunct professor at Georgetown University Law Center.

**Scott Schiefelbein** and his wife, Rebecca, announce the birth of their second child, a daughter, Aubrey, on October 26, 2006, in Portland, OR.

**Eric G. Zahnd**, Platte County prosecutor in Missouri, ran unopposed in his re-election bid. Before being elected, Eric was a civil attorney with Bryan Cave in Kansas City. He had also worked for the Missouri Attorney General's Office and was a special assistant prosecutor in Cass County, MO.

## Class of '97

**Daniel Almaguer** and Jane Gauthier announce the birth of Francisco José Almaguer, on July 28, 2006 in Los Angeles.

**Nathan Cummings** has been named partner at Cooley Godward Kronish. Nathan is a litigation attorney in the firm's Reston, VA, office. His practice focuses on intellectual property litigation, with a particular emphasis on patent litigation.

**Robert Dickey** has been elected partner at Morgan Lewis in New York. Rob's practice focuses on domestic and cross-border mergers and acquisitions and private equity transactions; he also counsels clients in connection with joint ventures, strategic alliances, private placements, and general corporate and compliance matters.

**Anna E. Dodson** and her husband, Alec Hugo, announce the birth of their son, Luke, in August 2006. Luke joins sister Josephine and brother David. Anna is a partner at Goodwin Procter in Boston.

**Faith Kasparian** and her husband, Erik Weisman, announce the birth of their son, Ethan, on October 14, 2005. Ethan joins brother Frank. Faith and her family live in Arlington, MA.

**Dayatra Tishaun King** has been named litigation partner at Bailey & Dixon in Raleigh. Dayatra's practice concentrates on insurance defense, wrongful death defense, municipal and police liability, and employment litigation.

**Traci Lovitt** and her husband, Ara, announce the birth of their twin sons, in August 2006. Traci has been named a partner at Jones Day in New York.

**Kris Moldovan** has joined TXU Corporation as a senior counsel in the corporate group in Dallas. Prior to joining TXU, Kris was with Gibson, Dunn & Crutcher.

**Michelle Appelrouth Seltzer** has been named special counsel at Cadwalader, Wickersham & Taft in Washington, D.C., in the business fraud and complex litigation practice group.

**Jillion Stern** and **Michael Weisberg** announce the birth of their second child, William Jacob Weisberg, on August 18, 2006 in Los Angeles.

**Marcelo Torterola** has joined Quattrini, Laprida & Asociados in Buenos Aires, Argentina.

**Robert Wrzosek** has joined Credit Suisse Securities (USA) in New York as a director in its new tax credit syndication group. Rob was previously a partner with Eichner & Norris in Washington, D.C.

## PIERRE-EMMANUEL NOEL '95

Pierre-Emmanuel Noel recalls serving in West Germany as an 18-year-old sergeant in the Belgian military, when "the enemy was on the other side of the Berlin Wall." Seventeen years later, he notes, "I work in an institution surrounded by Eastern Europeans."

In March 2006 Noel began a two-year term working in the European Bank for Reconstruction and Development (EBRD), which helps bring market economies and democracies to 62 European and central Asian countries that were once under Soviet control. Noel was seconded to the EBRD General Counsel's Office in London by the European Investment Bank (EIB) in Luxembourg, where he has served as senior counsel since October 2000.

Established in 1991 – two years after the fall of the Berlin Wall – the EBRD is now the largest single investor in these formerly Soviet countries, providing financing for banks, industries, and other businesses in the private sector.

Along with that investment comes strict standards. According to its mandate, the EBRD will work only in countries that are dedicated to democratic principles, that practice corporate integrity, and that are committed to sound environmental practices. Success in meeting those standards varies according to country, Noel observes, though in general, the most challenging nations – economically, politically, and in terms of corporate policy – are the ones on the eastern side of the EBRD footprint.

"On the one hand, the EBRD is slowly phasing out its involvement in countries with advanced economies, such as the Czech Republic, Poland and several other central European nations," Noel says. "But at the same time, there are new countries of operation in Central Asia and the Caucasus that still need to adjust to Western standards with respect to environment and integrity."

Noel, whose day-to-day work with the EBRD includes advising and implementing equity and debt transactions with participating investors, is one of several Duke Law School graduates who have served in positions at the Institute on either a permanent or temporary basis. Manuel Sager '85 is one of the organization's directors; other alumni with EBRD ties include Ainagul Alimanova Wilkinson '98, Oleg Bilousenko '96, and Shaimerden Chikanayev '96.

The Belgian-born-and-bred Noel is certainly thrilled to be living and working in "wonderfully damp and misty" London, but his greatest pleasure comes from working at the truly international EBRD, where colleagues originate from about 60 countries. Regarding some of them at least, he would recall his time in the army and say: "Not so long ago, we considered each other enemies. Now we discover that we have a lot in common." – *Paula Edelson*





# Alumni Notes

## Class of '98

**Derek Apanovitch** married Rebecca Hopkins on May 20, 2006 in Key West, FL. **Amy Kiesel '98, Niles Bryant '98, Geoff and Heather Adams '98, Tom Gates '98,** and **Cory Barker '98** were in attendance. Derek is executive director, customer acquisition and retention at Kaplan Higher Education.

**Peter Lee** and **Lauralyn Beattie Lee** announce the birth of their daughter, Caroline Shaw Lee, on September 8, 2006. Peter is the general counsel for Catalyst IT Services, a Baltimore-based IT services company, and Lauralyn serves as assistant university counsel for Georgetown University in Washington, D.C.

**Aslaug Magnusdottir** has relocated from the United Kingdom to join Marvin Traub Associates as vice president in New York City. Aslaug formerly ran the venture business unit of Baugur Group.

**Jessica Pfeiffer** has joined Comerica Bank in her hometown of Detroit as vice president and corporate finance and securities counsel. Jessica is responsible for mergers and acquisitions and merchant banking activities, as well as corporate governance and company secretary matters.

**Robert Phocas** has joined the City of Charlotte, NC, as environmental attorney. Rob was previously with Womble Carlyle Sandridge & Rice, also in Charlotte.

**Arthur Swanson** was named vice president and assistant general counsel for Cadbury Schweppes Americas Beverages. Arthur was also named a "Texas Rising Star" for 2006 as published in *Texas Super Lawyers* magazine.



**Aaron J. Tehan** has been named partner at Vinson & Elkins. Aaron is a member of the firm's corporate finance and securities law section in the New York office.

## Class of '99

**Noriaki Abe** and his wife, Mayuko, announce the birth of their daughter, Harue, born on June 3, 2006. Harue joins brother Seiken. Noriaki has been assigned to the Japan-U.S. Security Treaty Division, North American Affairs Bureau, of Japan's Foreign Ministry. He was previously with the Policy Coordination Division, Foreign Policy Bureau.

**David Bowsher** has been promoted to deputy general counsel at the U.S. Department of Commerce.

**Chris Holland** has been named counsel at Clifford Chance. Chris is a member of the firm's capital markets practice in the Hong Kong office.

**Maya Horton** has joined the Council on Foundations as in-house counsel in Washington, D.C. The Council is a national non-profit membership association for charitable organizations.

**Sebastian Guerrero** was named partner at Guerrero, Olivos, Novoa and Erraázuriz, a leading law firm in Chile.

**Jennifer Kinsley** and Dirk Commandeur, announce the birth of their second son, Jackson Drake, on August 1, 2006. Jenni has been elected secretary of the First Amendment Lawyers Association, a national organization of attorneys committed to defending the right of free expression.

**Amy DeBoer Kolczak** and **Mike Kolczak** announce the birth of their son, David Alexander Kolczak, on September 27, 2006. Amy is a partner with Owen, Gleaton, Egan, Jones & Sweeney, and was recently named a "Georgia Rising Star" as published in *Georgia Super Lawyers* magazine. Mike continues to practice labor and employment law with Jones Day in Atlanta.

**Rut Ley** and Marc Dunschen announce the birth of their son, Jakob, on December 25, 2005. The family lives in Cologne, Germany. Rut is a public prosecutor in Bonn.

**Amy Buckley Monahan** and her husband, Liam, announce the birth of their son, Declan, on February 9, 2006. Amy is an associate professor at the University of Missouri School of Law.

**Cynthia O'Neal**, an associate with Taylor Penry Rash & Riemann in Raleigh, has been elected to a three-year term on the North Carolina Bar Association's construction law section council.



**John Simpkins**, an assistant professor at the Charleston School of Law in Charleston, SC, has been named director of diversity at the school.

**Jennifer Sullivan** has been named partner with Faegre & Benson. Jennifer practices business litigation in the firm's Boulder, CO, office. She lives in Boulder with her husband, Miles Corkern, and their son, Oliver.

## Class of '00

**Scott Dodson** has joined the faculty of the Robert A. Leflar School of Law, University of Arkansas, as an assistant professor. He is teaching civil procedure and federal jurisdiction. He and his wife, **Amy Weghorst Dodson '02** and son, Asher, live in Fayetteville, AR.

**Christopher Hale** has stepped down as the interim Palau Public Lands Authority attorney to concentrate full-time on

his role as assistant attorney general of Palau. As such, he handles all marine enforcement matters for the Republic. In addition, Christopher recently drafted and negotiated the Republic of Palau's maritime boundary treaty with the Federated States of Micronesia.

**Justyn J. Kasierski** has been named partner at Hutchison Law Group in Raleigh. Justyn focuses his practice on advising technology and emerging growth companies.

**Kevin Marr** has moved to China to teach American law and business regulation at Zhejiang University School of Law, near Shanghai. Kevin was previously at the Federal Trade Commission's Bureau of Consumer Protection in Washington, D.C.

**Ingacio Pallares** has joined Latham & Watkins as counsel in Barcelona, Spain. Ignacio focuses his practice on public and private mergers and acquisitions, share and asset deals, corporate restructuring, and real estate law in Spain and other jurisdictions.

**Justin Sullivan** has joined Enogex Inc. in Oklahoma City as senior counsel. Enogex is a gas transportation, production, and marketing business, and is a subsidiary of Oklahoma Gas & Electric Company. Justin was previously with Mahaffey & Gore.

## Class of '01



**Michael R. Asam** has joined Fish & Richardson in Atlanta as an associate in the patent prosecution group. Michael was previously with Jones Day in Cleveland.

**Eric Baim** has joined Hogan & Hartson, as associate in the Washington, D.C., office's health practice group.

**Kristi Bowman**, assistant professor of law at Drake University, has written "Seeing Government Purpose Through the Objective Observer's Eyes: The Evolution-Intelligent Design Debates," which was published in the *Harvard Journal of Law & Public Policy*.

**Amber Donath** and her husband, Rob, announce the birth of their son, Oliver Harvey Donath on January 2, 2007. Oliver joins big brother, Henry.

**Amy Grainger June**, an associate with Abramson Church & Stave in Salinas, CA, has been named to the board of directors of the Central Coast YMCA.

**Randy Katz** is working as an assistant U.S. attorney in the criminal division of the U.S. Attorney's office in Miami. Randy prosecutes drug cases, intellectual property violations, white collar crimes, alien smuggling, and child obscenity.

**Kim Life** has joined Gilead Sciences in Foster City, CA, as associate director of business conduct.

**Christine Mikulich** and her husband, Weston, announce the birth of their daughter, Gabrielle Mary, on February 2, 2006. Christine is associate counsel at Weingarten Realty in Houston.

**Gideon Moore** has joined Wishart Norris Henninger & Pittman in Charlotte. Gideon was previously with Morris, Manning & Martin.

**Amy E. Pope** has joined the office of Senator Dianne Feinstein (D-CA) as counsel on the Judiciary Committee. Amy was previously a prosecutor in the Department of Justice, Civil Rights Division, where her cases focused on human trafficking, police misconduct, and hate crimes. (See profile, page 53.) Amy married Neil Allison on May 13, 2006 in Washington, D.C. In attendance were **Michael Mosier '01**, **Matt Stowe '01**, and **Cathy Hasenzhal '01**.

**Nell Scott** has joined the Russia practice group at Orrick Herrington and Sutcliffe in London, England, as an associate. His practice will focus on U.S. corporate and securities laws, governance issues, cross-border mergers and acquisitions, private equity, and capital markets transactions, with a focus on the Russian market. Nell was previously with Covington & Burling in Washington, D.C.

**Jamieson Smith** has joined Cadwalader Wickersham & Taft as an associate in the Washington, D.C., business fraud litigation group. Previously with Baach Robinson & Lewis, Jamieson recently earned his M.A. in American legal history from the University of Virginia.

## Class of '02

**Kimberly Ann Bart** has joined the faculty of the University of Alabama School of Law as assistant professor of clinical legal instruction and director of the new Domestic Violence Law Clinic.

**Livia Daisy Birtalan** has joined Binder Grösswang Attorneys-at-Law in Vienna, Austria. Livia is in the mergers & acquisitions and corporate law practice group.

**Peter Bogue** is teaching high school math at La Jolla Country Day School in La Jolla, CA. Peter was previously at Ropes & Gray in Boston.

**Glen Caplan** and his wife, Jennifer, announce the birth of their daughter, Sydney Nicole, on December 21, 2006. Sydney joins big sister Natalie.

**Charles Davant IV** and **Meaghan Hannan '04** were married on August 12, 2006 in Bar Harbor, ME. **Karin (Holmberg)**

**Werner '03** served as matron of honor and **David Shuford '02** was best man. Other Duke Law alumni in attendance included **Kurt Friesenn '02**, **Jon Ryan '02**, **Frannie Hochberg '02**, **Daniel Rosenthal '02**, **Teddy Werner '03**, and **Brandon Long '05**. Meaghan and Charles live in Washington, D.C., where Charles is an associate at Williams and Connolly and Meaghan is an associate at Wilmer Cutler Pickering Hale and Dorr.

**Darin J. Glasser** and **Lisa Sharrock Glasser** were married on July 22, 2006, in Newport Beach, CA. Classmates **Jennifer Caplan**, **Rachael Samberg**, and **Neil Wolitzer** were members of the wedding party. Also in attendance were classmates **Glen Caplan**, **Christy Kiely**, **Michael Kim**, **Tom McDermott**, **Lindsey McGinnis**, **Steven Mesnick**, **Julie Nayer Searle**, **David Searle**, **Mark Simmelkjaer**, and **Marna McDermott '03**.

**Clara Granier** and **Federico Lander '04** announce the birth of their daughter, Clarisa Margarita, on January 26, 2006. The family lives in Atlanta.

**Kyle W. Grimshaw**, an associate with Madison & Austin in Salt Lake City, has been elected chairman of the franchising section of the Utah State Bar. Kyle's practice focuses on patent and trademark preparation and prosecution, intellectual property litigation, and franchising.

**Eric Grouse** has joined Tora Trading Services in San Francisco as in-house counsel. Eric was previously an associate with Morrison & Foerster.

**Mei Hui** has joined the China Financial Futures Exchange as company secretary. The Exchange is China's fourth futures exchange, focusing on financial derivatives trade. It was inaugurated in September 2006 in Shanghai. Mei was previously a partner with King & Wood.

**Marija Karanikic** is a visiting graduate at the University of Oxford, having been awarded the Chevening Scholarship by the British government. Marija is a junior member of the faculty at the University of Belgrade and is also enrolled in the PhD program at the University.

**Eli Mazur** has accepted a position as a senior research fellow in the Vietnam Program at the Kennedy School of Government at Harvard University.

**Felipe Muzquiz** and his wife, Marcela, announce the birth of their second child, Juan Pablo Muzquiz II, on May 25, 2006. Felipe and his family have recently moved to Brussels, where he is group counsel for Johnson Controls, Inc. He is responsible for the Benelux, Mediterranean, and Iberian regions.

**Ryan B. Opel** and his wife, Dawn, announce the birth of their son, Ian Malcolm Opel, on December 20, 2005.

**Sarah Pryor** and **Mark Pryor** announce the birth of their third child, Nicola Catherine, on July 13, 2006. Sarah is in-house counsel at CSC in Austin, and Mark is an assistant district attorney for Travis County, TX.

**Victoria von Portatius** has been named a junior partner at BMA Branstätter Rechtsanwalt GmbH, in Vienna, Austria.

**Susan E. Wood** has joined Enable America as executive director. The nonprofit organization in Tampa is dedicated to helping people with disabilities find employment and live independently. Susan was previously an associate at Sutherland Asbill & Brennan in Atlanta.

**Rolando Zambrana** was named partner at Nunez Rizo Zambrana & Argüello in Managua, Nicaragua in May 2006.

## Class of '03

**Suzanne Alford** and her husband, Darrick, announce the birth of their daughter, Lillian Josephine, on September 13, 2006. Suzy practices employment law with the firm Jackson Lewis in Atlanta.

**Stephan Bauer** has joined Nörr Stiefenhofer Lutz in Berlin, Germany, where he focuses his practice on corporate law and media/entertainment.

**Divesh Gupta** has joined Constellation Energy Group in Baltimore, MD, as counsel, with a particular focus on regulatory matters associated with wholesale energy procurements.

**Elizabeth Israel** and her husband, **Joel**, have relocated to Dallas from Washington, D.C. Elizabeth remains a litigation associate with Dickstein Shapiro's Washington office and Joel is now an associate with Sayles Werbner, a trial law firm handling both plaintiff and defense matters.

**Stuart Louie** married Dana M. Rhule on May 27, 2006 in Vancouver, British Columbia. Stuart is an associate in the Seattle office of Davis Wright Tremaine.

**Kurt Lunkenheimer** has joined Ballard Spahr Andrews & Ingersoll in Philadelphia as an associate.

**Lucas M. McKeon** and **Jennifer Lee Rosen** were married on June 10, 2006, at Riverside Farm in Pittsfield, VT. Lucas is an associate with Schell Bray Aycock Abel and Livingston in Greensboro, NC. Jennifer creates jewelry, wood inlay, and mixed-media sculptures for her company, Little Jennycat Designs, and serves as a community volunteer. Prior to moving to North Carolina, Jennifer was an associate at Alston & Bird in New York.

# Alumni Notes

**Daniel Monroe** has joined Moore & Van Allen in Charlotte, in the financial services practice group. He was previously with Thacher Proffitt & Wood in New York.

**Kendra Montgomery-Blinn** and her husband, Sam, announce the birth of their son, Marco Montgomery-Blinn. In April, Kendra became the first executive director of North Carolina's new Innocence Inquiry Commission, established by the Legislature to investigate claims of actual innocence by inmates convicted of crimes. She was previously an assistant district attorney in Durham.

**Leah Moore** has joined Seyfarth Shaw in Boston as an associate. Leah practices in the area of labor & employment litigation and counseling.

**Christopher Perry**, an associate with Winston & Strawn, has moved to the litigation department of the Washington, D.C., office from the Chicago office.

**Gillian Rattray** received her master's in Public Health in 2006 from Harvard School of Public Health. She is currently an associate in the health care and IP practice groups at Holland & Knight in Boston.

**Daniel Read** has joined Choate, Hall & Stewart in Boston as an associate in its tax group. He will focus his practice on tax issues in sophisticated corporate deals.

**David H. Silverstein** has joined Wall Marjama & Bilinski in Syracuse, NY, as an associate. His practice focuses on intellectual property litigation and opinions. David was previously with Ropes and Gray in New York.

**Eric Spencer** has returned from a one-year combat tour in Iraq, where he served as an infantry platoon leader. He is based at Fort Hood, TX.

**Hiyumi Yamada** has opened Integrity Consulting, Inc. in Tokyo to provide compliance and integrity advice to companies. Hiyumi was previously with GE Fleet Services, also in Tokyo.

**Daniel Zimmer** has joined Freshfields Bruckhaus Deringer in the Brussels office.

## Class of '04

**Dannielle Cisneros** has joined Pepper Hamilton's real estate practice group in Pittsburgh as an associate.

**Caroline Cosby** has joined The Vanguard Group, Inc. in Valley Forge, PA, as associate counsel concentrating on supporting the legal needs of Vanguard's international business. Caroline was previously a corporate associate with the law firm of Howard Rice in San Francisco.

**Nita Farahany** has accepted a tenure-track position at Vanderbilt Law School as an assistant professor of law. Nita teaches

criminal law, punishment and responsibility theory, and law and behavioral science courses.

**Svetlana M. Fowler** has joined Blank Rome in Philadelphia. Svetlana, formerly with Greenberg Traurig in New York, concentrates her practice in the area of public and private equity offerings, debt financing, and mergers and acquisitions.

**Meaghan Hannan** married **Charles Davant IV '02** on August 12, 2006 in Bar Harbor, ME. **Karin (Holmberg) Werner '03** served as matron of honor and **David Shuford '02** was best man. Other Duke Law alumni in attendance included **Kurt Friesen '02, Jon Ryan '02, Frannie Hochberg '02, Daniel Rosenthal '02, Teddy Werner '03, and Brandon Long '05**. Meaghan and Charles live in Washington, D.C. where Meaghan is an associate at Wilmer Cutler Pickering Hale and Dorr and Charles is an associate at Williams and Connolly.

**Kristi Jacques** has begun a clerkship for The Honorable Timothy C. Batten, Sr. in the United States District Court for the Northern District of Georgia.

**Jenna Kiziah** has begun a clerkship with **The Honorable William H. Pauley III '77** in the U.S. District Court, Southern District of New York. Jenna was previously an associate at Davis Polk & Wardwell in New York City.

**Jonathan Krause** married **Darcy Walker** on September 3, 2006 at Glen Foerd Mansion in Philadelphia. **Gina DeRosier Greenwald '04, Edward Moss '03, Alyssa Rower '04, Christopher Sajdera '04, Andrew Tripp '04, and Michelle Valteau '04** were all members of the wedding party. Also in attendance were classmates **Shefaali Desai, Robert Gallagher, Ashley Massengale, Carrie Zimpritch Michaelis, Stephen Pesce, Abigail Bergsma Politzer, Emily Ratte, Peter Smith, Mitch Sprengelmeyer, and Branch Furtado '07**. The couple lives in Philadelphia, where Darcy is an associate at Littler Mendelson, and Jonathan is an associate at Morgan Lewis & Bockius.

**Federico Lander** and **Clara Granier '02** announce the birth of their daughter, Clarisa Margarita, on January 26, 2006. The family lives in Atlanta.

**Andres E. Onetto**, partner with Onetto Abogados in Buenos Aires, has been named correspondent in Argentina for *Butterworths Journal of International Banking and Financial Law*.

**Julie Rogers** and her husband, Bret, announce the birth of their daughter, Ellery Brynn, on August 11, 2006. Ellery joins her sister, Ainslee.

**Mark Unger** is working as a solicitor at Mallesons Stephen Jaques in Sydney, Australia, in the mergers and acquisitions department.

**Minodora "Dana" Vancea** and **C. Bryan Wilson** were married on September 9, 2006 in Toledo, OH. Classmates **Phil Bezanson, Jerome DeLuca, John Fred, Michael Gunterdorfer, and Sarah North** attended. Dana recently completed a clerkship with The Honorable Jerry E. Smith, U.S. Court of Appeals for the Fifth Circuit, in Houston. She has joined Gibson, Dunn & Crutcher in Washington, D.C., as an associate. Bryan recently completed a clerkship with The Honorable Lee H. Rosenthal, U.S. District Court for the Southern District of Texas, also in Houston, and has joined Williams & Connolly in Washington.

## Class of '05

**Suzana Stoffel Martins Albano** has had her article, "Assisted Reproduction: The Rights of the Frozen Embryos and of Those Who Conceive Them," published in the February/March 2006 issue of the *Brazilian Journal of Family Law*.

**Matt Christensen** of Boise, ID, has opened his own firm, Christensen Law P.C., in Meridian, ID. Matt's new firm focuses on business law (transactional and litigation) and estate planning.

**Nora Doolin** married David Adkins on November 11, 2006 in Garrett Park, MD. Classmates **Leslie Cooley, Ryan Levy, and Jennifer Lohr** attended. Nora is a staff attorney with the Government Accountability Office in the Procurement Law/Bid Protest Division. She previously clerked with the Western District of North Carolina Bankruptcy Court. David is an attorney with Arent Fox.

**Sam Forehand** has joined Kirschbaum, Nanney, Keenan & Griffin in Raleigh as an associate, following a one-year clerkship with **The Honorable Gerald Bard Tjoflat '57** of the U.S. Court of Appeals for the Eleventh Circuit. Sam's practice includes general business law (litigation and transactional) and estate planning.

**Rohan Oberoi** has joined McGuire Woods in Richmond, VA, as an associate in the firm's corporate services department. Rohan focuses his practice on finance and securities, mergers, acquisitions and joint ventures, and corporate governance.

**James Stevens III** has joined Vinson & Elkins in Houston as an associate. James recently finished a clerkship with The Honorable Ruggero J. Aldisert of the U.S. Third Circuit Court of Appeals.

**Robert Stevenson** and his wife, Amy, announce the birth of their fourth child, Sabrina, born February 28, 2006. Robert



has recently joined the Orange County, CA office of Paul, Hastings, Janofsky & Walker as an associate in the corporate department. He was previously with Sheppard, Mullin, Richter & Hampton in Los Angeles.

**Ingrid Yang** has opened Blue Point Yoga Center in Durham, across from the Duke campus. Ingrid was previously an associate with Mintz Levin Cohn Ferris Glovsky & Popeo in New York.

## Class of '06

**Elizabeth Alsbrooks** married Stokes Player on June 10, 2006 in Mount Pleasant, SC. Elizabeth is a senior decision support analyst specializing in strategic planning and financial analysis with Roper St. Francis Healthcare in Charleston, SC.



**Antonia M. Aquilante** has joined Parker Poe Adams & Bernstein in Raleigh as an associate. Antonia concentrates her practice in the area of commercial real estate, including leasing, acquisitions, and development.

**German Barreto** has joined Prieto & Carrizosa in Bogota, Colombia.

**Jesse Galen Beardsworth** was awarded the prestigious Fulbright-Garcia Robles Grant, which honors U.S. Senator J. William Fulbright and former Mexican Ambassador Alfonso Garcia Robles, winner of the Nobel Peace Prize. The grant allows Jesse to study international business in Mexico this academic year while taking classes in the Instituto Tecnológico Autónomo de México (ITAM) MBA program. At the end of his scholarship year, Jesse will begin work at Allen & Overy's London office.

**Shaimerden Chikanayev** married Aigul Chikanayeva on July 8, 2006 in Astana, Kazakhstan. Shaimerden is working at the European Bank for Reconstruction and Development in London.

**Jose Luciano Cruz** has joined Cleary Gottlieb Steen & Hamilton in New York as an international lawyer.

**Lauren DeSantis** and **Corey Then** were married on September 2, 2006. They reside in Washington, D.C.

**Jeremy Dresner** and his wife, Meredith Mazza, announce the birth of their daughter, Eden Marie Dresner, on August 25, 2006.

**Brent A. Lorentz** has joined Winthrop & Weinstine in Minneapolis as an associate in the litigation practice group, where he

will focus on intellectual property and commercial litigation.

**Don Macbean** and Dr. Kristie Nybo were married on August 25, 2006 in the Mt. Timpanogos Temple in Utah. Don is an associate with Linklaters in New York.

**James Nowlin** has joined Winstead Sechrest & Minick in Dallas as an associate in the real estate/real estate finance department.

**Timothy Vann Pearce** married Emily Lindsey Rogers on August 12, 2006, at Duke University Chapel. Vann has accepted a position at Orrick, Herrington & Sutcliffe in Washington, D.C.

**Peter M. Sartorius** has joined Olshan Grundman Frome Rosenzweig & Wolosky in New York as an associate in the litigation group.

**Lauren Shurman** has joined Stoel Rives in Salt Lake City as an associate in the litigation group.

# In Memoriam

## 1938

**James Long Newsom**, 92, died February 25, 2007, at his home in Chevy Chase, MD. Mr. Newsom graduated from Duke University in 1935 before attending Duke Law School. He served in the U.S. Navy from 1942 to 1945, and retired from the Naval Reserve as commander in 1974.

Mr. Newsom practiced law in Durham from 1938 to 1982, first with the firm of Fuller, Reade, Umstead and Fuller, and subsequently as the senior partner of Newsom, Graham, Hedrick, Bryson and Kennon. He held many official and honorary positions as a civic leader, including emeritus fellow, American College of Trial Lawyers, president of the Durham Rotary Club, president of the Duke Law Alumni Association, chairman of the Durham Red Cross, and chairman of Trustees at Trinity United Methodist Church in Durham. Mr. Newsom also enjoyed traveling and was an avid golfer and duck hunter.

Mr. Newsom moved to Maryland in 2000 with his wife of 62 years, Frances Martin Newsom, who passed away in 2002. He is survived by two sisters, Annie Laurie Bugg, of Pittsboro, NC, and Nancy Darden, of Atlantic Beach; brothers, John Newsom, of Lawrence, KS, and Ned Newsom, of Durham; a son, James L. Newsom Jr. and his wife, Diane, of Avon, CO; a daughter, Linda N. Silva and her husband, Bill, of Bethesda, MD; two grandsons; two granddaughters; three step-grandchildren; and one great-grandchild.

## 1942

**Bruce MacDonald Barackman**, 87, of Virginia Beach, VA, died September 18, 2006. Born in Meadville, PA, he graduated from Allegheny College in 1939 and entered the U.S. Navy in December 1940. After serving as a naval flight instructor he joined VF-50 (Squadron) in July 1943.

Following World War II, Mr. Barackman continued in the Navy, attending Duke Law School before transferring to George Washington University, where he attained his JD. Mr. Barackman served as a squadron commander during the Korean conflict. He retired from the military in 1961 with the rank of captain. His decorations include the Distinguished Flying Cross with two Gold Stars, a Bronze Star with Combat "V," and the Air Medal with six Gold Stars.

After his military career, Mr. Barackman served as vice president and secretary of the National Trade Association and vice president and corporate secretary of the Chemical Manufacturing Association in Washington, D.C.

Mr. Barackman is survived by his wife, Helen Onspough Barackman; his sons, Bruce Barackman, Jr. (Sharon); James Barackman, and Larry McNulty; and several grandchildren and great-grandchildren.

## 1948

**Lorraine Hawkins**, 87, of Los Altos Hills, CA, died November 10, 2006 in Milford, OH. Born in Kimball, SD, and raised in Paulina, IA, she received a Bachelor of Science in Commerce from the University of Iowa before attending Duke Law School. Mrs. Hawkins worked for the FBI and the law firm of Goodrich & Dalton in Mexico City before her marriage to **Jack Hawkins '47**, who survives her.

**Shelby E. Horton, Jr.**, 89, of Asheville, NC, died February 11, 2007. Mr. Horton was born in Yancey County, NC. He earned his bachelor's degree from the University of North Carolina, and then worked as a high school principal, English and history teacher, and basketball coach. Enlisting in the Army Air Corps in 1942, he spent two years working in intelligence in Alaska.

Mr. Horton met and married his wife, the late **Audrey Shumaker Horton '48**, while both were students at Duke Law School. They practiced law together in Asheville for 50 years. Mr. Horton also served as a domestic relations judge before the General Court of Justice, and served in the U.S. Air Force Reserve, retiring with the rank of Lieutenant Colonel. He was a member of several civic organizations, serving as president of two Lions Clubs and as district governor of Lions International. He was a charter member of Grace Baptist Church, served as a Sunday school teacher, and chaired the church's Board of Deacons.

Predeceased by his wife, Mr. Horton is survived by daughters Linda D. Horton and Karen H. Calhoun, and three grandchildren.

**Edward D. Mosser**, 87, of Cadiz, OH, died January 28, 2007. Born in Newell, WV, he graduated from Mount Union College in Alliance, OH, before attending Duke Law School. He served in the U.S. Army during WWII and was a member of the American Legion. He practiced law in Cadiz from 1949 until his retirement in 1985. He served as the Harrison County prosecuting attorney for many years before becoming the judge of Common Pleas, Juvenile and Probate Courts. Judge Mosser is survived by his wife, Margaret Bird Mosser; a son Geoffrey Mosser (Janice); two grandchildren; and two great-grandchildren.

**Joseph C. Thackery**, 92, of Silver Springs, MD, died January 19, 2007. Mr. Thackery was born in Camden, AR, and grew up in Urbana, OH. He graduated from Marietta College, where he played football and rowed crew, before attending Duke Law School. After serving in the Army for one year during World War II, he transferred to the Navy and participated in the invasions of Guadalcanal, Iwo Jima, and Okinawa. Mr. Thackery served in trial posts in Pittsburgh and Atlanta for the National Labor Relations Board and as an appellate attorney for the NLRB in Washington, D.C.

After his retirement, Mr. Thackery received a Master of Arts in creative writing from American University, where he taught for three years. He authored *The Dark Above Mad River*, a collection of poems published by the Washington Writers Publishing House, and published 20 short stories. He was an amateur oil and watercolor painter. Mr. Thackery is survived by his sons, Jonathan P. Thackery and James H. Thackery.

## 1950

William R. ("Pat") Patterson, 83, died March 1, 2007. Born in Kansas, he was raised in Hickory, NC. He served in the Navy in World War II and received his BA from Lenoir-Rhyne College before attending Duke Law School.

In 1950, Mr. Patterson joined the Atlanta law firm of Sutherland Tuttle & Brennan, now Sutherland Asbill & Brennan. Known as one of the foremost practitioners of real estate law in the country, he served as president of the American College of Mortgage Attorneys, on the governing board of the American College of Real Estate Lawyers, and was a founding and long-time trustee of the Southern Federal Tax Institute, Georgia Federal Tax Conference, and Atlanta Tax Forum. He was the recipient of the George Pendar Award for Lifetime Achievement bestowed by the State Bar of Georgia on its most distinguished real estate practitioners. He was also named a 2006 "Georgia Super Lawyer" by *Atlanta* magazine.

Mr. Patterson was the former president of the Duke Law School Alumni Association and served as chairman of the Law School's Board of Visitors for 15 years. In 2000, the Law School honored him with the Charles S. Rhyne Award, which honors an alumnus whose career as a practicing attorney exemplifies the highest standard of professionalism, personal integrity, and public service. Mr. Patterson served as a trustee of Trinity School, Pace Academy, and on the board of Lenoir-Rhyne College.

Mr. Patterson is survived by his wife, Lee Patterson; daughter Martha Patterson of Atlanta; son Robert Patterson and his wife Susan of Atlanta; daughter Libby Gulley and her husband William of Durham, NC; and four grandchildren.

## 1951

**John Taylor Chaffin**, 85, of Shiloh, NC, died August 22, 2006 in Suffolk, VA. Born in South Mills, NC, he was a veteran of World War II, serving in the Pacific Theater aboard the destroyer USS Lamson. Judge Chaffin practiced law in Elizabeth City, NC, from 1952 to 1974; he was elected chief district court judge of the First Judicial District in 1974 and served until 1990. He also served a year as chairman of the North Carolina Conference of District Court Judges. Judge Chaffin is survived by his wife, Elizabeth Sawyer Chaffin; a daughter, Mary Elizabeth Anderson (David); a son, John Taylor Chaffin, Jr. (Sandy); and four grandchildren.

## 1952

**Joseph H. Levinson**, 87, died October 25, 2006 in Benson, NC. Mr. Levinson was born in Harnett County, NC, and received both his undergraduate and law degrees from Duke. He lettered in varsity baseball while in law school and, upon graduation, played semi-pro baseball with the "Benson Bulls." A strong supporter of Duke athletics, he was a lifetime "Iron Duke."

Mr. Levinson served as an officer in the U.S. Navy during World War II, and was awarded the American Area Campaign, Victory Medal, and WWII Medal. He was an honored member of American Legion Banner Post 109 for more than 50 years.

Mr. Levinson practiced law in both state and federal courts for more than half a century, and was honored by the North Carolina Bar Association and the 11th Judicial District Bar for his long service. He was a member of the Business Advisory Council and was honored with the 2003 National Business Advisory Council Award. President Bush presented him with the North Carolina 2004 "Businessman of the Year" award at the White House. Mr. Levinson was also awarded The Congressional Order of Merit by the National Republican Congressional Committee.

Mr. Levinson served as town attorney for Benson, NC, and was known for his successful efforts to bring Interstate 40 to the Benson area. He also was active in bringing the first motel to Benson, and in establishing the Benson Rescue Squad and the Benson Singing Convention. He was a

member of both the Benson Baptist Church and the Carolina Beach Baptist Church.

He is survived by his wife of 60 years, Theodosia Louise "Red" Levinson; a son, James R. Levinson (Ginger); two daughters, Ann L. Munday (Brad) and Nancy L. Eason (Frank); and five grandchildren.

## 1955

**David Shapiro**, 80, of Wayne, NJ, died November 10, 2006. Mr. Shapiro was a U.S. Navy veteran of both World War II and the Korean War. He received a Bachelor of Science from Tufts University in 1948 before attending Duke Law School. He was admitted to the New Jersey Bar in 1956 and worked in private practice in both Passaic and Wayne, NJ, until his retirement in 1990. Mr. Shapiro was a member of the Young Men's and Young Women's Hebrew Association in Wayne.

He is survived by his wife, Marion, and two sons, Laurence Shapiro T'74 and Marc Shapiro T'77.

## 1956

**William B. Eldridge**, 75, of Potomac, MD, died August 5, 2006. Born in Greensboro, NC, he received both his undergraduate and law degrees from Duke. After graduation he was admitted to the Missouri Bar and joined Coburn & Croft in St. Louis.

Mr. Eldridge served in the U.S. Army JAG Corps from 1957 until 1960, when he joined the American Bar Foundation as a research attorney, later becoming assistant executive director. He was the first director of research at the Federal Judicial Center, the research and training arm of the federal court system. In 1987, Mr. Eldridge was nominated for the Charles S. Murphy Award at Duke Law School and, in letters of recommendation from two former directors of the Federal Judicial Center, was credited both as "the architect of the structure of the research department" at the Center, and for his work and many publications that enriched the federal judicial system. It was also noted in the nomination process that Mr. Eldridge had "dedicated his life to the common welfare and was a role model for people interested in the public good."

Mr. Eldridge was active in the Civil Rights movement in the 1960s, marching with Martin Luther King Jr. and chairing committees to integrate public facilities. In addition to his public contributions, he was a talented artist and an accomplished weaver. Mr. Eldridge is survived by his wife, Barbara Eldridge; son Mark Eldridge T'81 (Cynthia); daughter Julie E. Marshall T'82; and four grandchildren.

## 1958

**Frederick A. Thayer III**, 73, died on February 15, 2007. Born in Oakland, MD, he graduated with a history degree from the College of Wooster in 1955 before attending Duke Law School. Returning to his home town, he was elected state's attorney for Garrett County in the early 1960s and was appointed judge of the county's circuit court in 1977, remaining the county's only sitting circuit judge until he stepped down in 1996. He became chief judge of Maryland's 4th Judicial Circuit in 1983. He continued to play an active role in the courts as well as the greater western Maryland community throughout his retirement.

Mr. Thayer served as pipe major for many years for the Garrett Highlanders, a bagpipe and drum band, which he co-founded in the late 1970s. He was active in the Deep Creek Lake Property Owners Association and also worked as a volunteer firefighter.

Mr. Thayer is survived by his wife, Diane Senior Thayer; son Frederick A. Thayer IV and his wife, Karen; and two grandchildren.

## 1959

**Rex B. Guthrie**, 75, of Coral Gables, FL, died on August 28, 2006. Born in Englehart, NC, he graduated from Porter Military Academy and Wofford College before attending Duke Law School. He served as a major in the U.S. Army in the 82nd Airborne Division. A sole practitioner in Miami, Mr. Guthrie was a ranked tennis player, an avid snow skier, bobsledder, golfer, and scuba diver. He also enjoyed horse jumping. He is survived by his wife, Nancy Guthrie; six daughters; and 11 grandchildren.

## 1963

**Stuart English Duncan**, 69, of Chattanooga, TN, died September 2, 2006. Born in Louisville, KY, he graduated from the College of William & Mary in 1959 before attending Duke Law School. He was a member of Phi Delta Phi legal fraternity.

Mr. Duncan was a senior partner at Duncan and Hatcher in Chattanooga, and specialized in litigation and commercial law. He was an avid supporter of Chattanooga's Partnership for Families, Children and Adults and of the the Children's Home/ Chambliss Emergency Shelter, serving on both boards and volunteering in several programs.

Mr. Duncan is survived by his wife, Elaine Morgan Duncan; daughters Anne Mathews, Mary Duncan Baer, and Anne Malone Maddox; sons Kennedy Helm Clark and Jeffrey Mason Brakebill; and seven grandchildren.



# In Memoriam

## 1965

**William David King**, 67, of Jacksonville, FL, died December 14, 2006. Born in Anniston, AL, Mr. King received both his undergraduate and law degrees from Duke. He served in the U.S. Navy Reserve from 1965 until 1980, rising to the rank of lieutenant. He was the managing partner of Foley & Lardner in Jacksonville from 1983 to 1991, leading the firm's 1991 merger with another law firm and continuing as co-managing partner until 1993.

Mr. King was a charter member of the National Association of Bond Counsel and a member of the American Bar Association. He was listed in the *Best Lawyers in America* for more than 10 consecutive years and was included in the 2005-06 edition in corporate, mergers and acquisitions, and securities law and in public finance law.

Mr. King is survived by his wife of 38 years, Dorothy Dana King; two sons, William Davis King, Jr. (Hilary) and Charles Lewis King (Caroline); a daughter, Dana Elizabeth King T'OO, and two grandchildren.

## 1969

**Breckinridge L. Willcox**, 62, of Bethesda, MD, died November 16, 2006 in Santa Paula, CA. Born in La Jolla, CA, he was raised in Chevy Chase, MD. He graduated from St. Albans School in Washington, D.C., in 1962 and from Yale University in 1966 before attending Duke Law School.

Mr. Willcox served in the Marine Corps as a judge advocate, and as a legislative assistant for Senator Charles McCurdy Mathias Jr. (R-MD) before joining the Justice Department in 1975, where he prosecuted fraud cases stemming from defense contracts. From 1984 to 1986 he was a partner with the Washington, D.C., firm of McKenna, Conner & Cuneo, establishing its white-collar defense practice. Appointed the U.S. attorney for Maryland by President Ronald Reagan in 1986, Mr. Willcox led many high-profile prosecutions and investigations. He became a partner at Arent Fox in Washington, D.C., in 1991, and remained there until his retirement in 2002.

Mr. Willcox had a life-long interest in marine biology and was active in coral reef conservation. He was a life member of the Duke Law School Board of Visitors.

He is survived by his wife, Lynn Braitman Willcox; sons Blair Willcox and Christopher Willcox; stepchildren, Laurel Braitman and Jake Braitman; and his mother, Christine Willcox.

**Joel Marc Lasker**, 60, of Washington Crossing, PA, died December 16, 2006. Born in Brooklyn, NY, he received his undergraduate degree from Knox College in Galesburg, IL, before attending Duke Law School.

He began his legal career with Consolidated Edison in New York. In 1974 he joined Mead Johnson, a division of Bristol-Myers Squibb based in Evansville, IN. The Laskers resided in Evansville for 18 years before transferring to Pennsylvania, where Mr. Lasker served as senior vice president and senior counsel for Bristol's Worldwide Medicines Group until his retirement in 2001. Mr. Lasker was a member of the Duke Law School Board of Visitors.

He is survived by his wife, Louise Lasker; daughters, Jennifer Lasker and **Andrea Bradford '02 (Jeffrey '02)**; twin granddaughters; and his mother, Ilene Dansky Lasker.

**Anthony Edward Satula, Jr.**, 58, of Larchmont, NY, died April 7, 2006. Mr. Satula graduated from Calvin College in Grand Rapids, MI, before attending Duke Law School. A partner with McGuire Woods' complex products liability and mass tort litigation department, he focused his practice on products liability, mass torts, and toxic tort litigation. He was also experienced in insurance coverage litigation and environmental site cleanup litigation and arbitration. He was a member of the Product Liability Advisory Council, and a member of the Board of Editors of *Leader's Product Liability Law and Strategy*. He authored numerous articles on environmental and product liability issues.

Mr. Satula collected modern first editions, with an emphasis on Eugene O'Neill and on private Paris presses of the 1920s and 30s.

He is survived by his wife, Deborah Satula; sons John Satula and Christopher Satula; and daughter Emily Satula.

## 1974

**Theodore "Ted" J. Esping**, 57, of Indianapolis, IN, died October 4, 2006. Born in Gary, Mr. Esping spent his youth in Hobart, IN, graduating from Hobart High School in 1967. He received his Bachelor of Science, *magna cum laude*, from the University of Florida before attending Duke Law School. He earned a Master of Laws from New York University while working at Arthur Young in New York City.

Mr. Esping was a member of both the New York and Indiana Bars. In 1977, he joined the Indianapolis firm of Baker & Daniels, where he specialized in federal income tax, municipal finance, and general corporate

tax law. He was also a certified public accountant.

Mr. Esping is survived by his wife, Marcia Esping; son Alexander Esping; daughter Lauren Esping; and parents, Ed and Betty Esping.

## 1976

**Winford R. "Rob" Deaton Jr.**, 55, died February 25, 2007. Born in Shelby, NC, he spent his early childhood in Bristol, TN, and moved to Valdese, NC, in 1965. After graduating from Duke Law School, he began practice at Cansler, Lockhart, Parker & Young in Charlotte, then worked with O. Max Gardner III Law Offices and Hamrick, Mooney & Flowers, both in Shelby. In 1989, Mr. Deaton opened his own law practice in Shelby, which grew into Deaton & Biggers.

Mr. Deaton served as chairman of the Cleveland County chapter of the American Red Cross, the Cleveland County Board of Elections, and as president of the Judicial District 27-B Bar Association. He was a member of the Democratic State Executive Committee, and of the board of Boys/Girls Club, and was active in Kiwanis, Relay for Life, and the Central United Methodist Church.

Mr. Deaton is survived by his wife, Anne; son, Robbie; parents Winford and Evelyn Deaton of Shelby; sister Rita Treleven and husband, Mark, of Hudson, OH; and brother, Rick Deaton and wife, Anna, of Ellensboro, NC.

## 1983

**David Alan Zalph**, 48, of Wilmington, NC, died August 16, 2006. Born in Miami, FL, he graduated from high school as valedictorian and received both his undergraduate and law degrees from Duke. He practiced law in Washington, D.C., before moving to Florida where he continued to practice.

After Mr. Zalph left his practice due to health issues, he studied environmental management at the University of North Carolina at Chapel Hill. An avid volunteer in several environmental groups, he moved to Wilmington in 1991, later becoming involved in bird observation and protection. He was working toward becoming a wildlife rehabilitator at the time of his death.

Mr. Zalph is survived by his wife, Andrea Deagon; daughter Diana Zalph; and mother Ruth Zalph.

## 1984

**Ellen Elizabeth Hausler**, 49, died February 15, 2007, in Connecticut, in an automobile accident.

A native of Miami, FL, Ms. Hausler received her Bachelor of Arts in English, with honors, from Mount Holyoke before attending Duke Law School. She clerked for The Honorable Peter T. Fay, United States Court of Appeals for the Eleventh Circuit and The Honorable James Lawrence King, United States District Court for the Southern District of Florida, before joining the Miami office of Morgan, Lewis & Bockius. She also served as senior attorney with Paine Webber, Inc., and, from 1990 to 1994, as a senior attorney in the Enforcement Division of the Securities and Exchange Commission's Northeast Regional Office. Ms. Hausler served as associate general counsel at Citicorp Global Markets, Inc. for eight years before joining Deutsche Bank AG in February 2004 as managing director / compliance counsel, the position she held at the time of her death.

She is survived by her husband Richard M. McGonigal; mother, Jeannette Fuller Hausler; brother, Donald; and sisters, Philomena and Jennie.

## 2007

**Maja Kolb**, 29, an LLM candidate from Berlin, Germany, died October 29, 2006.

Ms. Kolb received her law degree from Free University in Berlin in 2001. She joined a private firm following her graduation, while also working on her thesis, a comparative study of minors' capacities to contract under German, English, and French law.

Fluent in German, English, and Spanish, and proficient in French, Ms. Kolb sought out exchange experiences. She spent a year as a high school exchange student in Clark County, VA; she studied law for two trimesters at Universidad Autonoma in Madrid, Spain, as the recipient of the European Union's Socrates Scholarship; and spent a summer externship with the Los Angeles County District Attorney's Office.

An engaged member of the 2007 LLM class, Ms. Kolb was an organizer of International Week, among other events.



CHRISTOPHER SCHROEDER, CHARLES S. MURPHY PROFESSOR OF LAW AND PUBLIC POLICY STUDIES, RAN CHARLOTTE'S "THUNDER ROAD" MARATHON ON DEC. 9. THE LAW SCHOOL'S "RUNNING FOR JUSTICE" TEAM RAISED \$45,000 TO BENEFIT THE LOAN REPAYMENT ASSISTANCE PROGRAM. SEE STORY, PAGE 58.



# Duke Law School Selected Events Spring 2007

**1/10 "Our Undemocratic Constitution"**  
Professor Sanford Levinson,  
University of Texas at Austin School of Law  
PROGRAM IN PUBLIC LAW

**1/19 The Duke Law Leadership Experience**  
DUKE BAR ASSOCIATION

**1/26 Odious Debts and State Corruption**  
LAW & CONTEMPORARY PROBLEMS SYMPOSIUM

**2/9 ESQ.: Fifth Annual Business Law Symposium**

**2/16 "The Economics of Intellectual Property"**  
Professor Joseph Stiglitz, Columbia University  
MEREDITH AND KIP FREY LECTURE IN INTELLECTUAL PROPERTY

**2/23 Sixth Annual "Hot Topics" in  
Intellectual Property Law Symposium**  
2006 Patent Law Decisions and Video  
and Movie File Sharing

**3/2 "The Right's Reasons: Constitutional Conflict and the  
Spread of Woman-Protected Antiabortion Argument"**  
Professor Reva Siegel, Yale University  
BRAINERD CURRIE MEMORIAL LECTURE

**3/20 "The Global Adjudication System"**  
The Hon. Charles N. Brower,  
Iran-United States Claims Tribunal  
CENTER FOR INTERNATIONAL AND COMPARATIVE LAW

**3/30 "Copyright Liberties"**  
Professor Jessica Litman,  
University of Michigan School of Law  
CENTER FOR THE STUDY OF THE PUBLIC DOMAIN

**4/2 "EU-U.S. Legal Conflict and Cooperation"**  
Professor Pieter Jan Kuijper, European Commission  
CENTER FOR INTERNATIONAL AND COMPARATIVE LAW

**4/12-4/13 Confronting Terrorism Here and Abroad:  
Which Way Forward?**  
CENTER FOR LAW, ETHICS AND NATIONAL SECURITY, PROGRAM IN PUBLIC  
LAW, AND CENTER FOR INTERNATIONAL AND COMPARATIVE LAW

**4/13-4/14 Reunion 2007**

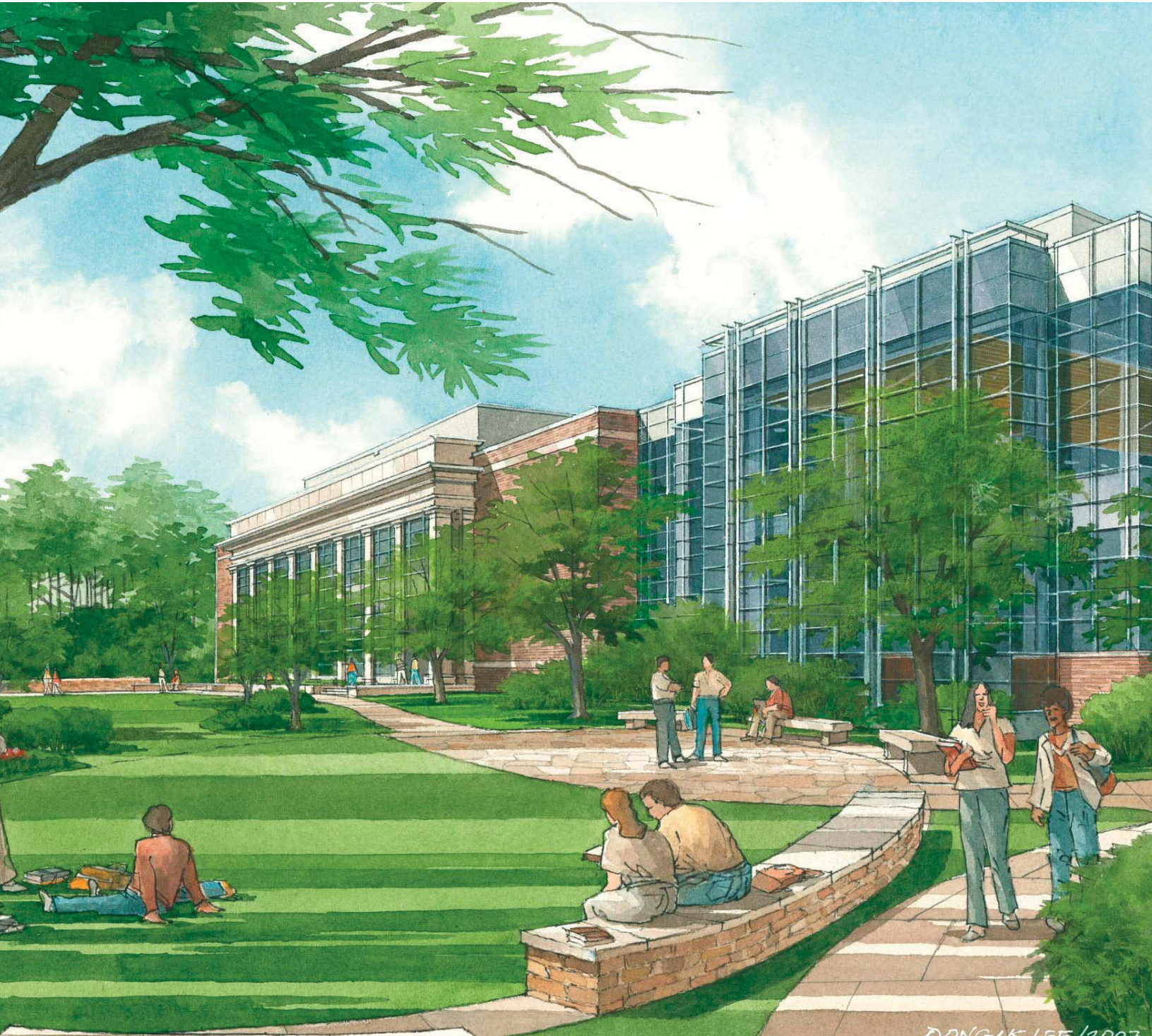
**4/28 "The Role of Information in Law and Economics"**  
TRIANGLE LAW AND ECONOMICS CONFERENCE

**5/12 Law School Hooding Ceremony**  
Speaker: Charlie Rose '68

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