

DUKE LAW MAGAZINE

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DUKE

IN

D.C.



From the Dean



DEAN DAVID F. LEVI

Dear Friends,

WE AT DUKE LAW greet the New Year with optimism and energy. With 2009 behind us, we can begin to see the other side of the recession both generally and in the legal economy. There are some signs that the slump in the hiring market for our graduates may be easing and that we may be returning to a market similar to that of the 1980s and 1990s. If so, we can live with that and do well and be thankful the worst is behind us.

To meet the challenges of a less robust legal economy, our students must be more focused on precisely what they want and need from their education and from the first phase of their legal careers.

And we at the Law School must provide them with the tools and qualities that they will need to hit the ground running, whatever ground they choose. Our graduates must be able to write and speak with precision and persuasiveness, to work in teams, to manage multiple assignments, to think strategically and to problem solve, to analyze complex legal and factual problems, and to bring to bear a range of knowledge and skills, some of which will come from other disciplines. They must have maturity and self-confidence, a strong moral compass, and a sense of how they can contribute to our system of justice and society generally. This is a lot to learn and to instill in three years. How do we best prepare our graduates for the demands and the responsibilities they will face the day after law school ends?

In part, we do so by continuing to do what we have always done: building and maintaining core strength in the curriculum. Our first year is still the rigorous exposure to legal reasoning and analysis, to precision in legal writing, to demanding instructors employing some form of the Socratic method that makes it one of the most transformative educational experiences offered in any graduate program.

The second and third years expose students to a range of substantive fields while requiring them to master complex legal doctrines and theory. As students in a law school in a great university, they have the opportunity in upper years to learn how other disciplines intersect with legal issues and problems. These are the years when students develop judgment in addition to critical thinking. These are the years when we ask them to recognize the difference between passable and excellent legal work, between mastery and rote knowledge. To support and expand these efforts, we must continue to hire top-notch faculty who teach demanding courses in which students grapple with difficult substantive questions.

Keeping our core strong is critical to preparing our graduates for their lives in the law. But as the economy shifts, we are increasingly aware that our new graduates will be expected to perform at very high levels in their first positions, with little further guidance or training. To help them, we have begun to emphasize a multi-faceted model of integrated learning. This means adding professional-skills training to the core in a way that enriches the core itself. It means combining

substantive law teaching with problem solving in actual or simulated practice settings. And it means integrating into legal education some of the knowledge and skills taught in other parts of Duke University that can be of great assistance in certain kinds of careers in the law.

The idea of integrated learning is not new. Our clinics have taken an integrated approach for many years. Moreover, individual faculty have experimented with the approach in their courses in various ways. But we see an opportunity now for us to further build on our core. Through our new Duke in D.C. program, for example, students work full time in a government office while taking a course on federal policymaking and regulation. This experience is extremely valuable for students who will enter a business-oriented practice as well as those who are planning for a career in public service. Through our new “course-plus” model, faculty collaborate with practitioners in the teaching of core subjects, an approach that works particularly well with courses that have transactional applications. Through our new federal defender externship program, students appear in court, draft motions, meet with clients, and get feedback from magistrate judges while taking a course in federal criminal procedure.

These and other programs combine academic inquiry with the mobilization of knowledge in ways that reinforce one another. This mutual reinforcement is what makes the integrated approach so powerful. From the demands of a practice setting, a student may see a research opportunity. From the parallel study of substantive law, the student may come to a much better understanding of the legal issues presented in practice. And there is the motivation and excitement that comes when a student must take responsibility for a real problem — when they must stand and deliver. Integrated learning strengthens our students’ substantive understanding of complex legal concepts and equips them with the experience, judgment, and professional skills needed to apply that knowledge.

Our goal is to provide a flexible and rich curriculum that is capable of meeting the needs and goals of all of our students, whatever their career aspirations may be. Through integrated courses, externships, and clinics; upper-level writing courses; capstone projects; professional skills and simulation courses; interdisciplinary offerings; and more, students have the opportunity to dig deeply into the substance of the law while developing their problem-solving, communication, and leadership skills. When they leave us, they will be ready on day one to do legal work of the highest quality.

All of this is a team effort, and our alumni play a vital role. Alumni members of our Board of Visitors and Law Alumni Association are providing leadership and insight into trends within the profession. Alumni are providing financial support that helps us contain tuition and student debt while developing and extending educational offerings. Alumni are advising students on career possibilities and providing externship and work opportunities. The helping hand extended across the generations has never been more important than it is today.

In the end, we will have a Law School that is as good as we collectively choose to make it. I thank all of you who help to make our future so bright, and I wish you a 2010 filled with possibility and optimism.

Sincerely,

David F. Levi
Dean and Professor of Law

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David F. Levi

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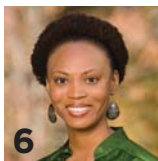
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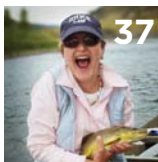
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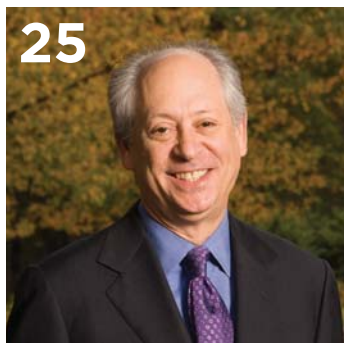
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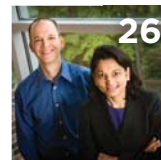
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Duke Law



News Briefs

Innovating in legal education

Duke Law launches LLM in law and entrepreneurship

DUKE LAW SCHOOL will launch a unique LLM in law and entrepreneurship in the 2010-2011 academic year. The governing faculty approved the one-year Law and Entrepreneurship LLM Program on Dec. 15.

Open to an inaugural class of about 20 JD graduates, the curriculum will blend rigorous academic study relating to the legal, business, institutional, strategic, and public-policy frameworks and considerations that apply to entrepreneurs and innovation, with practice and research opportunities that allow each student to develop skills in representing clients.

“Entrepreneurship and innovation are central to efforts to create broad-based, sustained economic growth, as well as to solving complex social problems,” said David F. Levi, dean of Duke Law School. “In America and, increasingly, on a global basis, we look to the entrepreneurial sector for creativity and solutions. The ongoing economic shifts resulting from the crisis in the global capital markets are likely to accelerate this trend. As a result, we believe that this program, which focuses on how the law and lawyers can best support entrepreneurship, is extremely timely.

“Lawyers often are among a startup’s handful of founders or leadership teams,” he said. “Early-stage CEOs must negotiate an array of issues with legal content or consequence, such as those relating to funding, finance, intellectual property protection and licensing, regulation, technology, deal-making, taxation, risk management, and many others. Indeed, in the entrepreneurial context, the relationship of the lawyer and the businessperson is so intertwined that a competent lawyer must understand the



PROFESSORS ANDREW FOSTER, LAWRENCE BAXTER, AND BILL BROWN '80 ARE AMONG THE CORE FACULTY OF THE NEW LAW AND ENTREPRENEURSHIP LLM PROGRAM.

business and a competent businessperson must understand the law. Our program in Law and Entrepreneurship will offer a valuable foundation for graduates who plan to be involved in this unique part of the business world as advisers, executives, or even as CEOs. As we develop the curriculum for the LLM we will end up strengthening all of our business offerings for all of our students.”

“We think this [program] offers an important contribution to the profession,” said Professor Paul Haagen, senior associate dean for academic affairs. “It is a set of approaches and ways of thinking that is critical to the continued development of the economy.”

Duke Law School’s academic strengths, interdisciplinary culture, and proximity to the innovation hub of Research Triangle Park make it ideally suited to developing a program in entrepreneurship, innovation, and law, he said.

“We have exceptional faculty strength in business law, intellectual property law and innovation policy, and corporate and

securities law and regulation,” he said. “The Raleigh-Durham [economic corridor] is one of the leading regions for startups in the country. And there are a lot of innovative, entrepreneurial ideas being generated at Duke’s Pratt School of Engineering, Medical School, and across campus.

“And institutionally, this is about Duke Law School itself being entrepreneurial by embracing the full set of intellectual, conceptual, and structural issues that surround innovation.”

Affiliated faculty for the LLM curriculum include James Cox, Duke’s Brainerd Currie Professor of Law and a leading scholar of corporate and securities law; Visiting Professor of the Practice of Law Lawrence Baxter, an expert in administrative law and bank regulation whose career as a banking executive included managing internal “intra-preneurial” ventures; Visiting Professor of the Practice of Law Bill Brown '80, a former co-head of global listed derivatives at Morgan Stanley, who leads his own entrepreneurial

and venture capital businesses in addition to teaching such courses as Venture Capital and Private Equity; Professor John Weistart '68, a scholar of contracts and commercial transactions; and Clinical Professor Andrew Foster, who directs the Community Enterprise and Entrepreneurial Law Clinics and directs the Law School's clinical programs.

As one who developed the LLM proposal, Cox, who will serve as faculty director, is delighted to see it come to fruition.

"I see this program as joining Duke's research and teaching missions with one of the most important things for American society, and that is how legal institutions — rules, courts, and regulatory agencies — can be a positive force as the economy shifts from being a production economy to an idea economy," he said. "Law can be a potent force in providing the industrial base — production base, if necessary — to support the ideas."

A rigorous blend of academics and professional development

Biotechnology and health, information technology, and social entrepreneurship — all areas thriving at Duke and in RTP and the Triangle region — will be central to the experiential education component of the program, which Foster will oversee. "LLM students will have meaningful opportunities to develop their substantive understanding of the law and develop core professional skills by working in the entrepreneurial sector at a very high level while still in the program," he said.

During their second-semester practicum, students will be placed in relevant externships, including in-house with a company, with law firms advising entrepreneurial ventures, or in other similar settings. A capstone project will engage students in scholarly research tied to entrepreneurship and entrepreneurship policy or in teamwork "to basically bring a company out of the ground," he said.

Interacting as a lawyer with a startup company differs substantially from interactions with more traditional large corporate clients, noted Foster.

"Entrepreneurial companies and clients, by their very nature, are risk-taking enterprises," he said. "As a result, one important job for a lawyer representing a startup is to help clients effectively manage the risks they face. You are operating in a framework where the willingness to take on risk, even to fail, is one of the key things that sets an

entrepreneur apart. And so helping young lawyers, who may be deeply risk averse themselves, to make that sort of paradigm shift is something that we expect to be able to provide students through the courses and the curriculum that we're developing."

Required courses for the LLM include Intellectual Property Law, Equity Valuation and Financial Statement Analysis, Venture Capital and Private Equity, and Baxter's survey course, Entrepreneurship and the Law, which includes an examination of the theoretical base for entrepreneurialism in a market economy, the regulatory framework in which it takes place in the United States, innovation policy, and the role of risk in entrepreneurial ventures. Students also will be able to choose from a range of such elective courses as Intellectual Capital and Competitive Strategy, Patent Law and Policy, Trademark Law and Unfair Competition, and Corporate Taxation.

Problem solving requires law and business

The LLM curriculum will be interdisciplinary, as is the very pursuit of acting as a lawyer to an entrepreneurial organization, said Brown. Business and law are so intertwined that entrepreneurship requires an in-depth knowledge of both disciplines, he observed.

"You can only do entrepreneurship well if you know the law surrounding intellectual property, securities, and taxes. And, you can only do entrepreneurship well if you know the business concepts surrounding governmental incentives, compensation, and finance and capital structures," he said.

"We will teach our students how to think about startup businesses both as business people and as lawyers, how to solve problems using a range of tools, and how to understand the environment of the entrepreneur well enough to allow them to go beyond problem-spotting mode into problem-solving mode," he said. "A lot of lawyers focus on problem spotting but aren't equipped to solve the problem because they don't know the 'business answer.' If you only know the legal solution, not the business solution, you can't come up with the best solution. This means that the entrepreneurship LLM will not only be ideal for the entrepreneur, but also for those in large institutions and firms who operate with the spirit of an entrepreneur." ♣

Justice Alito convenes a class

ASSOCIATE JUSTICE Samuel A. Alito of the Supreme Court of the United States guided 15 upper-year students through an examination of various challenging — and controversial — issues that have arisen in recent Supreme Court cases when he taught a weeklong seminar at Duke Law in September.

Among the issues Alito tackled in Current Issues in Constitutional Interpretation were those relating to the Second Amendment right to keep and bear arms, the Sixth Amendment rights to counsel and trial by jury, the Eighth Amendment right to be free of cruel and unusual punishment, and the right to petition for a writ of *habeas corpus*. He used recent landmark cases, such as *District of Columbia v. Heller* and *Kennedy v. Louisiana*, among others, as vehicles for considering broader questions of constitutional interpretation and Supreme Court practice.

"I thought back over the cases that the Court has heard during my time on the Court, and I tried to identify some cases that would be interesting in themselves and involve interesting substantive issues, as well as some broader questions like *stare decisis* and how you go about interpreting the Constitution when there is not a great body of precedent on the question," Alito said.

In addition to reading majority and dissenting opinions, the class read some of Alito's colleagues' writings on constitutional interpretation; assigned readings included excerpts from *A Matter of Interpretation — Federal Courts and the Law*, by Associate Justice Antonin Scalia, and *Active Liberty — Interpreting Our Democratic Constitution*, by Associate Justice Stephen Breyer.

Offering "extremely well-argued" and very different theories, the works also represent the only general explanations of constitutional interpretation authored by current members of the Court other than opinions, observed Alito. "I think they provide a good contrast and jumping-off point for discussion about how you should go about interpreting the Constitution and statutes," he said. "I don't try to convince students to view any of these issues in any particular way."



JUSTICE SAMUEL ALITO, FOURTH FROM RIGHT, TOP ROW, WITH STUDENTS IN HIS SEMINAR, CURRENT ISSUES IN CONSTITUTIONAL INTERPRETATION

According to James Pearce JD/LLM '11, the justice stayed true to his word in the classroom. "He acknowledged both the values and the shortcomings in both approaches," said Pearce. "He was tremendously open-minded throughout the process in welcoming different views. And we were

a group of 15 opinionated individuals who were not shy about expressing our opinions, so we had a nice range of different takes on where one should come down."

"Justice Alito pushed us to think about the hard cases and what they meant for our views of 'right' interpretation," said Kristin

Cope '10, who praised him as a "fantastic" teacher. "I came away from the class with a deeper understanding of the cases and of the different viewpoints that judges bring to the table. How awesome to be able to talk about the 'big issue' cases of our time with someone who was a part of deciding them!"

Alito said that he "thoroughly enjoyed" his week at Duke. "I thought the students were extremely well prepared and participated very actively in, I thought, a very constructive way. That goes for everybody in the class. We had some really good discussions about issues that I think are interesting. I could not have been more pleased about how it worked out."

Would he consider a repeat engagement? "Yes I would, definitely," he said. "I have taught a few classes before, and I think this was really outstanding." ♡

Environmental law and policy

DELPF and USDA collaborate on ecosystem services markets symposium

SIX OR SEVEN YEARS AGO, according to Professor Jim Salzman, any discussion of ecosystem services markets would have involved "just a few people around the table." An Oct. 23 symposium on the government's role in developing these markets, co-sponsored by the *Duke Environmental Law & Policy Forum (DELDPF)* and the U.S. Department of Agriculture's Office of Environmental Services and Markets (OESM), filled three overflow rooms.

"This says to me that the issue of ecosystem services markets has come of age," said Salzman, Duke's Mordecai Professor of Law and Nicholas Institute Professor of Environmental Policy and a pioneer in the field.

Ecosystem services such as carbon sequestration and water purification are public goods and worthy of compensation, he said. "Unless the landholders who provide these services receive compensation, then the services they provide are free and there's really no economic reason to manage their land so they keep providing those services.

"Carbon has been the biggest driver in market growth," Salzman added. "It has gotten communities interested that wouldn't normally be involved in, most notably, the energy sector. There will be a lot of money changing hands, and it will fall to the government to make sure these markets are credible."

OESM Director Sally Collins said the discussion surrounding the role of carbon offsets on public lands to reduce greenhouse-gas emissions was particularly useful from a policy standpoint, as it has been the subject of recent congressional hearings. "The role of federal lands was much more diverse than we thought it would be," said Collins, who previously served as associate chief of the USDA Forest Service. "People had shifted their thinking over the last couple of years."

Collins credited the combined convening power of Duke's Law School, Nicholas School for the Environment, and Nicholas Institute for Environmental Policy Solutions — and hard work by student organizers — with luring an "A-team" of specialists from government, academia, and the private sector who could offer fresh perspectives on policy options for her bureau.

"The Duke symposium helped our staff focus on what [OESM's] unique niche is within USDA," she said, noting that agriculture policy is intricately interconnected. "It truly is around these new markets for ecosystem services and what it will take to get them to scale. How do these new markets fit within all these other markets that USDA already operates? How does it help grow real wealth? How does it help support the administration's climate-change agenda? We are now clear that our focus should be these new markets associated with ecosystem services that until now have been left out of the economic equation." ♡

Center on Law, Race and Politics to host conference on race in America in honor of John Hope Franklin

DUKE'S CENTER on Law, Race and Politics will host an extraordinary gathering of intellectuals as they examine the past, present, and future of race in America at its inaugural conference. *"From Slavery to Freedom to the White House: Race in 21st-Century America, A Conference in Honor of John Hope Franklin,"* will be held at the Law School April 8 through 10.

The conference will bring together leading scholars from a range of disciplines including law, history, political science, economics, philosophy, sociology, and journalism for a series of roundtable conversations that consider issues of race, racial identity, and racial inequality. Professor Guy-Uriel Charles, co-director of the Center on Law, Race and Politics, and Professor Kenneth Mack of Harvard Law School serve as co-convenors.

The conference honors the life and work of the late John Hope Franklin, a remarkable scholar and public figure who spent the last part of his career teaching at Duke Law School. "We want to publicly acknowledge our intellectual debt of gratitude to Dr. Franklin, whose scholarship illuminated so many fields of inquiry, including law. Dr. Franklin was also a generous friend to a number of individuals at the Law School," said Charles.

Conference participants will identify questions about the future of race or racial inequality that need to be explored but are not currently being

addressed or are given insufficient attention in scholarly and public discourse, he said. "For example, to what extent is race something other than a site of grievance? To what extent is it simply a negative, victim-centered framework and to what extent ought it be a more positive, empowering framework? To what extent can we reframe the stories we tell about race?" The convenors anticipate the discussion will support the development of a "sustainable, collaborative, interdisciplinary community of scholars committed to a more long-term, in-depth exploration of these types of issues," added Charles.

Launched in the fall of 2009, the Duke Center on Law, Race and Politics (LRP) is a multidisciplinary initiative created to support research, public engagement, teaching, and activities at the intersection of LRP's core focus, which is law and race; law and politics; and law, race, and politics. It is affiliated with Duke University's Center for the Study of Race, Ethnicity and Gender in the Social Sciences. Duke Law Professor G. Mitu Gulati serves as LRP co-director.

Future LRP activities include symposia, conferences, academic workshops, public lectures, The Book Project, and "scholarship roundtables." "Our hope is that these projects will bring to the Law School scholars who are working at the frontier of law, race, and politics," said Charles. ♡



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Evaluating judges, judging, and judicial institutions

IN LATE SEPTEMBER, a distinguished group of federal and state-court judges, legal scholars, and political scientists gathered at the Law School to consider how best to study and rate judicial performance.

The goal of the invitation-only, two-day workshop was to strengthen and broaden the theoretical foundation of empirical research into the quality and legitimacy of judicial decision-making. Participants included an equal number of jurists, theoretical scholars, and empiricists who identified unanswered — or inadequately

addressed — questions that can serve as the basis for discussion on how to advance empirical study of the judiciary.

Dean David F. Levi, former chief U.S. district judge for the Eastern District of California, convened the workshop along with Professor G. Mitu Gulati of Duke Law and Professor David E. Klein of the Woodrow Wilson Department of Politics at the University of Virginia, both of whom have undertaken scholarly research on the subject. It was funded with a grant from the National Science Foundation.

Duke Law hosted a conference in February 2009 that also focused on the empirical study of judicial decision-making. "This conference and the grant supporting it helped us to further advance our interdisciplinary study of the judiciary," said Levi. "It built on the earlier conference we hosted, but differed in its inclusion of scholars with expertise in jurisprudence who helped determine whether different theories of judging could lead us to ask different empirical questions and lead to a new understanding of judicial decision-making." ♡



Bart '02 returns to lead Office of Public Interest and Pro Bono

WHEN KIM BART '02 took over the Law School's Office of Public Interest and Pro Bono as assistant dean at the beginning of the school year, it was more than just a homecoming.

"I have always wanted Carol Spruill's job," Bart said without hesitation, referring to the longtime associate dean of public interest and pro bono who retired from the post in December 2008. As a law student, Bart participated in the Public Interest Law Foundation and public interest retreats and studied Spruill's efforts in molding the public interest and pro bono program.

"What Carol did was identify the places where there was dedicated student interest in a particular area of public interest or pro bono activity, and she'd nurture and grow it," Bart said. "To compare the program then to now is almost mind-blowing." And having had her own interest in the field nurtured at Duke, Bart added that she was delighted when she had the opportunity return.

"It just so happens that the opportunities that I've had in my career have really set me up well to work with students in my new role," she said.

Bart came to Duke Law as a student in 1999 with two degrees from Syracuse University: a bachelor's degree, *summa cum laude*, in women's studies and a master's in public administration with a concentration in social policy. She spent her 1L summer with the National Women's Law Center in Washington, D.C., studying child-care policy and split her 2L summer between the center and Crowell & Moring, which she joined as an associate after graduation.

In 2004 Bart was accepted into the Georgetown Clinical Graduate Teaching Fellowship Program, where she became a teaching fellow with the Federal Legislation Clinic. "Initially I took the job because I really wanted to hone my legislative lawyering skills, but I ended up falling in love with teaching," she said. Upon completion of the fellowship, she accepted the position of director of the Domestic Violence Clinic at the University of Alabama School of Law.

Spruill said Bart's experience prepared her perfectly to lead Duke's public interest program. "I am amazed at the wide range of experiences that she has had which would be of interest to a Duke Law student. And I love the twinkle in her eye when she talks passionately about public service. I am sure that the program which meant so much to me over 18 years will flourish and grow under Kim's leadership." ♡

Allen '10 receives two-year Skadden Fellowship

VERONICA ALLEN '10 has received a Skadden Fellowship to spend two years expanding access to civil legal services for at-risk youth in Central Georgia.

The highly-competitive fellowship will cover Allen's salary and benefits following her law school graduation while she works at the Georgia Legal Services Program (GLSP), offering legal representation to students who qualify under that program's guidelines.

Allen's project is specifically designed to increase access to legal services for black males between the ages of 12 and 18 who are eligible to attend secondary school, but whose unmet civil legal needs may be affecting their academic performance. "Young black males drop out of school at a higher rate than any other demographic and have a one-in-three chance of going to prison during their lifetimes," she wrote in her proposal to the Skadden Fellowship Foundation. "Black male youth could experience better life outcomes if their basic educational, health, and economic needs were better met."

Allen worked with GLSP to tailor her proposal to fit the particular needs of the student population in Bibb County, the most populated county in Central Georgia, where over 35 percent of children live in poverty and fewer than 60 percent of students — who are predominantly black — graduate from high school.

Having worked with at-risk youth prior to attending law school, Allen is passionate about helping reverse the so-called school-to-prison pipeline.

"I believe that a major source of these poor outcomes [for black males] is due to us as a society having failed and disregarded them," she said. "By emphasizing this target population in my project, my aim is primarily to ensure that, at least with the work I do, they are not once again left out. And though my project targets this specific group, I hope that my project will eventually provide greater access to needed legal services for all children in Central Georgia who experience disproportionate limitations on their potential for success."

"In Veronica we saw the makings of a national leader," said Susan Butler Plum, director of the Skadden Fellowship Foundation. "The idea that she wanted to return to a community with which she was familiar from having gone to college there, to advocate for people at the greatest risk — young black men — was enormously important. We see education as the civil rights issue of the 21st century." The foundation funds self-directed projects at public interest organizations that offer legal services to poor, elderly, homeless, and disabled citizens, as well as those who are deprived of their civil or human rights. ♡



A COMMUNITY TRIBUTE TO ROBINSON O. EVERETT

AT A COMMUNITY MEMORIAL in Star Commons on Sept. 24, family, friends, colleagues, and former students remembered Professor **Robinson O. Everett LLM '59** for his intellect and exceptional professional achievements as well as his genuine concern for and kindness toward others. A faculty member for more than 50 years, Everett died on June 12, 2009 at the age of 81. During the ceremony, **Walter W. Manley II '72** unveiled a portrait of Everett — Manley's gift to the Law School — that will hang in the fourth floor portrait gallery. (See tribute, Page 46.)

Walter W. Manley II '72, center, with, l-r, **Greg, Luke, Lynn,** and **Rob Everett**



International Criminal Court Student Network takes hold at Duke

DUKE LAW STUDENTS have launched the first chapter of the International Criminal Court Student Network (ICCSN) in the United States. The ICCSN currently has affiliate chapters at the London School of Economics and Cambridge University, among others in the United Kingdom.

The goal of the ICCSN is to facilitate informed discussion about the International Criminal Court and the future of international criminal justice, explained Matthew Smith JD/LLM '11, president of the Duke Law chapter.

"Because the ICC is an international institution with jurisdiction over crimes committed by the nationals of its member states, it is perceived by some to threaten national sovereignty," said Smith, who spent his 1L summer working in Geneva for a nonprofit organization focused on ending the practice of torture as a tool of investigation in developing countries. "That perception has led to some false impressions about how the court actually works, what its mission and structure is, what the relationship is between states that

are party to the statute and the court, among others. Our goal really is to provide a public educational role. But we do so by engaging critically with the work of the court.

"We want to stimulate debate and discussion about everything the court is doing," he added. "We want to have debate and discussion about the criticisms that have been voiced about the court as well as the praise it's been given."

The group launched its programming on Sept. 11 when two ICC staff members offered a training session on the court's procedures for investigating and prosecuting war crimes, crimes against humanity, and genocide. The daylong program, which was filled to capacity, also included roundtable discussions with law faculty and guests on the court's record in its first six years of operation and its future. The event was sponsored by Duke's Center for International & Comparative Law.

Visiting Assistant Professor Noah Weisbord, a former law clerk to ICC Chief Prosecutor Luis Moreno-Ocampo, com-

mended Duke Law students for starting the ICCSN chapter and their interest and initiative in matters pertaining to international criminal law more generally. President Barack Obama has indicated his strong interest in bringing U.S. policy in line with international humanitarian law, Weisbord noted, and Secretary of State Hillary Clinton has expressed regret that the United States is not a party to the ICC.

"The U.S. and the International Criminal Court are having a rapprochement, and so Duke students are on to something," said Weisbord, who is part of a group investigating the addition of the crime of aggression to those prosecuted by the court. Their engagement with the court can also help to give Duke Law students an edge in pursuing highly competitive ICC clerkships, he observed. "If students are already attuned to what's going on through their student organization, it is much more interesting to have them working there. There would be a shorter learning curve when they arrive." ♪



“The world is globalizing. If we don’t do that we will ultimately lose out.”

— Mark Waller, chief marketing officer for the NFL

L-R: MARK WALLER, TIM BROSANAN, JIM TANNER, ADAM SILVER T '84, JAY BILAS '92

Duke launches Center for Sports and the Law

ON DEC. 9 DUKE LAW School celebrated the launch of its new Center for Sports and the Law with a high-level examination of the internationalization of professional sports. Representatives of Major League Baseball, the National Basketball Association, the National Football League, and individual athletes took part in the discussion at Weil, Gotshal & Manges in New York. ESPN college basketball analyst Jay Bilas T'86, L'92 moderated the conversation.

More than 100 Law School and Duke University alumni and friends attended the event. Launched in partnership with Duke's Department of Athletics, the center will study contemporary legal, business, and ethical issues affecting professional and collegiate athletics.

“With our considerable faculty expertise in this area, Duke Law School is well positioned to contribute to our understanding of modern sport and its regulation,” said Dean David F. Levi. “Given the University’s long-

standing strength in athletics, it is particularly exciting to work with Kevin M. White, vice president and director of Athletics, in starting this center.” Many alumni and friends are passionately interested in sports and the law and work professionally at the intersection of both, he added.

“College athletics has expanded dramatically over the years and given that growth, legal issues impacting the industry are more prevalent than ever,” said White. “The establishment of the Duke Center for Sports and the Law is an appropriate step in examining these matters by some of the brightest legal minds in the field.”

“Duke is one of a limited number of institutions that is both a really important research university and that competes in sports at the highest levels,” said Professor Paul Haagen, who has advised Duke student-athletes for more than 20 years as a member of the University’s professional sports counseling committee. Sport, he noted, has become one of the most critical forms of international cultural exchange and has “some of the most elaborate and effective international organizations.” Haagen is currently writing a book on sports and the law.

During the panel discussion, the league representatives acknowledged a common focus on

The Center for Sports and the Law will draw on the expertise of numerous faculty members with sports law experience, including Professors Paul Haagen, John Weistart '68, Doriane Coleman, James Coleman Jr., Katharine Bartlett, and Charles Clotfelter.

Haagen is an expert in contracts, the social history of law, and sports and the law. Weistart co-authored one of the foundational works in the field, *The Law of Sports*. Doriane Coleman won four national championships in track and field during 14 years of domestic and international competition for Nike and the Swiss and U.S. national teams, and was centrally involved in developing USA Track & Field's anti-doping program. James Coleman, Duke's John S. Bradway Professor of the Practice of Law, has been involved with cases involving the drug policies of USA Track & Field, the National Football League, and the International Triathlon Federation. Bartlett, Duke's A. Kenneth Pye Professor of Law, is a renowned scholar of gender and law, including issues relating to Title IX. Clotfelter, Duke's Z. Smith Reynolds Professor of Public Policy and Professor of Economics and Law, is writing a book that examines the role of big-time athletics at American universities. ♡

» See full panel discussion in *Duke Law Magazine* online at www.law.duke.edu/magazine



the concerns of both domestic and international competitors and audiences and indicated that they share many of the same general logistical challenges as they promote their sports to international markets.

“The world is globalizing. If we don’t do that we will ultimately lose out,” said Mark Waller, chief marketing officer for the NFL. Waller noted that over time the “passion driver” has changed for sports fans, who no longer have the luxury of rooting for homegrown players competing for their local teams. “It is only right and proper now that we have a global community and that sports represent that,” he said. However, the panelists acknowledged that differences in the length and timing of schedules as well as the nature of the competitions affect the manner and degree in which the games can be exported to other countries.

Joining Waller on the panel were Tim Brosnan, executive vice president for business of Major League Baseball, Adam Silver ’84, deputy commissioner and chief operating officer of the National Basketball Association, and Jim Tanner, a partner at Williams & Connolly who specializes in sports and entertainment law and negotiations.

Tanner used the example of his client, Houston Rockets forward Shane Battier ’01, to illustrate how individual players can potentially benefit domestically by first appealing to international audiences. In 2006, Tanner negotiated an endorsement contract for Battier with PEAK, a Chinese sportswear company, which he said he viewed as a “platform” deal. “If we could get this much exposure in China, hopefully it can lead to other opportunities here,” Tanner stated.

Haagen said the discussion offered Duke Law scholars an opportunity to listen and generate a base of information on which to act. Bilas applauded the effort to merge the academic and professional worlds.

“To have all those different perspectives and to engage those who are not in the field is an extraordinary opportunity,” said Bilas. “It speaks well of Duke Law to be engaging in this type of conversation. I give all the credit in the world to Dean Levi and Paul Haagen. They have great vision and are just very inquisitive.”

Jeffrey Tabak ’79, L’82, a partner and co-head of the private equity fund formation practice at Weil, Gotshal & Manges, was impressed with the discussion and pleased that it took place at his firm.

“For my family, Duke is just a very special place,” he said. “To be able to host this event was not only my pleasure but also very exciting as well.” ♣

NYC EVENT CELEBRATES SCHMALBECK’S SIMPSON THACHER CHAIR



SIMPSON THACHER & BARTLETT hosted a luncheon in its New York office on Sept. 10 to honor Richard Schmalbeck’s appointment as the first Simpson Thacher & Bartlett Professor of Law. Schmalbeck, a specialist in tax law, addressed a number of partners who contributed to the chair on the topic “What We Mean by ‘Charitable.’”

Rhett Brandon ’79, David Eisenberg ’77, Jennifer Franklin ’98, Caroline Gottschalk ’90, David Ichel ’78, Aaron Kitlowski ’97, George Krouse ’70, David Lieberman ’89, Linda Martin ’96, Mario Ponce ’88, Mark Rambler ’02, Roxane Reardon ’93, Glenn Sarno ’92, Mariya Treisman ’00, Michael Treisman ’00, John Walker ’77, and Edward Werner ’03 established the chair in the firm’s name.

“It was exciting for our Duke Law colleagues who gave to establish the Simpson Thacher & Bartlett professorship to actually see the fruition of our contributions in spending a great afternoon with Professor Schmalbeck,” said Ichel, chair of the Law School’s Board of Visitors. “He is a great teacher, a former law school dean, and a terrific guy as well. The wonderful thing for all of us is that we know that this is a gift that will last forever for the benefit of succeeding generations of Duke Law students.”

A faculty member for more than 25 years, Schmalbeck focuses his scholarship on issues involving nonprofit organizations and the federal estate and gift taxes. Active in federal tax reform efforts, he also has served as an adviser to the Russian Federation in connection with its tax reform efforts. He is a former dean at the University of Illinois College of Law.

Schmalbeck is the co-author, with Lawrence Zelenak, the Pamela B. Gann Professor of Law, of a leading casebook, *Federal Income Taxation*, now in its second edition. Duke Law students have twice honored him with the Duke Bar Association’s award for distinguished teaching. ♣

ATLANTA LUNCHEON HONORS YOUNG AS ALSTON & BIRD CHAIR



DEAN DAVID F. LEVI joined Atlanta-area alumni at Alston & Bird on Sept. 30 for a reception celebrating the appointment of Professor Ernest A. Young as the new Alston & Bird Professor of Law. Young shared his thoughts on the Supreme Court docket and the new composition of the Court.

A member of the American Law Institute, Young joined the Duke Law faculty in 2008, after serving as the Charles Alan Wright Chair in Federal Courts at the University of Texas at Austin School of Law, where he had taught since 1999. One of the nation’s leading authorities on the constitutional law of federalism, he has written extensively on the Rehnquist Court’s “Federalist revival” and the difficulties confronting courts as they seek to draw lines between national and state authority. He also writes on constitutional interpretation, constitutional theory, and comparative constitutional law. ♣



DUKE
IN
D.C.
and the new
integrated
learning model
at Duke Law
by Frances Presma
PHOTOS: JAY MALLIN, JOSHUA COGAN



Jim Cox calls it, “hands down,” the best educational experience he’s witnessed since he entered teaching almost 40 years ago.

A few days before Thanksgiving, Cox is marveling at the insight students have brought to their research presentations in Rethinking the Regulatory State, the course he co-taught with Lawrence Baxter as part of the fall semester’s Duke in D.C. program.

“The quality of their presentations, in terms of erudition, the nature of the topics selected, and the depth of analysis has been far above what I’ve come to expect in similar papers — and I’ve always been delighted in the past, so this is off the scale,” says Cox, Duke’s Brainerd Currie Professor of Law and a leading scholar of corporate and securities law.

He offers a few examples of the issues tackled by the 12 students who spent the fall 2009 semester working full time in the nation’s capital, embedded within congressional offices and agencies in and out of government that are involved with different aspects of financial regulation. These include the Securities and Exchange Commission (SEC), the Public Company Accounting Oversight Board (PCAOB), the Office of the Comptroller of the Currency, and the Financial Services Roundtable.

SEC extern Brian Oh ’10 undertook a multi-faceted analysis of the disclosure issues that led to Judge Jed S. Rakoff’s rejection, in September, of a \$33 million settlement of the SEC’s lawsuit against Bank of America over its acquisition of Merrill Lynch. “He sifted through the strategies and issues that could have been involved in the prosecution of the case and how the trial could go forward. Brian also brought in elements of law reform into his analysis,” says Cox.

Timothy Reibold JD/LLM ’10, whose placement at the Institute of International Finance involved a review of international regulatory developments with respect to executive compensation, analyzed public reaction to executive compensation through the lens of various schools of thought in moral philosophy — his undergraduate major — making what Cox calls “a tremendously rich connection.”

Christopher Leach ’10, who worked in the SEC’s Trial Division, examined whether in today’s environment the classic “shareholder primacy” principle that corporate directors always seek to maximize shareholder wealth should remain the governing model or whether some other stakeholder model should govern decision-making for financial institutions, in particular.

“It’s another great, great topic,” says Cox. “These papers are on the edge. The students’ focus consistently was on what’s unfolding in America and how it makes us think about the regulatory system. And all of the papers also are reflecting the themes in the seminar.”

AN INTEGRATED APPROACH TO LEGAL EDUCATION

In offering students in-depth work experience concurrent with an intensive class on regulatory law and policy, Duke in D.C. is one example of the Law School’s broad effort to integrate professional-skills development into an already rigorous core curriculum. The integrated approach combines academic research and substantive law teaching with a simultaneous experience of



INTEGRATED
LEARNING

Page 17
Federal
Defender
Integrated
Domestic
Externship
program

Page 19
The
“course
plus”

Page 21
Writing
matters



“The quality of their presentations, in terms of erudition, the nature of the topics selected, and the depth of analysis has been far above what I’ve come to expect in similar papers — and I’ve always been delighted in the past, so this is off the scale.”

— Professor Jim Cox, reflecting on Duke in D.C. students’ presentations on financial regulatory reform

lawyering in settings that call upon students to marshal their academic knowledge and analytic powers, come up with solutions to real problems, and develop skills essential to success in the law — the ability to work in teams and across disciplines, to articulate complex ideas orally and in writing, and to manage their workflow. The integrated approach thereby stitches together the varied components that make up a superior legal education.

“In one sense, our talented faculty has been using an integrated approach to legal education for many years,” says Dean David F. Levi. “It is common for faculty to include in core courses various simulations of the kinds of issues and problems that may be confronted in practice. Integrated externships and the addition of a practice unit to a core course — what we are calling ‘course plus’ — take this approach one step further by combining learning by doing and learning through study. The combination can be powerful.”

More than ever, observes Levi, law school graduates need to be “ready on day one” to step into a professional environment with a comprehensive grounding in professional skills and values as well as the ability to master complex legal issues. According to Levi, “The legal profession is changing. We know that many of our students will have to prove themselves from the very first. We want to prepare them to be up to this challenge. Fortunately for our students, Duke has a faculty that takes its teaching seriously and that embraces its obligation to prepare our students to handle the most demanding kinds of legal careers whether in government, private practice, public service, or law teaching and scholarship.”

Duke in D.C. is one of a number of such integrated courses. The Federal Defender Integrated Externship program, launched to enormous success in the fall 2009

semester, combines intensive classroom training in federal criminal law and procedure with student externships in the Office of the Federal Public Defender for the Eastern District of North Carolina. (See story, Page 17.) The “course plus” model adds a one-credit “applied law” seminar that focuses on case studies onto a traditional “black-letter law” course. (See story, Page 19.) Duke’s eight legal clinics, an array of other student-initiated capstone projects and externships, and a variety of simulation courses round out the mix.

The Law School also is making sure that getting students ready for day one of their professional careers starts on day one of their time at Duke Law; the full-time Legal Analysis, Research and Writing faculty has been expanded so that students have the benefit of smaller classes in the first year and can choose from an array of specialized legal writing and analysis classes in their upper years. (See story, Page 21.) And the newly designed Dean’s Course, which Levi teaches with Professor John Weistart ’68, is literally the first educational experience that 1Ls have at Duke. “Our goal is to expose 1Ls to the different kinds of careers and aspirations that lawyers have,” says Levi of the course that has featured a discussion of law and leadership with Ben Heineman, the former general counsel of General Electric, and leading trial lawyers Hal Haddon ’66 and Professor Michael Tigar, among others. “We invite them to reflect now, at this early point in their law studies, on what kind of path they want to follow and what they wish to accomplish in their life in the law.” (Read more about the Dean’s Course in *Duke Law Magazine* online at www.law.duke.edu/magazine.)

All of these curricular developments, Levi points out, “integrate the scholarship and research of a great university with the mobilization of knowledge through professional skills including the development of some of the basic com-

munication and interpersonal skills that lawyers must have in order to succeed no matter what they do — whether they become law professors or political figures, trial lawyers or judges, transactional lawyers or entrepreneurs. They all must be able to write and to express themselves powerfully and to work in teams to be effective.”

Clinical Professor Andrew Foster, who oversees Duke’s clinical programs and directs the Community Enterprise Clinic, puts it this way: “We want to help our students move up that steep learning curve of being an early-stage professional. To do this, we need to create challenging opportunities that require them to integrate their substantive legal knowledge and intellectual skills with the interpersonal, communication, and other professional skills that are fundamental to effective lawyering. Through this process, they also will begin to develop their professional judgment, strategic thinking, and self-confidence. As a result, they will really be better positioned to be successful and effective early in their careers.” Facilitating students’ experience with different kinds of practice will also help them find the areas about which they are passionate, he adds. “Being passionate about something gives you the internal motivation to create your own career and take charge of it.”

TRAINING LEADERS

Duke Law has long emphasized leadership; Levi’s predecessor as dean, Katharine T. Bartlett, the A. Kenneth Pye Professor of Law, launched the Duke Blueprint to LEAD, embedding such values as professionalism, collaboration, engagement, and the importance of working across disciplines into the overall fabric of the Duke Law student experience. Levi is embedding them in the curriculum.

One of his first initiatives as dean was to charge a working group of faculty, administrators, alumni, and students with developing ideas and academic programs for preparing Duke Law graduates for positions of leadership.

Co-chaired by Cox and Peter Kahn ’76, a partner at Williams & Connolly in Washington, D.C., and working closely with the faculty curriculum committee chaired by Weistart, the group focused its efforts over a two-year period on developing opportunities for upper-level students, in particular, to integrate real or simulated practice-based learning with substantive learning.

This approach would be “ideal for readying students to participate in the varieties of lawyering at the highest levels, whatever form that participation takes,” the co-chairs wrote in their report to the governing faculty. “Through this integration, the power of substantive knowledge can be teamed with analytic skill, judgment, and ethical decision-making to create potential for leadership in the law.”

“In the practice of law today, lawyers are not just advisers and wise counselors, but often the decision-makers themselves,” says Kahn, a Duke University trustee and former chair of the Law School’s Board of Visitors. “As our students take on leadership roles in business, government, and law firm management, for example, they need to be prepared to make the hard calls. Students need to learn to be risk aware, but not be risk averse. Without cutting back in any way on our core legal competencies, our feeling was that we need to teach our students creative and constructive decision-making, not just critical thinking. They need to learn to work cooperatively in teams, not only with

New in spring 2010: Expanded Duke in D.C.

The **Federal Policy Process** program — first offered in the spring 2009 semester — has placed five students in externships on Capitol Hill in the personal offices of members of Congress, on the staffs of Senate and House Committees, and with organizations that engage in government liaison and lobbying work for nonprofit and for-profit organizations. As they did in the program’s inaugural semester, Professor Christopher Schroeder, President Barack Obama’s nominee to serve as head of the Office of Legal Policy in the Department of Justice, and Sen. Ted Kaufman, D-Del., are supervising the externship placements and teaching the companion course on the federal policy process.

Four more students are working within the Civil Rights Division of the Department of Justice and with civil rights organizations in the federal and nonprofit sectors through the **Examining Federal Civil Rights Law & Policy** program. Margaret Hu ’00, a special policy counsel in the Civil Rights Division, and H. Jefferson Powell, Duke’s Frederic Cleaveland Professor of Law and Divinity and former deputy U.S. solicitor general, are supervising the externship placements and teaching the companion course called Examining Federal Civil Rights Law & Policy.

Hu interned in the Civil Rights Division during her 2L summer through the DOJ’s Summer Law Intern Program, and returned through the Attorney General’s Honors Program following her clerkship with Judge Rosemary Barkett of the U.S. Court of Appeals for the Eleventh Circuit. She is certain that externships within the Division’s 10 sections will offer students substantive work experience, generate useful career contacts, and introduce them to a wealth of career possibilities within the Department of Justice.

“It’s a great place to work and a great place for a long-term career,” said Hu, now special policy counsel in the Office of Special Counsel for Immigration-Related Unfair Employment Practices.

Also new in the spring 2010 semester:

» The North Carolina Public Policy Integrated Externship

program has placed students within state legislative offices and agencies. The externship placements are bolstered by a seminar, taught by state legislator and Senior Lecturing Fellow Deborah Ross and Clinical Professor Andrew Foster, that incorporates a series of case studies to help students explore the state level public policy process from a variety of perspectives. The students also are concurrently enrolled in the Legislation and Statutory Interpretation course taught by Professor Guy-Uriel Charles.

» **Deal Skills for Transactional Lawyers**, a simulation-based class designed by Sidley Austin’s Terry Hynes ’79 to give students grounding in the real world M&A process, prepare them to participate effectively in due diligence reviews, and hone their drafting and negotiating skills;

» **The Entrepreneurial Law Clinic**, led by Clinical Professor and Director of Clinical Programs Andrew Foster, in which students — already enrolled in Professor Bill Brown’s class on private equity and venture capital transactions — assist startup ventures launched by Duke University students with the formation of their companies and counsel them with respect to the protection of their intellectual property. ♡



Timothy O'Shea
JD/MPP '10 spent his Duke in D.C. externship at the epicenter of financial regulatory reform working for the House Financial Services Committee chaired by Rep. Barney Frank. "I think this is one of the most remarkable legislative pushes that has probably happened in my lifetime," he says. Working under the committee's senior policy adviser, O'Shea worked particularly closely with the staff of the Subcommittee on Capital Markets, Insurance, and Government Sponsored Enterprises. He offered this mid-October snapshot. »

lawyers, but with others across disciplines including those engaged in business, engineering, and public policy."

The group sought to address a broad definition of leadership and leadership skills, says Cox: the self-confidence that comes with experience and having successful experiences in interacting with others; the ability to accurately assess one's surroundings and environment; knowing when and whom to follow when appropriate, coupled with knowing when to step forward; and maintaining an accurate assessment of one's strengths and shortcomings.

"The key, really, is to teach people how to learn," says Cox. "You have to teach them in a way that does not become rote. So what we are trying to do is develop methods in which individuals are able to leave the Law School with a greater sense of self than they came in with, on average. And we do so by testing them in a variety of different settings so they can find [what works for them]."

FACULTY AS MENTORS, GUIDES

Faculty, as always, are leading the way. Duke in D.C., for example, was launched by Christopher Schroeder, the Charles S. Murphy Professor of Law and Public Policy Studies and director of the Program in Public Law, to expose students to the reality of working in the public sector and to encourage them to consider including public service in their professional careers.

Building on one of the strongest and most creative groups of scholars in the legal academy, the Law School also has assembled a distinguished roster of professors of the practice of law who, Levi notes, "mine the seam" where the academic study of law and the thoughtful practice of it meet.

"It's a big seam, rich with ideas and possibilities that can affect the worlds of practice and scholarship alike," he says. "Our professors of the practice and clinical professors have an 'interstitial capacity' — they often have had experiences in a broad range of different kinds of law practice, they see the potential connections between that law practice and the work of our research faculty, and they often connect us to different parts of the University and the greater community."

Lawrence Baxter is one of them. An administrative law scholar, he returned to the faculty as a professor of the practice after spending more than a decade as a senior executive at Wachovia Corp., where he led e-commerce initiatives. "The experience gained from executive positions on the cutting edge of innovation and business in a leading private corporation served to complement the experience I had gained as a teacher, researcher, and consultant with government regulators and Congress," says Baxter. "The result has been to enrich deeply my understanding of the interaction between law, business, and government. This, in an increasingly complex, connected, and interdisciplinary world brings, I hope, added realism to the theory and practice of the law I teach and write about now that I am back at Duke Law."

Other recent additions to the full-time faculty include Bill Brown '80, who brings the insights of a long tenure on Wall Street and an active career as an entrepreneur and venture capitalist to classes in financial analytical techniques, accounting, fixed income markets, private equity and venture capital, and Donald Beskind '77, a leading trial lawyer and long-time director of Duke's Trial Practice Program who also teaches evidence and advocacy-related classes. (See profile, Page 25.)

I'VE BEEN WORKING on regulation of hedge funds, credit-rating agencies, derivatives, reform of securitization practices — basically the full gamut of issues that arose from the financial crisis of last fall. I've even touched a little bit on the creation of the federal insurance office that is a response not only to the [near] collapse of AIG, but also the terrorist attacks of 9/11. It's been very exciting work.

A considerable amount of my work relates to credit-rating agencies. They traditionally offer First Amendment defenses when they are sued over the performance of their ratings. I researched that after a district court judge rejected First Amendment defenses offered by ratings agencies in a motion to dismiss after being sued by investors in a special investment vehicle. He gave a few reasons why those defenses don't work the way they have in the past.

So I did the equivalent of a case note on the issue. The credit-rating agencies were hired by the investment bank to help structure the investments so that it would get an AAA rating. That means the ratings agency is actually working with the issuer and the underwriter — it wasn't just writing a newspaper editorial. It was part of the team structuring the issuance, not some disinterested analyst. The case pretty well sums up why the government — the Financial Services

Committee, at least — is trying to regulate the credit-rating agencies. ...

My job is to help prepare for hearings [relating to proposed financial regulatory legislation]. That entails researching an issue — such as private pools of capital — in detail, sometimes looking back at work the committee has already produced, and creating documents that explain the draft legislation, the purpose of the hearing, and the inquiries the hearing is going to make.

... It involves analyzing legislation. I was usually looking into two or three bills sort of simultaneously, seeing how things complemented each other. And because we're inviting leaders of the industry and relevant trade associations [to review and testify], it gave me a much better understanding of who the relevant players are.

It's the sort of environment where ... you have to understand how everything fits together. I wouldn't really understand what I was doing on credit-ratings agencies if I didn't also understand the securitization process and what the challenges are there and what the reform proposals are envisioning. So even if there are issues I am not working on directly, the nature of the work is such that you kind of have to expose yourself to everything a little bit just to make sure that your understanding of your project is complete. ♫

The Law School's ranks of adjunct faculty include distinguished practitioners and judges who further help to connect the classroom to developments in law practice here and internationally.

IN THE DUKE IN D.C. CLASSROOM

Throughout the fall semester, Cox and Baxter traveled to Washington each Tuesday to convene their two-hour class on regulatory policy and law around an expansive boardroom table at the Pennsylvania Avenue offices of Morgan Lewis & Bockius. Baxter began each session by asking students to report on the work they were doing at their externship placements and to point out links they could identify between their work and the class and the subject of regulatory reform.

In early October, Tim O'Shea JD/MPP '10, who worked for the House Financial Services Committee, tells his classmates that he has drafted a memorandum that was circulated to committee members before a hearing on a proposal to require most private investment vehicles to register with the SEC. The memo described existing market and regulatory conditions, the proposed legislation, and differences between the bills offered by the committee and the Obama administration. He notes that the committee moves at a fast pace; he is immediately "moving on to a new hearing that we're going to have next week on systemic risk and insurance companies." (See story above.)

Beth Landes '10 says she has volunteered to work on "some interesting enforcement matters" at the Public Company Accounting Oversight Board (PCAOB), where she is spending the semester. She notes that she has

enjoyed getting to read drafts of the briefs and engaging with colleagues in the office of the PCAOB general counsel to get their insights on the challenges and merits of a case the class is discussing, *Free Enterprise Fund v. PCAOB*. (The challenge to the constitutionality of the regulator was subsequently argued in the Supreme Court in December.)

Cox, who currently serves on the PCAOB's Standing Advisory Group, describes the regulator's formation as the centerpiece of the Sarbanes-Oxley Act, enacted in 2002 in the wake of the Enron and Worldcom scandals.

The PCAOB replaced the American Institute of Certified Public Accountants (AICPA) which previously was charged with setting auditing standards for public companies. Because the AICPA derived its funding from the accounting industry, its position frequently reflected a closer relationship to the wishes of its audit clients than to the needs of the users of audited financial statements, explains Cox.

Sarbanes-Oxley sought to remedy that situation by stipulating that the SEC can only accept as authoritative accounting pronouncements made by an organization with independent funding that operates by majority rule. It created the PCAOB as just such an independent organization, he says.

"Its members are appointed by the chair of the SEC in consultation with the secretary of the Treasury and the chairman of the Federal Reserve," says Cox. "It's funded independently by registration fees and its budget is approved by the SEC. It creates a significant body that oversees the procedures and processes of the auditors. And a key provision is that its five members aren't removable



FALL 2009 DUKE IN D.C. STUDENTS MET WEEKLY WITH PROFESSORS COX AND BAXTER AT THE OFFICES OF MORGAN LEWIS & BOCKIUS.

“In the practice of law today, lawyers are not just advisers and wise counselors, but often the decision-makers themselves. As our students take on leadership roles in business, government, and law firm management, for example, they need to be prepared to make the hard calls. Students need to learn to be risk aware, but not be risk averse.”

— Peter Kahn '76, co-chair of the Leadership Working Group

except for cause.” Landes offers her impression that the SEC, in fact, exercises “pervasive control” over the PCAOB.

The students engage in a spirited — and knowledgeable — exchange about why Congress may have made the PCAOB a self-regulatory organization, why commissioners can be removed only for cause, and the need for strict accounting standards.

“Based on the pleadings, about half the cases I’ve seen involve alleged manipulation of accounting standards,” says SEC extern Leach, adding that he is expressing his own views, not those of the agency. “They relate to inflated earnings.” As for protecting commissioners from being removed only for cause, Leach offers the view that it insulates the PCAOB from politics. “You want accounting principles to be the backstop — the numbers don’t lie, but if you allow them to be influenced by politics, they will.”

The discussion neatly reflects all of the elements that make the Duke in D.C. program effective: leadership by expert faculty who are intimately familiar with the players in and substantive law governing federal policy; students embedded in policymaking institutions and engaged as junior professionals in challenging legal and policy work; and the integration of substantive law and parallel, practical experiences in the classroom, creating a synergy of intellectual connections and mastery of the subject matter that carries back into the workplace.

THE STUDENT EXPERIENCE

On-the-job externship supervisors are enthusiastic about the quality of work they are receiving from the Duke students.

Art Lowry, a supervisory trial attorney in the Trial Unit of the SEC’s Division of Enforcement, notes that having Leach in his unit for a whole semester provided “a much needed and appreciated resource” for the trial teams, at a time when

the number and complexity of the cases they handle continues to increase. He knows that Leach also benefited from a unique learning environment. It is, he says, “an environment where the ‘rubber meets the road,’ allowing third-year law students to apply their legal training in the context of active securities law enforcement litigation.

“For example, Chris attended three depositions in connection with one of his assignments, one of which was an expert deposition,” says Lowry. “Chris used his familiarity with the facts he gained from those depositions in drafting memoranda for the trial team discussing the theories that could be used to exclude or include certain testimony at trial.” For his part, Leach welcomed the opportunity to travel to the Southern District of New York to hear argument in one motion he worked on.

Leach and his classmates, who submitted reflective reports on their externships bi-weekly and contributed to a password-protected class blog, also are uniformly enthusiastic about their semester learning from their workplaces, their professors, and each other.

“I love hearing about what everybody else is doing. It adds tremendous value,” says Leach of his classmates. “We’re getting inside perspective on regulatory reform from across different agencies.”

“A lot of times law school classes aren’t perfectly attuned with what you actually want to do, but this [program] pretty much is,” says O’Shea, who was on the front line of reform efforts through his externship with the House Financial Services Committee and who counts working in the financial services industry as a long-term career possibility.

“In class we’re talking about the theory of regulation as regulation happens. This is one of those times when very important and comprehensive legislation [is likely to get] passed. So understanding it comprehensively can only help me going forward.” ♣



On Duke's new
**Federal Defender
Integrated Domestic
Externship,**
**the
verdict
is in**
(It's a success for students
and the system)

Along with her seven classmates in the Law School's new Federal Defender Integrated Domestic Externship program, Roberts spent 16 hours each week through the fall semester working in the Office of the Federal Public Defender (FPDO). Supervised by staff attorneys, students in the program assist with research projects, prepare sentencing memos, draft motions in felony cases, and argue motions before magistrate judges; conduct client interviews — usually in lockup; field first appearances in duty court held weekly in Raleigh; and carry misdemeanor caseloads on a military docket heard each month in Fayetteville, where Fort Bragg is located. One member of the inaugural class even made an opening statement at trial.

BETTINA ROBERTS JD/LLM '10 knows exactly what she wants to do after she graduates: "I want to be a public defender. There's absolutely no chance I'm doing anything else. Now it's just a choice between the federal system and the state system."

That's why Roberts was delighted to find out that she could follow up her 2L summer internship with the Public Defender Service for the District of Columbia with an intensive fall externship in the Office of the Federal Public Defender for the Eastern District of North Carolina, in Raleigh.

The students gather weekly at the Law School for a two-hour class where they share their experiences and observations from their work at the FPDO and delve deeply into substantive areas of federal criminal law. Taught by James Coleman, the John S. Bradway Professor of the Practice of Law, their FPDO supervisors, attorneys Lauren Brennan and Diana Pereira, and Lecturing Fellow Jennifer Dominguez, a former prosecutor, the class takes the students through issues that arise at all stages in federal criminal cases, as well as more theoretical issues such as the increasing federalization of criminal law. Guest speakers in the class have included the two U.S. magistrate judges before whom the students appear most frequently, Judge William A. Webb and Judge James E. Gates.

"It was good to be in the courtroom and it also was great to learn about the federal system," says Roberts of her externship experience. "It was absolutely perfect for me."

That sentiment was shared by all of Roberts' classmates interviewed for this story, most of whom had some prior experience and defined interest in criminal law and practice. Craig Schauer '10 says the externship provided a valuable counterpoint to his earlier summer internship in the Office of the U.S. Attorney for the Eastern District of North Carolina.

"Working with clients, actually seeing the story that goes along with the name and the alleged crime, was very eye-opening," he says. "It helped me appreciate the personal stories and the human drama behind each case." Should he choose to pursue a career as a prosecutor at some future time — he will clerk for Justice Paul M. Newby on the North Carolina Supreme Court for two years following graduation — Schauer thinks his externship could inform his approach.

"When considering what might constitute a 'fair' sentence, for example, I think I would be more sensitive to what a sentence is going to do. A specific sentence might be fair according to the facts of the case and the defendant's criminal history, but what else might be going on in that person's life? Is this somebody who actually learned a lesson prior to sentencing? Is it somebody who hasn't? Or is this somebody who genuinely was in the wrong place at the wrong time and factually and legally committed the crime but didn't really hit at the core of the crime the law was aimed to capture?"

The class, says Schauer, allows the students "to step back and explore the statutes and ask what's really going on" in court and in federal criminal law more broadly. "Not only did it fill us in on all this background information that we were expected to know, but then we also explored whether or not that's the right way for things to work. That's not necessarily what you do when you're in the office. Some things you just can't challenge in the course of a case."

In Schauer's view, the ongoing externship program is serving as a highly effective bridge to practice. "The most



obvious way is by letting a law student actually stand up in court and more or less act like a lawyer,” he says. “You aren’t expected to get it all right, but you can have someone teach you and coach you along the way. It’s a great way to integrate real-world experience with a legal education.”

REACTION FROM BENCH AND BAR

U.S. Magistrate Judge William Webb offered this assessment of Duke Law students’ courtroom appearances, in late November: “They are performing at the level of junior lawyers,” he said, commending their consistently high level of preparation for the court appearances, both academically and with respect to the facts of their cases. “There has been a clear evolution in their skills, their confidence, and the kinds of presentations they make. There have been a number of students I’ve called up and have praised the quality of their representation because they are, in fact, representing clients when they appear in court.”

Webb has viewed the externship program as a “win for us, a win for the students, and a win for the school,” ever since Dean David F. Levi first broached the idea with him over dinner last summer.

“I have long believed that lawyers and judges, in particular, have an obligation to ensure that the persons who practice before the various forums are as well prepared as they can be,” says Webb, who regularly hires interns in his chambers. “I think it exposes law students to what it’s like to be in court and how one handles oneself in court.”

It also helps de-mystify federal court practice, he adds. “A program like this guarantees that younger lawyers will have less trepidation than most about taking on a case that

should be in federal court to federal court or, when they get there, acquitting themselves well.”

When Webb shared Levi’s externship idea with his colleague, Judge Gates, and Tom McNamara T’61, the federal public defender for the Eastern District of North Carolina, he found similar enthusiasm.

“It’s exciting because it gives Duke Law students an intense indoctrination into federal criminal law from the defense perspective,” says McNamara, who also has served as the U.S. attorney for North Carolina’s Eastern District. While his office routinely hires interns and externs, his staff of 55 — including 26 lawyers who manage one of the highest caseloads of any FPDO in the country — has benefited from the presence of “a concentrated group of very bright students,” he says.

“The Duke Law students have been able to get involved a little more deeply in the cases, they’ve reviewed discovery, they’ve worked on motions, they’ve been to court to see the work product develop. It definitely has helped our staff to have them here.”

Pereira, an FPDO research and writing attorney and one of their supervisors, agrees. “The students have been churning through the work faster than we can give it to them, and they’ve been producing work of a very high quality,” she says. “I think it’s been a great opportunity to ‘outsource’ things [the staff] would normally do themselves.

“They have been able to hit the ground running,” she adds. “There was a pretty steep learning curve in the beginning but they all seemed very comfortable with getting an assignment and being ready to go.”

Students, public defenders, and judges alike, are delighted to see the program continue. “It’s been great having the ‘kids,’” says Webb. ♡



WHEN IT COMES to integrating practical-skills training with substantive legal education, James Coleman, the John S. Bradway Professor of the Practice of Law, is essentially a one-stop shop, particularly in the area of criminal law. Coleman co-directs the Wrongful Convictions Clinic, the Appellate Litigation Clinic, and the Federal Defender Integrated Externship program. Each offers specialized skills training, he says.

» **Wrongful Convictions Clinic:** “The focus is on fact development and analysis. It’s an intensive course in which students get to work with facts — and that’s a lot of what lawyers do.” (Co-director: Clinical Professor Theresa Newman ’88)

» **Appellate Litigation Clinic:** “This is writing intensive, as students write appellate briefs and focus on legal issues, as opposed to fact development. This also is a course about legal advocacy at the very highest level; about collaboration — students work on cases in teams — and about professionalism, what is expected of an appellate lawyer who has a client in a case where the court has appointed us to present the legal argument.” (Co-director: Senior Lecturing Fellow Sean Andrussier ’92)

» **Federal Defender Integrated Externship:** “With its focus on trial-level advocacy, this trains students to think on their feet. Oral argument [in appellate cases] is something entirely different from what happens in a courtroom where you have to put on witnesses, undertake direct and cross examination, and argue before a judge.” ♡

Complementing an academic course with a simulation-based seminar helps students develop real-world skills

The “course plus”



SENIOR LECTURING FELLOW J. SCOTT MERRELL AND PROFESSOR JOHN WEISTART '68 TEACH A SIMULATION-BASED SEMINAR AS A SUPPLEMENT TO WEISTART'S COMMERCIAL TRANSACTIONS CLASS.



INTEGRATED
LEARNING

DESTINY DURON DEAS '08 spent a 3L semester at Peking University on her way to acquiring a dual JD and MA in East Asian studies. All are relevant to her decision to launch her own consulting business following an appellate clerkship; based in her hometown of Shreveport, La., she helps U.S. companies forge manufacturing connections in China.

But Duron Deas credits a simulation-based seminar taught by Professor John Weistart and Senior Lecturing Fellow J. Scott Merrell, a supplement to Weistart's Commercial Transactions class, with giving her the confidence to start her business.

“What we did in that seminar — Strategies in Commercial Transactions — I do right now day-to-day,” says Duron Deas of the interactive exercises that involved students in negotiations and strategic decision-making. “It demystified commercial transactions.

“I don't know that I would have had the same confidence in myself and my ability to figure out an answer to a problem had I not taken the seminar. It was great having professors say, ‘This worked, this didn't.’ You aren't going to get that kind of feedback or that kind of criticism in the real-world setting. They asked really hard questions and pushed us and said, ‘Now if this was in real life, *this* would go on.’ It was great.”

“That's about as good as it gets — when you can see a line of sight between experience in the classroom and

something that happens in a former student's professional life,” says Merrell, of counsel at Hutchison Law Group in Raleigh and the former senior vice president, secretary, and chief legal officer at RTI International. “It's great when they can draw back and make an immediate connection with something they've learned.”

Giving students a nuanced appreciation of what is involved when commercial transactions play out in the real world is exactly what Weistart was aiming for when he partnered with Merrell in crafting the seminar, which is open to a small number of students enrolled concurrently in his larger lecture-based class.

“It was my perception, over a long period of time, that the law I was teaching was much more nuanced and interesting in the real world than in the form it was taught in the classroom,” says Weistart, who pioneered this “course plus” method of teaching at Duke. “Academic classes tend to be context neutral. But in the real-world application of the rules relating to commercial transactions, there are a lot of strategic decisions to be made. If I undertake one course of action in pursuit of a certain goal, what will be the trade-offs in other parts of my business?”

“In the seminar we embrace the theory taught in the class and then ask the next question: ‘What constraints will arise in the real world to limit the application of that theory?’”



The centerpiece of the seminar is a simulation involving a company that seeks to upgrade its production technology in order to reduce waste and errors and maximize production and profit. “This company is facing the same problem that virtually every company does, which is to try to gain access to capital for growth,” Merrell observes. In a series of exercises, students variously assume the roles of corporate principals, officers and directors, bankers, shareholders — venture capitalists — and board counsel, and have to investigate and negotiate terms of financing, advise clients, and secure shareholder approval for their actions, all while making strategic trade-offs and navigating competing interests, goals, and potential conflicts. Weistart and Merrell add twists to the problem as the seminar progresses so that the parties have to continually reassess their positions.

“It’s rarely in anyone’s good fortune to have the path originally embarked upon be exactly the path they follow,” says Merrell, who adds that he has seen all of the scenarios used in class play out in practice — though on occasion, his students come up with creative solutions to problems that didn’t occur to the real players.

“That’s one of the great benefits and rewards of doing this seminar,” he says. “The creative energy students bring to questions that the profession grapples with helps you realize there are different ways to do this.”

Merrell’s practitioner’s insight adds tremendous value to the seminar, says Weistart.

“Among other things, Scott is very good at pointing out the various ethical conflicts that seep into any complex business transaction — they can be very subtle. He can see the strategies that have significant ethical components. And *that’s* the real world.

“This is a way that a law school can provide added value to students’ experience,” Weistart remarks of partnering

the simulation-based seminar with an academic course. “Students’ jobs aren’t on the line, but they are being guided and mentored.” A number of practical benefits flow from that, he adds.

First, when students are asked to identify with a specific interest in the problem and make decisions for it, advocate it, and then exercise their skills at negotiation and presentation to get the results they want, they gain a deeper understanding of the rules they learn in the Commercial Transactions class, which they frequently bring back in a constructive way to elevate the larger classroom discussion.

Second, they build solid practical skills. “We expand the number of skills they come away with,” says Weistart. “We’re talking about negotiating skills, decision-making skills, persuasiveness skills, motivational skills. By the time they head into practice, they have had a much broader exposure to the vocabulary and concepts and legal devices that their supervising partners are talking about than would be typical for a JD graduate.”

Perhaps more significantly, he points out, the exercises often uncover students’ skills and strengths that can be overlooked in traditional classes.

“There are people in our student body who have exceptionally strong skills in areas of strategy, organizational behavior, decision making, and execution that they don’t get to exhibit when they are evaluated solely on the traditional grounds used in the large classroom.” He credits Merrell, in particular, with offering direction to students to help them maximize their use of these skills in practice. “Scott plays an important role in mentoring students who are thinking about going into these areas — helping them figure out which part of commercial financing they are most attracted to [or have a particular facility for], and how they might move in that direction.”

Duron Deas agrees with Weistart’s assessment on all counts. “It was the biggest confidence boost for me to have them affirm my style of negotiating and communicating and the way I saw the problems. I had no idea how that would translate,” she says.

“It’s not enough to know the law and the way things should work. [The simulations] affirmed that a lot of what we do as lawyers and in the business realm is personal relations. It’s the ability to talk and to communicate in a way that is pleasing to other people and that persuades them, regardless of what the law says.” ♣

“In the seminar we embrace the theory taught in the class and then ask the next question: ‘What are the constraints that will arise in the real world that will limit the application of that theory?’”

— Professor John Weistart '68



“Employers tell us that ‘Dukies’ know how to write.”

— Diane Dimond, Clinical Professor and Legal Writing Director



INTEGRATED
LEARNING



SENIOR LECTURING FELLOW ALLISON KORT, CENTER, WORKS WITH TEACHING ASSISTANTS ANDREA COLOFF '10 AND JOSHUA MITCHELL JD/LLM '11.

At Duke Law, writing matters

WHAT DO LAW FIRMS WANT in new recruits — and what skill do they often find lacking? Good writing, according to a survey of practice chairs, hiring partners, and recruiters reported in the April 2009 issue of the *New York Law Journal*, which singled out Duke Law for “going beyond the typical first-year writing class” with a range of upper-year courses that help students hone their skills.

That Duke’s curriculum is getting noticed doesn’t surprise Clinical Professor and Legal Writing Director Diane Dimond. “Employers tell us that ‘Dukies’ know how to write,” she says.

Dimond credits Dean David F. Levi’s “acute awareness” of the importance of teaching analytical and writing skills with helping drive expansion of the program over the past two years. Key developments include the hiring of additional writing faculty, making all writing faculty full time, and creating an upper-year curriculum to focus on specific aspects of writing craft and analysis.

“Duke has long been recognized for its strong legal writing program,” says Levi. “We are building on that foundation. I am very proud of the faculty we have assembled and of the leadership provided by Professor Dimond. We are committed to providing our students with superb, comprehensive

training in legal writing. This is one of the cornerstones of a Duke legal education and will serve our graduates well in whatever career in the law they pursue.”

NEW LEGAL WRITING FACULTY

The latest recruits to the legal writing faculty are Lecturing Fellow Rebecca Rich '06 and Senior Lecturing Fellow Sean Andrussier '92.

Rich returns to Duke after a clerkship with Justice Patricia Timmons-Goodson of the North Carolina Supreme Court and two years of litigation practice. In addition to teaching Legal Analysis, Research and Writing to 1Ls, she teaches Writing: Electronic Discovery for upper-level students.

Andrussier returns to Duke after serving as co-chair of the appellate practice group at Womble, Carlyle, Sandridge & Rice in Raleigh. He previously was an appellate lawyer in the appellate and constitutional law practice of Gibson, Dunn & Crutcher in Washington, D.C., where he worked with former U.S. Solicitor General Theodore Olson.

A leading appellate litigator who has held two federal clerkships, Andrussier teaches Legal Analysis, Research, and Writing and continues to co-direct Duke’s Appellate Litigation Clinic, as he did in the 2008–2009 academic year.

The value of good writing becomes clear quickly to students in the clinic, which handles cases assigned by



the U.S. Court of Appeals for the Fourth and D.C. Circuits. Under the supervision of Andrussier and James Coleman, Duke's John S. Bradway Professor of the Practice of Law, students have to digest, translate, and synthesize their arguments in briefs worthy of top-level advocates; with the interests of real clients at stake, these are not academic exercises, Andrussier points out, and the quality of the briefs is key.

"Oral argument is increasingly less frequent in appellate cases," says Andrussier. "Even when cases are scheduled for argument, as all our clinic cases have been, the time is very limited. The D.C. Circuit, for example, allots only 15 minutes for argument. So the emphasis is on written analysis."

The importance of writing of all kinds — from the quality of email correspondence between far-flung law-firm colleagues to client memos and briefs — from day one of legal practice is a subject about which Andrussier is nothing short of passionate. As a law-firm partner, he says, he expected associates' writing "to reflect an analysis of law and facts that is clear, precise, thorough, creative, and candid. Senior lawyers need to have confidence in the work of young lawyers. It's critically important."

SMALL CLASSES, INDIVIDUALIZED INSTRUCTION

To help ensure that all Duke Law students develop this critically important skill, eight faculty members teach in the legal writing program. Each section of Legal Analysis, Research and Writing, a required first-year course, has fewer than 35 students. The small class size allows writing teachers, who each partner with a research librarian in teaching research and analysis, to offer students more individualized feedback on their multiple written assignments, which range from internal law-firm memoranda to appellate briefs.

Natalie Bedoya '10, editor-in-chief of the *Duke Law Journal*, recalls arriving at Duke as an English major with a fondness for "long and flowery" phrases. "With legal writing class, I learned to write succinctly and clearly and to get to the point right away," she says. "I learned to distill my thoughts and present them clearly and precisely."

Recalling how her instructor, Senior Lecturing Fellow JoAnn Ragazzo, would emphasize the importance of reading opinions multiple times to fully understand them, Bedoya observes how essential the skills she gained in her first-year class have been to her editorial work and are likely to be to her future career. "Legal writing is infinitely rewarding. And while the law changes, the fundamental skills of close and careful reading and analysis don't."

Upper-level classes and seminars offer the same opportunities for individualized instruction as well as the chance to further hone skills that translate directly to practice. Stephanie Lam '10 calls Legal Writing for Civil Practice one of the most "relevant" classes she's taken in law school.

"I represented a 'client' for whom I developed a real working file, drafted a real demand letter — and later a civil

claim petition — and argued a motion for summary judgment," says Lam. "As a summer associate this past summer, I was able to take these 'lawyering' lessons and apply them to my real-world assignments. It was fortunate that I didn't have to learn the importance of court rules, clear syntax, and prepared arguments the hard way. Instead, I [had already] developed my writing skills in a collaborative environment."

A RANGE OF COURSES

Duke Law's legal writing instructors — most of whom teach the first-year Legal Analysis, Research and Writing course — have drawn on their deep professional experience in developing upper-year courses and other special writing programs.

A veteran litigator, Ragazzo designed Legal Writing for Civil Practice, an advanced course that helps prepare students for general civil practice. Writing assignments include opinion and demand letters, pleadings, motions, and trial briefs.

Senior Lecturing Fellow Allison Kort, who practiced white-collar criminal defense and securities class-action litigation at two New York firms prior to joining the Duke faculty, focuses on the writing challenges specific to litigating large federal cases in her course, Writing: Federal Litigation.

Senior Lecturing Fellow Jeremy Mullem — a legal writing scholar whose own research focuses on the development of scholarly legal writing and rhetoric and on legal research and writing pedagogy — teaches a seminar called Writing for Publication, through which students develop and workshop articles intended for publication in scholarly journals.

Dimond, who regularly teaches Negotiation to upper-year students, periodically offers a seminar in Contract Drafting.

Joan Magat, a senior lecturing fellow who also serves as general editor of Duke's *Law & Contemporary Problems* journal, teaches two courses for second- and third-year students that draw on her expertise in academic writing and long service as a clerk to several justices on the North Carolina Supreme Court. In Legal Writing: Craft & Style, students hone their legal writing or editing skills. Judicial Writing allows students — many of them bound for clerkships — to study judicial opinions and draft bench briefs, analytic papers, and an appellate-court opinion.

Senior Lecturing Fellow Hans Linnartz '80 directs Duke's Summer Institute on Law, Language, and Culture, which offers Duke's international LLM students an opportunity to hone legal writing and language skills prior to the start of the academic year.

And finally, in addition to the formal legal writing curriculum, Duke Law offers a unique resource through its affiliation with Duke English Professor George Gopen, a nationally-recognized expert in the field of writing across a range of disciplines, including law. Gopen holds weekly office hours for individual and small groups of students seeking feedback on their writing and offers an annual series of lectures on effective writing from the reader's perspective, open to all members of the Law School community. ♣

Francis E. McGovern: A GIANT IN THE FIELD OF MASS-CLAIM LITIGATION HELPS BRING CLOSURE TO VICTIMS OF THE RHODE ISLAND NIGHTCLUB FIRE

THE FIRE that incinerated The Station nightclub in West Warwick, R.I., on Feb. 20, 2003, killed 100 people, injured 200 more, and launched the largest mass-claim litigation in Rhode Island history.

The inferno began when pyrotechnics used by the rock band Great White ignited polyurethane foam that The Station's owners had installed on the building's walls and ceilings as soundproofing. Flames quickly spread out from the stage as patrons stampeded for the door; many victims were trapped in the crush near the entryway. The multiple defendants in the case range from the now-bankrupt nightclub owners to the foam manufacturers to the concert promoter.

All 310 plaintiffs have agreed to share a \$176 million pool of funds in full settlement of their claims against the defendants. Once final procedural hurdles are cleared, the funds will be distributed in accordance with a "point system" devised by Duke Law Professor Francis McGovern, acting as a court-appointed special master, and subsequently approved by a federal judge; the case is in federal court because of the Multiparty, Multiforum Trial Jurisdiction Act, which went into effect only 18 days prior to the fire. Plaintiffs will begin receiving funds early in 2010.

"Francis's work was invaluable to us," says Providence lawyer Mark Mandell, who directly represents more than 100 plaintiffs and serves as co-lead counsel of what has come to be known as the "Plaintiffs' Steering Committee" coordinating the litigation.



McGovern's effectiveness in marshaling the plaintiffs' unanimous support for his plan was key to the defendants' willingness to settle the claims and contribute to the settlement pool, notes Mandell of Mandell, Schwartz & Boisclair. When McGovern started his work, the settlement pool was valued at only \$13 million, and the task of the special master required high-level expertise and intensive effort on a highly emotional

case. Mandell and his steering committee colleagues agreed that McGovern was perfectly suited to the task — and that was before they knew he would contribute his services pro bono.

"I knew there wouldn't be nearly enough money to provide full compensation," McGovern says of his decision to forego a fee. "I did not think I could do the kind of job that needed to be done unless I did it pro bono."

A pioneer of the field of alternative dispute resolution and the role of the special master as "settlement master," McGovern has hammered out formulae for satisfying claims in the massive Dalkon-Shield and silicone-gel breast-implant class actions and creating trust distribution plans for most of the asbestos bankruptcies, to name just a few. (See sidebar, Page 24.) The Station Fire litigation was relatively small by comparison, but it offered unique challenges.

"Traditionally, I'm at 10,000 feet, designing a system and designing a process and meeting directly with lawyers. Very rarely do I meet with individual plaintiffs themselves," says McGovern. And while many settlements he has worked on have required a consensus of plaintiffs to agree to allocation terms, this one demanded unanimity. "I had to get every single person to sign on to it. The only way I felt I could do that would be to have one-on-one contact with the victims and/or their families, so they would have faith and trust in me."

MCGOVERN “CREATED A LEVEL OF TRUST” WITH THE PLAINTIFFS, SAYS MARK MANDELL, CO-LEAD COUNSEL OF THE PLAINTIFFS’ STEERING COMMITTEE. “FRANCIS DEALT WITH THEM FAIRLY AND HONESTLY AND THAT WENT A LONG WAY.”

Moved by the human dimension of the case — he reviewed footage of the horrific scene captured on video by a television reporter who escaped and audio recorded by a victim who died — McGovern met with adult plaintiffs and representatives of the minor plaintiffs in a series of meetings at the Community College of Rhode Island in December 2006 and January 2007, and had telephone conversations with plaintiffs who could not attend. He counseled them to avoid creating “additional injuries” by fighting among themselves.

“I explained that it was their money, not mine, at stake. I told them, ‘One of the goals is to have you work as a group together. You’ll be stronger in negotiations with the defendants that way and, at the end of the day, there’s no amount of money anybody can ever pay you for the trauma you’ve been through. But what you can do is walk away from the case feeling like you did the right thing in terms of dividing your money among yourselves.’” He went on to review with each group the various systems he has used in specific cases — all options open to them — ending with the point system model.

“You create a yardstick that assigns points for certain aspects of each person’s case. The total of assigned points becomes that person’s total number of points,” explains McGovern. “You add up all the points for every person, divide that total number of points into the amount of money [in the settlement pool], and that tells you what each point is worth.” The system he eventually devised attributed a set number of points for a wrongful death, for example, with more points added if the deceased left minor children or died after incurring medical expenses. Injuries of various kinds were similarly treated.

“We had a limited list of variables, all objective,” he says. “The goal was to develop a matrix that achieves ‘horizontal equity’ and ‘vertical equity.’ Horizontal equity means that everybody who had exactly the same injury gets exactly the same number of points. Vertical equity means that the more severe get more points than the less severe.

Pioneering new roles for court-appointed masters

HAVING BEEN A LEADING SCHOLAR and practitioner in the area of alternative dispute resolution (ADR) since the 1970s, Professor Francis McGovern has pioneered new roles for court-appointed special masters.

As a case manager, he organizes the pretrial administration of a case and uses ADR techniques to help the parties agree on efficient discovery approaches and schedules.

As settlement master, he develops innovative ways to achieve settlements; as a coordination master, he ensures that judicial processes for the same types of cases work cooperatively; as an implementation master, he oversees the implementation of decrees; and as a distribution master he designs and implements the distribution of funds. Judges around the country have appointed McGovern special master in almost 100 cases to date.

Cases in which he has overseen settlement distribution include: designing the distribution of the \$2.3 billion trust established to compensate 100,000 claimants who had sued the maker of an intrauterine device; constructing a methodology to resolve 2.4 million claims — with over \$20 billion distributed — on behalf of the United National Compensation Commission; creating trust distribution plans for most of the asbestos bankruptcies totaling more than \$20 billion; mediating the silicone-gel breast-implant settlements and trust funds; serving as an independent distribution consultant to numerous Fair Funds for the Securities and Exchange Commission; designing and implementing distributions for other securities settlements; and overseeing the revision of other financial settlement distribution processes.

McGovern has a deceptively simple way of summing up his approach to successfully building consensus — even unanimity — in highly challenging, often emotional cases.

“I’m a process guy. Everything I do is process. If you get the structure right, if you get the process right, the details work out,” he says. His task with The Station fire plaintiffs, for example, was to bring them all to agreement on a process by which settlement funds would be allocated. “I wasn’t looking at medical records or the individual aspects of any case. I wasn’t looking at liability. I was looking at an insufficient amount of money that needed to be divided up among a lot of people represented by a lot of lawyers.” ♣

The enterprise then shifts from dollars and cents to vertical and horizontal equity.”

The plaintiffs agreed to the process for distribution before they knew how much money would eventually be available or how much each would receive; although not optimal, the plaintiffs agreed that because the settlement funds available would be inadequate to compensate them fully for their injuries and losses, the fairest route was to reach agreement on a distribution plan in the abstract, McGovern notes.

According to Mandell, the true brilliance of McGovern’s point system was its simplicity.

“Our plan was so transparent, objective, and simple that all the plaintiffs understood that it was the only way it could be done,” he says, pointing out, by way of example, how hard it is otherwise to comparatively assess such injuries as scarring or survivors’ pain

and suffering in the cases of wrongful death. “Everybody was treated equally, relatively, and nobody was going to get 100 percent of what their case was worth because everybody *had* to get something.” McGovern’s personal contact with the plaintiffs was essential, Mandell adds.

“He created a level of trust with them and gave them a forum to be involved in identifying what the issues were and the kinds of plans they wanted. Everybody was so appreciative. Some of them asked very difficult questions — it’s a very emotional case. But Francis dealt with them fairly and compassionately and that went a long way.”

Once the plaintiffs all agreed to the point system at a conceptual level, McGovern worked out its details with their lawyers who also came to unanimity on his grid for distribution and who then made recom-

mendations to and received agreement from their individual clients. A judge found that all settlements were agreed to in good faith, and another special master has completed a mandated review of the allocations and has recommended their approval.

Having used the point system in three recent cases, McGovern plans to write an academic paper on the subject.

“[The Station fire] had a devastating and profound impact on a very small state,” Mandell says. “There were only two or three degrees of separation in the whole state in terms of knowing someone who was injured or killed.” When the carefully-managed litigation wraps up, Mandell predicts that it will help “heal” his state. And reaching a plan for allocation was key to bringing the most complex case ever filed in Rhode Island to a close, he observes.

“I consider it one of the great gifts in this case that I had the opportunity to meet and work with Francis,” says Mandell, a former president of the American Association of Justice. At various times, as the settlement pot grew, the plaintiffs’ lawyers offered to pay McGovern for his services, adds Mandell.

“He said, ‘I gave you my word. I shook your hand and that’s it.’ I can’t tell you how much respect I have for him.” ♡

— *Frances Presma*

Francis McGovern

Recent and forthcoming scholarship

Dispute Systems Design: The United Nations Compensation Commission, 14 *Harvard Negotiation Law Review* 171-193 (2009)

Distribution of Securities Class Action Settlements, 35 *Journal of Corporation Law* (forthcoming 2009)

Punitive Damages and Class Actions, 70 *Louisiana Law Review* (forthcoming 2009)

Second-Generation Dispute System Design Issues in Managing Settlements, 24 *Ohio State Journal on Dispute Resolution* 53-79 (2008)

Donald Beskind LLM '77

TOP LITIGATOR REJOINS FACULTY AS PROFESSOR OF THE PRACTICE

DONALD BESKIND IS SUCCINCT in articulating the challenge common to teaching and being a trial lawyer: “communicating complex information in a sequence and form that is both interesting and understandable.”

He has been effective in executing that challenge in the courtroom and classroom for more than 35 years. Having come to Duke Law on a two-year John S. Bradway fellowship in 1975, he remained on the faculty, teaching and as director of Clinical Studies until 1981, when he returned full time to private practice. He has taught almost continuously since, training other lawyers nationally and internationally through the National Institute for Trial Advocacy and at Duke Law, where he leads the Trial Practice program and periodically has taught evidence.

That’s why Beskind sees his return to a full-time faculty post as simply a shift in balance, not a fundamental change. “I absolutely love what I do,” says Beskind of his law practice. “My problem has been that I love two things — practicing and teaching. And I’ve been balancing that all of my professional life.” He remains of counsel at Twiggs, Beskind, Strickland & Rabenau, his Raleigh law firm that annually sponsors Duke Law’s mock trial tournament.

Beskind says engaging with students has helped him be a better lawyer. “Most practitioners do things for intuitive reasons,” he explains. “Teaching, particularly skills teaching, makes you ask yourself, ‘Why? Why do you do it this way?’ That questioning informs the teaching, but it also informs the practice.”

Calling it one of those “wonderful fortuities in life,” Beskind was studying law at the University of Connecticut in the early 1970s when it became a pilot site, along with Harvard Law School, for a project in practical-skills training instituted by the newly-formed Council on Legal Education and Professional Responsibility.



Faculty Focus

“Most practitioners do things for intuitive reasons. Teaching, particularly skills teaching, makes you ask yourself, ‘Why? Why do you do it this way?’”

— Professor Donald Beskind

“For the bulk of my third year, I practiced law during the daytime and took seminars in trial skills at night,” he says. Mentored by “talented lawyers” who were pioneers in clinical education, Beskind says he found his calling in trial litigation.

“I just loved it. I had a moment where I realized I had found something for which I was suited and which I enjoyed,” he says. “I always tell my students, ‘Don’t do what you think you should do, do what you *like* and what you can do well.’”

In his practice, which has focused on litigating and mediating complex civil cases and, more recently, taking on post-conviction capital defense work on a pro bono basis, Beskind has been careful in his choice of clients and cases.

“In civil practice, particularly when you are acting for the plaintiff, you get to choose,” he points out. “You have to want to represent your client — you’re going to be working with them very, very closely. And you’ll be championing their cause.

“Beyond that, my mantra has been to take cases, in effect, for either love or money. If I took a case for money, it was a case that I was taking because it was a part of making a living practicing law, with the expectation that it would be successful. As a contingent-fee lawyer, that’s essential.”

Cases he took “for love” brought no expectation of financial reward, he says. “Those cases I took because there was something about the issue or the client that was important and the case needed to be taken.” Some of these have included actions resulting from genetic misdiagnosis, contraceptive failure, and one recent appeal that involved the scope of a bar’s duty not merely to not serve a drunk but to prevent a patron who becomes intoxicated from driving drunk. (For more, see “Talking practice with Donald Beskind” in *Duke Law Magazine* online at www.law.duke.edu/magazine.)

Insistent that the practice of law does not have to be “ponderous and dull,” Beskind sees it as being, in the end, all about relationships.

“When I got out of law school I thought that the practice of law was largely about the law. Once in practice, it became clear, in short order, that the facts were as or more important than the law. But it took me a very long time to realize that, in the end, the law is a ‘people’ occupation and the practice of law is more than anything else about the people — your colleagues, the opposing parties, expert witnesses, the judge, the jurors. People skills and the ability to motivate and engage people in your cause, that ability is the mark of the excellent and successful lawyer. I think lawyers who love what they do understand this ‘third dimension’ of the law — the relationships.” ♡ — *F.P.*

Intellectual property

Benjamin and Rai offer a “fix” for innovation policy

WHILE IT IS WELL SETTLED that technological innovation is vital to economic growth and human welfare — central to solving problems from climate change to health-care cost control — federal agencies often overlook innovation or deal with it in a haphazard, contradictory manner. So say Duke Law professors Stuart Benjamin and Arti Rai in “Fixing Innovation Policy: A Structural Perspective,” recently published in *The George Washington Law Review* and summarized in a report sponsored by the non-partisan Information Technology and Innovation Foundation (ITIF). They propose the creation of an Office of Innovation Policy (OIP) within the executive branch in order to rectify the problem.

Rai, Duke’s Elvin R. Latty Professor of Law, has since joined the United States Patent and Trademark Office as administrator of the Office of External Affairs. Benjamin, Duke’s Douglas B. Maggs Professor of Law, currently serves as the inaugural distinguished visiting scholar at the Federal Communications Commission. Both are on leave from their academic posts and note that the article does not represent the position of the United States government. (See stories, Page 28.)

As envisioned by Benjamin and Rai, the OIP would be given authority to analyze proposed agency action through the lens of its effect on future innovation and also to offer regulatory suggestions. The OIP’s early involvement in any agency’s rule-making process would “introduce a new, trans-agency focus on innovation while drawing upon, and feeding into, existing executive branch processes that aim to rationalize the work of disparate federal agencies,” they write in “Fixing Innovation Policy.”

The OIP would lack veto power over agency decisions and rules, but its recommendations would merit the same “hard look” that agencies are obliged to take at the good arguments made against any regulations they promulgate, says Benjamin, an expert in telecommunications, administrative, and First Amendment law.

“If a court asks whether an agency thought seriously about OIP input and the agency says, ‘Yes we did, but we were not persuaded for these specific reasons,’ [the agency’s decision] will probably pass muster,” he notes. “We think that with that backstop of hard-look review agencies really will take the OIP seriously. My strong expectation is that it will change agency behavior.”

The standard they propose for the OIP analysis is straightforward, adds Benjamin. “Do you think there are ways you can achieve your regulatory goals that will be better — or at least less harmful — for innovation?”

“Innovation shouldn’t trump all other agency goals,” says Rai. “Establishing the OIP would simply be a way of forcing innovation onto the table early in the administrative process, ideally at the regulation-formulation stage, in a way that it currently isn’t.”

It is rarely in the interest of industry incumbents to push innovation, says Benjamin. “If you’re an existing player, innovation just unsettles the playing field. You already know you’ve got your chunk of the market. Why would you want to put that at risk?”



“In terms of any societal goal, whether we want better health for our citizens, a better environment for our citizens, or just more money for our citizens, [innovation] is the way to do it. We're suggesting a mechanism for really making it happen.”

— Professor Arti K. Rai

Benjamin and Rai suggest giving innovation explicit consideration in regulation because it is frequently undermined through regulation.

“It’s easy for incumbents to use particular levers of regulation to beat down startups when their business models are threatened,” says Rai. By way of example she points to the recent patent battle between Vonage, a startup company working in the area of Voice over Internet Protocol technology, and various telecommunications giants. “Vonage has been hammered mercilessly by a bunch of incumbents, including AT&T, Sprint, and Verizon, with patents that are probably pretty dubious, but it simply didn’t have the money to fight them to the end,” she explains. “Vonage had to settle for a huge amount of money and that has undermined its operating position.”

“It is a case of our patent policy undermining innovation policy. And entities that don’t yet exist, by definition, can’t be at the lobbying table,” observes Benjamin.

“This is something that no particular interest group pushes for because it’s in nobody’s short-term interest,” adds Rai. “The results

» To read “Fixing Innovation Policy: A Structural Perspective,” 77 *The George Washington Law Review* 1 (2008) and “Structuring U.S. Innovation Policy: Creating a White House Office of Innovation Policy,” report to the Information Technology & Innovation Foundation, June 2009, visit www.law.duke.edu/magazine.

are going to be seen in the long term and in some cases might directly cut against the short-term interests of some players.”

Benjamin and Rai pitched their idea directly to policymakers on June 24 at an ITIF event in Washington, D.C., where they unveiled their report. Members of the capacity audience quizzed them on the operational details in their proposal — a good sign, they say. The emergence of allied proposals relating to innovation, including a

complementary idea from the ITIF to establish a “National Innovation Foundation” to coordinate innovation-related funding that’s now dispersed across various agencies, indicates that support for sound innovation policy is gaining traction, says Rai.

“At least the idea that innovation is key to our long-term future has already seeped in,” she says. “In terms of any societal goal, whether we want better health for our citizens, a better environment for our citizens, or just more money for our citizens, this is the way to do it. We’re suggesting a mechanism for really making it happen.” ♡ — *F.P.*

BENJAMIN APPOINTED FIRST DISTINGUISHED SCHOLAR IN RESIDENCE AT FCC

PROFESSOR STUART BENJAMIN has been appointed by Federal Communications Commission Chairman Julius Genachowski as the FCC's first distinguished scholar in residence.

Benjamin, Duke's Douglas B. Maggs Professor of Law, is spending the spring 2010 semester in Washington, D.C., working in the FCC's Office of Strategic Planning. He is working on issues relating to spectrum policy and the First Amendment, which have been the focus of much of his scholarly work.

Benjamin is co-author of *Telecommunications Law and Policy* (1st ed. 2001, 2nd ed. 2006), has written numerous law review articles on spectrum issues, and has provided expert legal testimony to the Senate.

"One area I've been working on for a long time is spectrum reform, which is hugely important," Benjamin says. "In order for all of our wireless devices and future wireless devices to work well, we need to have more spectrum available, and the 'low-hanging fruit' has really already been picked. Now, issues about increasing available spectrum get more and more complex and require analysis of more moving parts."

In addition to addressing specific questions about reallocating more spectrum for wireless devices, Benjamin says he will work on long-term, "big-picture policy" for the commission.

"This is a really exciting opportunity," he says. "So much of my scholarship has revolved around things that the FCC does, and now I actually get to be on the inside, trying to help shape FCC policy, trying to actually do some good from the inside, rather than merely analyzing as an outsider. I feel like there's an opportunity here to put the kinds of things I've been doing in scholarship to good use for the public good."

Benjamin clerked for Supreme Court Associate Justice David H. Souter and served as an attorney-adviser in the Office of Legal Counsel in the U.S. Department of Justice. Prior to joining the Duke Law faculty in 2003 he taught at the University of Texas School of Law.

"Stuart brings a wealth of legal and academic experience, and I am delighted to have him as our first distinguished scholar in residence," says Genachowski. "I look forward to drawing on his expertise as the commission pursues smart, fact-based policies that promote competition, innovation, investment, and consumer choice." ♪

RAI JOINS U.S. PATENT AND TRADEMARK OFFICE

ARTI K. RAI, Duke's Elvin R. Latty Professor of Law, has joined the United States Patent and Trademark Office as administrator of the Office of External Affairs. In that capacity, Rai serves as chief PTO liaison to Congress, other executive-branch agencies, and international institutions on matters of intellectual property and innovation policy.

Rai is a leading scholar of patent law and policy, the biopharmaceutical industry, innovation policy, administrative law, and health care regulation. Her portfolio promises to be wide ranging, covering issues from agency transparency to the role of intellectual property rights in transfer of "green" technology.

"I'm very pleased to have Arti join our senior leadership team and I feel confident that her expertise will serve the agency extremely well in this position," said PTO Director David Kappos. "Her work and studies in the field of intellectual property law will be invaluable in both the legislative arena and the global IP stage as we work toward achieving strong and balanced IP protections for rights holders."

Having long worked with a variety of federal agencies — she has served in the Department of Justice as an attorney, conducted research funded by the National Institutes of Health, and worked with the Federal Trade Commission, to name a few — Rai observes that her appointment offers her a perspective on the inner workings of the patent and innovation process that will inevitably inform her long-term scholarly agenda.

"My longstanding areas of interest have been administrative law and innovation, and this is a perfect opportunity to observe those issues in the trenches and on the ground," she says. She looks forward, in particular, to enhancing inter-agency dialogue and collaboration on innovation policy. The issue was the focus of a recent scholarly article and policy paper of which she co-authored — prior to her PTO appointment — with Stuart Benjamin, Duke's Douglas B. Maggs Professor of Law. (See story, Page 26.)

Rai clerked for Judge Marilyn Hall Patel of the U.S. District Court for the Northern District of California prior to entering academia and taught at the University of San Diego and University of Pennsylvania law schools prior to joining the Duke Law faculty in 2003. She has been a visiting professor at Yale Law School and in 2007 served as the Hieken Visiting Professor in Patent Law at Harvard Law School. ♪

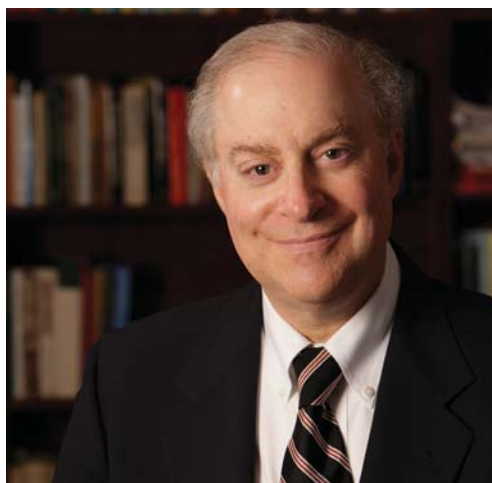
LEVI APPOINTED TO COMMITTEE ON RULES OF PRACTICE, PROCEDURE

DEAN DAVID F. LEVI has been appointed by Chief Justice John G. Roberts to serve a three-year term on the United States Judicial Conference Standing Committee on Rules of Practice and Procedure. Levi chaired the committee from 2003 to 2007.

Established by the Rules Enabling Act, the Standing Committee on Rules of Practice and Procedure is responsible for reviewing all proposed rules changes from the five advisory committees on the civil, criminal, appellate, bankruptcy, and evidence rules.

Long recognized as a leader in legal reform, Levi has served as chair of two Judicial Conference committees: the Civil Rules Advisory Committee and the Standing Committee on Rules of Practice and Procedure, both during his 17-year tenure on the bench, first as a United States district judge of the Eastern District of California, later as chief judge of that district.

Levi's article, "Autocrat of the Armchair," (58 *Duke Law Journal* 1791-1805 (2009)), a review of Judge Richard Posner's book, *How Judges Think*, was honored by *Green Bag* on its list of "Exemplary Legal Writing 2009." ♪





FLEISHMAN HONORED FOR DISTINGUISHED SERVICE TO DUKE

PROFESSOR JOEL L. FLEISHMAN was honored with one of Duke University's highest awards at its annual Founders' Day Convocation on Oct. 1. In addition to receiving the University Medal for Distinguished Service, Fleishman delivered the Founders' Day address at the Duke Chapel ceremony. (Read his remarks online at www.law.duke.edu/magazine.)

Fleishman joined the Duke faculty in 1971 as a law professor and founding director of the Institute of Policy Sciences and Public Affairs (now the Sanford School of Public Policy), a position he held until 1983. He remains a professor of law and public policy studies. He began his career in 1960 as assistant to the director of the Walter E. Meyer Research Institute of Law at Yale University, the same year he received his LLM from Yale. From 1961 to 1965, he served as legal assistant to North Carolina Gov. Terry Sanford, who became Duke's president in 1969 and served until 1985.

Fleishman now directs Duke's Heyman Center on Ethics, Public Policy and the Professions and the Duke Foundation Research Program. His research interests include the accountability of nonprofits and foundations. His most recent book is *The Foundation: A Great American Secret — How Private Money is Changing the World* (Public Affairs Books, 2007). ♪

BOYLE'S PUBLIC DOMAIN NAMED BEST OF 2009, DECADE

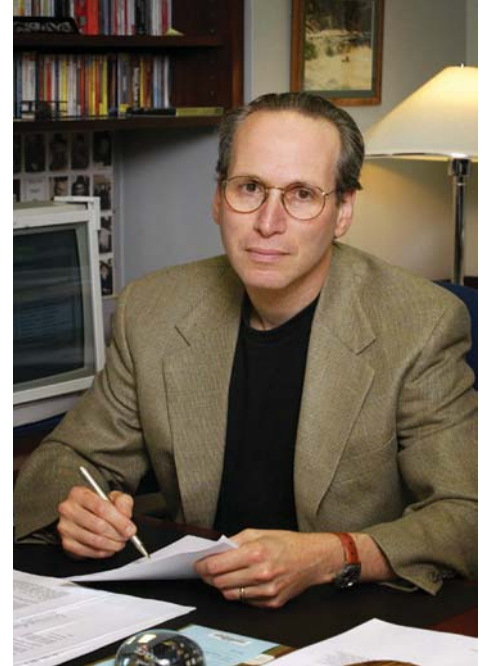
REYNOLDS PROFESSOR of Law James Boyle's latest book, *The Public Domain, Enclosing the Commons of the Mind*, has been named "Book of the Year for 2009" by the American Society for Information Science and Technology.

The society is a professional organization of information professionals from a wide range of disciplines that advocates for the advancement, support, and dissemination of information technology.

Calling the book "an immensely well-written exploration of the mix and balance between intellectual property on one hand and the public domain on the other," the award citation states that

"Boyle's eloquent narrative is impressive for telling a tale that begins well before the Internet age and points to the challenges for the 'future present' we must all face. This broad outlook will serve students and scholars in information science well as they seek to better understand copyright and its numerous implications for information, systems and the Internet."

The Public Domain also was listed as one of the best Internet and information-technology policy books of the 2000s — "the digital decade" — on the Technology Liberation Front, a website opposed to over-regulation of the Internet. ♪



SCHWARCZ SELECTED A FELLOW OF THE AMERICAN COLLEGE OF BANKRUPTCY

STEVEN L. SCHWARCZ, the Stanley A. Star Professor of Law and Business, has been selected a Fellow of the American College of Bankruptcy. He will be inducted along with other members of the 2010 Class of Fellows in March 2010 in a ceremony held at the U.S. Supreme Court.

The College is an honorary association of bankruptcy and insolvency professionals, including private and corporate practitioners, academics, trustees, judges, and government officials. Fellows are selected by a Board of Regents from among recommendations received from the Circuit Admissions Council in each federal judicial circuit.

The founding and co-academic director of Duke University's Global Capital Markets Center, Schwarcz focuses his scholarship and teaching on commercial law, bankruptcy, international finance, and capital markets. He has published extensively on issues relating to the current financial crisis, including on the future of securitization, and is the author of the leading legal article on systemic risk. He previously was a top practitioner who helped pioneer the field of asset securitization. His book, *Structured Finance, A Guide to the Principles of Asset Securitization* (3d ed. 2002), is one of the most widely used texts in the field. ♪

Profiles



ON FEB. 5, 2009, MARC ELIAS APPEARED BEFORE THE MINNESOTA SUPREME COURT, ARGUING THAT HIS CLIENT, AL FRANKEN, SHOULD BE CERTIFIED AS THE WINNER OF MINNESOTA'S U.S. SENATE RACE.

Ben Garvin / AP

Marc Elias '93 Anatomy of the *Franken v. Coleman* recount

FOR MARC ELIAS, Election Day 2008 lasted for the better part of eight months. That's how long it took for his client, Al Franken, to be officially declared the junior senator from Minnesota, following the largest recount and longest contest in American electoral history.

ALUMNI PROFILE

Democrat Franken's victory over the incumbent Republican senator, Norm Coleman, left Elias, who headed his legal team, with an unblemished record in post-election fights. This one just took longer than most, admits Elias, a Washington, D.C.-based election-law specialist at Perkins Coie who serves as counsel to the Democratic Senatorial Campaign Committee (DSCC).

"The recounts and contests I had been involved with typically resolved themselves fairly quickly, and even where they went on for a while they didn't have the same level of intensity that this one did," says

Elias, whose network of clients includes all but a handful of Democratic senators. "We wound up going to the state Supreme Court on at least four occasions. We had a trial that lasted seven weeks. The state hand recounted 2.9 million ballots.

"Minnesota has a lot of processes in place for their close elections," he adds. "But going in it never occurred to me that it would go on as long as it did or take as much time and energy as it did."

The recount begins

Elias had advised Franken throughout the campaign on election-related issues such as campaign finance and political broadcasting regulations. The two had met — and clicked — during a DSCC training session for candidates.

"Marc is the lead attorney for Democrats in the country," Franken says. "He was explaining all the legal issues that candidates face, and I was extremely impressed by him. Also, he had a great sense of humor. Afterwards I told him he was funny. After that, I had him for life."

Having already helped the campaign plan for a recount before votes were cast Nov. 4, Elias transitioned into the role of lead attorney to monitor the recount triggered after

Coleman initially emerged with a razor-thin victory of 215 votes over Franken; Minnesota law mandates a hand recount of ballots where the victor's margin is less than one-half of 1 percent.

Each side was permitted to challenge ballots they thought were called wrong by county during the hand recount that was conducted in more than 100 locations throughout the state over a two-month period. Approximately 5,000 challenged ballots were reviewed publicly by five people: the chief and associate justices of the state Supreme Court, the secretary of state, the chief judge in the county seat, and another judge from that county.

As the recount progressed, Elias says he became increasingly confident that his client would win. On Jan. 5, 2009, the Minnesota State Canvassing Board declared Franken victorious by 225 votes.

Coleman filed a notice of contest in Ramsey County District Court the next day.

"I was somewhat frustrated because it was clear that Al Franken had won the election and there wasn't anything that was going to change about that in the course of a court contest," says Elias, who had to miss vacations with his wife, Brenley '93, and their two children and the inauguration of President Barack Obama. "The frustration wasn't really at the law [but] at the circumstances."

A co-chair of the bipartisan Committee to Modernize Voter Registration, Elias is quick to say that he respects Minnesota's commitment to fair elections.

"Minnesota allows everything there is to allow for a post-election dispute," he says. "You get a recount, you get a hand recount, you get a hearing on challenged ballots, and then you get a de novo review as part of a court contest. It's a much more detailed and longer process and in that sense a fairer process because you get so many opportunities to make your case and to bring forth your arguments." In that context, his focus shifted to "making sure that all of the lawyers were doing the things that they needed to do to help make sure that Al Franken's victory was preserved."

"I think we are done"

Throughout the post-election dispute, Coleman's legal team — which included *Bush v. Gore* counsel Ben Ginsberg — argued that varying treatment of absentee ballots violated voter rights to equal protection under the Constitution.

"During the course of the contest I got used to that being an argument that Sen. Coleman's legal team put forward, but it never seemed to me a very strong one and thankfully the courts agreed with us," Elias says. "At no point in the process did they ever attract even a single vote for that proposition.

"But there was a lot of opportunity for whatever arguments or concerns either side had to be fully aired and litigated," says Elias of the post-election marathon. "In that kind of setting, where you have good lawyers on both sides — Norm Coleman had some of the best lawyers there are — eventually the will of the electorate's going to come out."

Elias spoke with Franken on a daily basis and met with him in person once or twice per week throughout the challenge. He calls the senator "a model client."

"He understood from the beginning that these processes were legal processes," Elias says. "He's very smart and picks up on stuff incredibly quickly, but he understood that a lot of this is highly technical and he relied on the lawyers to give him the advice and to make the judgments that we were being paid to make."

Franken was likewise impressed with Elias.

"Marc has an incredibly energetic and incisive mind, a great ability to communicate with me, and a fierce competitive approach," says Franken. "His instincts and advice were right on."

Facing intense public and media interest in the contest, Elias's routine included at least one press conference per day. He and his team avoided criticizing the court and opposing counsel in any way.

"As a lawyer, you have to be prepared to provide, in an appropriate fashion, information to the public so that they understand what's going on, where you are in the process, and what people might expect," he says.



"You also have to balance that you are in a legal setting — you are appearing before judges. You have obligations to the court that temper some of what you can say to the press and how it's said."

On March 31, a three-judge panel ordered that an additional 400 ballots be counted in the race. That process, carried out in open court, increased Franken's lead to 312 votes. At that point, Elias told the *Minnesota Independent*, "I think we are done."

Instead, Coleman's legal team appealed the count to the Minnesota Supreme Court. The court's 5-0 decision on June 30 favored Franken, and he was sworn in as a senator a week later.

Elias foresees long, contested election recounts becoming ever more prevalent, but thinks cases like Franken's will leave candidates better prepared to handle them. For his part, Franken says candidates would do well to hire Elias in similar situations, but offers this suggestion: "Start fundraising immediately." ♣ — *Matthew Taylor*

Jaime Alemán '78

Meet Panama's ambassador



AS AMBASSADOR of the Republic of Panama to the United States, Jaime Alemán sits in a desk once used by his father, who also served in the post, lives in the home he loved as a boy growing up in Washington, D.C., and works 16 to 18 hours a day to advance his nation's interests on the world stage.

"My main goal is to have the Panama Free Trade Agreement approved by Congress," says Alemán, who assumed his position last August. "We are working on the necessary amendments to Panamanian law in order for the U.S. Congress to submit the treaty for ratification."

The treaty would significantly liberalize trade of goods and services, including financial services, between the U.S. and Panama. Signed by the two countries' presidents in 2007, the treaty addresses concerns relating to customs administration, technical barriers to trade, government procurement, investment, telecommunications, electronic commerce, intellectual property rights, and labor and environmental protections.

In support of the cause, Alemán spends his days networking in a relentless schedule of official meetings and social events. He says his immersion in diplomacy has been fascinating. "In a way it is like going back to school," he says. "I am learning so much."

Alemán was 12 when his father, Roberto, was appointed special ambassador of Panama to the U.S. for negotiation of the Panama Canal Treaties, which would give Panama control of the Panama Canal while preserving the right of the U.S. to defend it from threats to the free passage of ships.

His father returned to Panama in 1970, but Alemán remained at school in Washington. He later earned

a degree in economics from the University of Notre Dame in 1975 before attending Duke Law. After three years in the legal department of the Inter-American Development Bank in Washington, he finally returned to Panama to join his father's firm.

Like his father's, Alemán's career as a lawyer has been punctuated, at intervals, with periods of public service. In addition to serving briefly as legal counsel to President Nicolás Ardito Barletta, he took a temporary leave of absence from the firm he founded in 1985, Alemán, Cordero, Galindo & Lee, to serve as minister of Government and Justice for Barletta's successor, President Eric Arturo Delvalle.

He accepted that post on Feb. 25, 1988, during a 4:30 a.m. phone call with Delvalle.

"I feel a moral obligation to do this, having myself encouraged you," he recalls telling Delvalle. "I will accept the appointment to serve as your minister of Government and Justice, and I will sign the order to remove Manuel Noriega from his post."

The decision to relieve the general and military dictator of his duties was historic

and risky; earlier that month, Noriega had been indicted on drug charges by the U.S. Drug Enforcement Agency, but retained control of the General Assembly. When Alemán decided he would sign the order, he arranged for his wife and two small children to leave the country immediately. He, too, went into hiding after signing the order — he later joined his family in Miami — and the General Assembly removed Delvalle from power the following day.

Noriega retained power as head of the nation's armed forces and de facto head of state, but public confidence in him began a precipitous decline, and the door to the 1989 U.S. invasion of Panama was opened.

When he returned from exile in December of 1988, Alemán rejoined his law firm, focusing his practice on trusts and financial structures for private clients. Today,

his firm is one of Panama's most prestigious — he calls building it "one of the proudest accomplishments of my life."

Now, back in Washington, Alemán muses on how his life has come full circle. His father died just one month before Alemán returned to Washington as ambassador, "immensely proud" that his son would be assuming the position he once held. "I feel this is literally a continuation of my father's life," Alemán says. "I feel his presence everywhere. I sit at his desk, I live in the residence where I grew up with my brothers and parents. In that sense, it is a realization of a life's dream and a reconnection with my past."

To the list of the loves of his life — family, country, law practice — Alemán also adds Duke. An honorary life member of the Duke Law Board of Visitors, he has been a staunch financial contributor — the Law School's main reception area is officially named the Jaime Alemán Welcome Center — and he follows Duke basketball with zeal. "I fell in love with Duke the day I set foot on campus," he says. "I feel at ease there, even now. The camaraderie of the students when I was there had a strong impact on me. I made many good friends. It was a springboard to my success." ♡ — *Melinda Myers Vaughn*

ALUMNI PROFILE

Richard Salem '72 Enabling America

RICHARD SALEM firmly believes that “good things happen when people have jobs.” That is, in fact, the slogan of his nonprofit organization, Enable America, through which he’s trying to undo this sobering statistic: Out of 54 million Americans with disabilities who are able to work, 70 percent are unemployed.

Salem attributes the alarming unemployment rate to a combination of factors, including “attitudinal barriers” held both by people with disabilities and the business community and laws that govern Social Security disability benefits — passed with good intentions — that deter people from working.

“One day, you have health care, a roof over your head and an income. The next, if you have a job, it’s all taken away, because your benefits end if you make over \$800 or so a month,” says Salem, the founding partner of the Tampa-based Salem Law Group, whose practice focuses on business and governmental affairs. He was lobbying Congress to change those laws when a conversation with a senator and the wife of a congressional leader on the importance of listening to constituents convinced him to broaden his approach.

Shortly after that conversation, in 2002, Salem founded Enable America, which he leads as chairman and CEO.

“We realized we needed, in essence, a community-building, grassroots organization to coalesce people with disabilities, community-based organizations, caregivers, and families to work together to accomplish their common goals, which can be blurred by focusing on the welfare of individuals — the very real need to keep food on the table and just survive,” he says.

Encouraging different constituent groups to network to help achieve their various objectives, Salem and Enable America have issued a direct challenge to people with disabilities and their advocates. “Do not allow the ‘haves’ to be in charge of what the ‘have-nots’ can do. Be a participant — not a spectator,” he says.

That’s how Salem has approached his own life and career since losing his sight as a teenager after being hit with a baseball. As Duke Law’s first blind graduate, he recalls

the support of former associate dean Frank “Tom” Read ’63, the faculty, and his classmates as he utilized books on tape — reel-to-reel — and had seven undergraduate readers to assist him in law school. He even learned to listen to two readers speaking at the same time.

“The situation required that we resort to as much innovative effort and technology utilization as possible. Another good

lesson was learning to work with other people carefully and to recognize that as part

of life and business,” says Salem. He praises mentors Walter Dellinger and William Van Alstyne, the four law deans with whom he’s worked, and then-Duke president Terry Sanford, for whom he served as speechwriter in his third year of law school.

Enable America not only teaches people with disabilities about available resources, it also provides services that can immediately improve lives. The organization’s on-the-job employment mentoring program is one example. People with disabilities are matched with businesses that are committed to improving diversity and expanding the talent of their workforce. In conjunction with that effort, November was declared “Disabled Veteran Employment Mentoring Month,” with Enable America facilitating mentoring programs aimed specifically at helping veterans find jobs.

“Great things can happen in just one day on the job,” says Salem. “That one day opens the eyes of both the person with a disability and the employer, and also helps caregivers realize that there is life beyond disability in a world that is ever-changing with technology and opportunity. Even in this recession, there’s high demand for a skilled, dedicated, committed work force, and often, once everybody’s over the fear factor, businesses understand that this is not a charitable thing they’re doing.”

While employment mentoring can begin with a single day at work, employers have the option to expand the opportunity into longer internships that can last a number of weeks, or make an immediate hire. Enable America’s November mentoring program in



San Antonio is a perfect example of that. On a Thursday, a disabled veteran was a mentee at a Clark/Hunt construction site. By the following Monday, he was hired and on the job as a paid employee.

Enable America has expanded from its base in Tampa to include key markets in Raleigh, Texas, New York, and Washington, D.C. “All the areas into which we’re expanding have common characteristics — a cultural willingness to receive and work with new people and, in turn, new ideas,” says Salem, a North Carolina native.

An honorary life member of the Law School’s Board of Visitors, Salem also is actively involved in organizations such as the National Eye Institute and the National Organization on Disability. At 62, he regards his own life as so rich and challenging that he is eager to facilitate the same opportunities for career and personal success for others with disabilities.

“The systemic problems, attitudinal barriers, and the need for significant change create a landscape that is a long and difficult road to travel,” he says. “But we’ll keep going because we don’t want to live as observers of what other people doing — we want into the American dream.” ♣ — Debbie Selinsky

ALUMNI PROFILE

Profiles

Katherine de Vos Devine JD/MA '10

Curating a career



IN ADDITION TO KEEPING up with her law classes, Katherine de Vos Devine found time last year to page through a lot of magazines. “I have literally looked at every issue of *The Economist* published since 1999,” she says, laughing. But de Vos Devine wasn’t reading the articles in the venerable weekly; she was checking out the cartoons.

A candidate for an MA in art history in addition to her JD, de Vos Devine is one of eight curators of “Lines of Attack: Conflicts in Caricature,” an exhibition of political caricature that will open at Duke’s Nasher Museum in February. The show takes a comparative look at works produced in France between 1830 and 1835 and those of the contemporary era, most notably images of recent American presidents.

The reign of Louis-Phillippe I (1830 to 1848) produced what is considered the golden age of political caricature, explains de Vos Devine. Artists and publishers like Honoré Daumier and Charles Philipon, respectively, routinely flouted strict censorship laws that prohibited images intended to insult the king, she says. These individuals risked fines and imprisonment by offering pointed commentary through illustrations that incorporated scatological humor, puns, and symbols; Daumier’s trial over his published illustration of the king as a gluttonous giant was notorious in its day.

“They were very insightful in using symbols to make strident and substantive commentaries — in many ways providing

a much better commentary than words alone ever could,” notes de Vos Devine. That, she observes, was what the regime feared: Images could incite unrest among illiterate citizens who might be oblivious to written commentary.

A lot of political caricatures published in the United States during the George W. Bush administration are respectful by comparison, she says, in spite of the strong First Amendment protections given to political speech. “Was it a matter of self censorship? Is it because newspaper conglomerates are particularly restrictive regarding what editorial cartoonists can and cannot put on the page? Or is it because American audiences aren’t interested in and don’t tend to respond well to strident, offensive caricature? There are a lot of outstanding questions.”



HONORÉ DAUMIER’S CONTROVERSIAL 1831 CARICATURE OF LOUIS-PHILIPPE, MODELED AFTER ONE BY CHARLES PHILIPON.

STUDENT PROFILE

De Vos Devine’s curatorial essay for the exhibition posits that cultural norms, in fact, can moderate political dissent more effectively than censorship laws.

While her intent on entering law school after two years as a tax paralegal at Cadwalader in New York was to forge a career in art law, her work on the exhibition has shown de Vos Devine how art history and law might combine in a satisfying academic career.

“For an art historian, curating is about creating environments for learning,” she observes. “When you walk through a museum show you are interacting with art works, probably talking with whoever is with you. But someone has shaped those conversations for you, placing images on the wall in an order that will stimulate those conversations. I like that three-dimensionality.” A combination of teaching, writing, and curating will likely allow her to “change more minds about how art should be seen and how artists should be treated” than would work as a solo practitioner, she says.

Law is an essential part of the mix, given her longstanding interest in the scope of artists’ rights, adds de Vos Devine. It is essential, too, to the academic research she is interested in pursuing. “Historical accounts of cases written by non-lawyers don’t seem to probe the actual meanings of the decisions and their impacts on the artists that followed,” she says. She also finds herself increasingly drawn to the nexus between art and intellectual property and views that as a rich area for “useful” future scholarship.

Duke Law has been the perfect place to blend her interests, de Vos Devine says. “No other school would let me do what I’m doing — asking highly conceptual questions, writing multidisciplinary papers, and doing the curatorial project. There was definitely no other law school that was enthusiastic about [my] prior interest in a particular field.”

From the start, when she would pepper her 1L contracts professor, John Weistart ’68, with complicated questions about artists’ contracts, she says she has found both guidance and support. Deborah DeMott, the David F. Cavers Professor of Law and a significant art law scholar, has been particularly helpful.

“One of the great things Professor DeMott taught me is that art law is not a field but a collection of issues that apply to a certain set of clients,” says de Vos Devine, who worked as DeMott’s research assistant. “I’m not looking at an art law problem — I’m looking at a contracts problem or a tort problem or a fraud problem. These are all the same problems that happen to any other kind of client, except these clients happen to be artists.” ♡ — *F.P.*

Alumni Notes

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YOU ARE DOING:
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1957

Robert C. Wagner has published his second book, *Vietnam Revisited*.

1963



Michael R. Walsh has been named Orlando's 2009 Family Law Lawyer of the Year by *Best Lawyers in America*. Michael has practiced and maintained a law office in Orlando for more than 45 years handling marital and family law.

1967

James Adams has published the fourth edition of *Pretrial Motions in Criminal Prosecutions*; the 2008 update of *Iowa Rules of Evidence*; and the 2008 supplement to *Prosecutor's Manual for Arrest, Search and Seizure*. James is the Ellis and Nelle Levitt Distinguished Professor of Law at Drake University Law School in Des Moines.

Carl E. Bolch Jr. has been named to the Convenience Industry Hall of Fame. Carl is chairman and CEO of RaceTrac Petroleum in Atlanta. He is the past-president of the Society of Independent Gasoline Marketers of America and a past-chairman of the board of the National Association of Convenience Stores, where he remains on the executive committee.

1968



P. Thomas Boroughs has been appointed to the Century Commission for a Sustainable Florida by the state speaker of the House. Tommy is a partner in Holland & Knight's Orlando office where he focuses his practice on zoning and land-use regulatory matters as well as real estate development, acquisition, and sales.



Robert W. Maxwell II, a partner with Keating Muething & Klekamp in Cincinnati, was named to the 2010 edition of *Best Lawyers in America* in labor and employment law.

1970

George R. Krouse Jr. has joined the SBA Communications board of directors. A life member of Duke Law School's Board of Visitors, George has retired from his partnership at Simpson Thacher & Bartlett, where he practiced for 33 years in the corporate, capital markets, and merger and acquisition areas.

1972



Laurence R. Tucker has been named managing attorney for Armstrong Teasdale's Kansas City, Mo., office where he oversees 30 lawyers. Larry serves as a member of the firm's executive committee.

John Robbins Wester has been installed as president of the North Carolina Bar Association for the 2009-10 term. John is a partner at Robinson, Bradshaw & Hinson in Charlotte where he concentrates on complex civil litigation.

1973

Charles R. Holton has been elected to the board of directors of Legal Aid of North Carolina. Charles is a partner at Womble Carlyle Sandridge & Rice in Research Triangle Park, where he handles health care litigation.

1974



Roger K. Ferland has been named to both the 2009 edition of *Chambers USA* and the 2010 edition of *Best Lawyers in America* for environmental law. He also has been elected chairman of the board of Audubon Arizona and continues to serve as co-chair of its science and policy committee. Roger is a partner with Quarles & Brady in Phoenix where he chairs the clean energy, climate change, and sustainability practice.

Ira Sandron has been elected secretary of the American Bar Association's National Conference of the Administrative Law Judiciary. Ira is an administrative law judge with the National Labor Relations Board in Miami.

1975

Bruce A. Christensen has been named to the 2010 edition of *Best Lawyers in America*. Bruce is a shareholder with the Miami office of Richman Greer. He concentrates his practice on family law, divorce, and domestic relations.

William Johnson has been promoted to senior general attorney with Norfolk Southern Corporation in Norfolk, Va. William specializes in bankruptcy, intellectual property, and litigation.

Gary Lynch has joined Morgan Stanley's London office where he serves as vice chairman and focuses on legal issues and helping clients on complicated transactions. Gary is a former Securities and Exchange Commission enforcement chief who joined Morgan Stanley in 2005 and assisted with the firm's conversion to a bank-holding company.

1976

Jack Griffeth has been selected for inclusion in the 2009 edition of South Carolina's *Super Lawyers* magazine for alternative dispute resolution. Jack is of counsel to Collins & Lacy in Greenville.

1977

Lea Courington has been selected as a fellow of the Litigation Counsel of America and has been named to the 2009 edition of *Super Lawyers* magazine in the area of business litigation. Lea also has assumed the chairmanship of the advisory board of Southern Methodist University's Archives of the Women of the Southwest, part of SMU's DeGolyer Library. She is a partner with Curran Tomko Tarski in Dallas.



Michael Eckerle has been named an Indiana Super Lawyer for 2009 by *Law & Politics* magazine and *Indianapolis Monthly*. Michael practices business and corporate law at Bingham McHale in Indianapolis.

Alumni Notes

David Morrison has been named a 2009 Texas Super Lawyer by *Texas Monthly* magazine. David is a partner in the Dallas office of Fulbright & Jaworski where he practices securities law and corporate finance.

David Pishko has been elected president of North Carolina Advocates for Justice. David is a partner at Elliot Pishko Morgan in Winston-Salem where he focuses on professional malpractice, business and securities litigation, and serious personal injury law.

1978

Linda Malone, an honorary life member of the Duke Law Board of Visitors, has received the Fulbright Distinguished Chair in International Environmental Law at William & Mary Law School for the 2009-2010 academic year. She will research and lecture at the Polytechnic Institute of Turin in Italy from March to June 2010. The Marshall-Wythe Foundation Professor of Law, Linda currently teaches Criminal Law and Environmental Law as well as the seminar, Special Problems in International Law.

1980

Larry Crocker is a senior lecturer in the Department of Philosophy at Dartmouth University. Larry's courses include Philosophy of Law and Crime and Punishment.

Daniel S. Bowling III has published the article "Living in Interesting Times: President Obama and the Rebirth of the Labor Movement" in the June 2009 edition of the *Journal of Politics and Law*. Dan is managing principal of Cardinal Consulting, a human resources and legal consulting firm, and serves as a senior lecturing fellow at Duke Law School.

John H. Hickey was sworn into the Florida Bar board of governors for the second consecutive year during the Florida Bar convention on June 26, 2009. Jack is a personal injury attorney at Hickey Law Firm in Miami and has been included in the Florida edition of *Super Lawyers* magazine for the past four years.

Eric Holshouser is serving a one-year term as chair of the labor and employment law section of the Florida Bar Association. Eric is a shareholder with Fowler White Boggs in Jacksonville.

Jeff King has joined the legal department of Sentara Healthcare in Norfolk, Va., as vice president and general counsel.



Justin G. Klimko received the Stephen H. Schulman Outstanding Business Lawyer award on Sept. 24, 2009, during the business law section of the state bar of Michigan's annual meeting. Justin is an attorney and shareholder with Butzel Long in Detroit.

Elizabeth Kuniholm has been inducted into the International Academy of Trial Lawyers. Liz is the founder of the Kuniholm Group in Raleigh.

Kathy Lies is an independent human resources professional in Goldsboro, N.C., and serves on the board of directors of 3HC, a community-based nonprofit organization for home health and hospice patients.

1981

John Coleman has been named by *Super Lawyers* magazine as one of the top 50 lawyers in Alabama for the second consecutive year. John is a partner with Burr & Forman, where he is a member of the firm's labor & employment law section. He lives in Birmingham with his wife, Liz, and son, Jack.



James V. Maniace has been elected to the management team at Chester, Willcox & Saxbe in Columbus, Ohio. James concentrates his practice in all areas of business, commercial, real estate, and information technology law and co-chairs the firm's default restructuring and recovery practice group.

David Nash has been selected as a winner of the Green Lantern Award by Crain's Cleveland Business Emerald Awards, which recognize champions of sustainable business strategies in Northeast Ohio. David is a partner at McMahon DeGulis where his practice focuses on traditional areas of environmental law and advanced and renewable energy, corporate sustainability, climate change, and emerging environmental and energy technologies

Pamela Silverman has opened her own firm as a solo practitioner in Charlotte, focusing on trusts and estates and equine law. She previously worked in the Charlotte office of Katten Muchin Rosenman.

John Yates and his wife, Ellen T'79, have been named the 2009 volunteers of the year by the Decatur-DeKalb Family YMCA. John volunteers with Partner With Youth and assists with Happy Club events for young adults with developmental disabilities. Ellen serves as a board member, is active on the membership committee, and raises funds for the Partner With Youth annual campaign. John is the partner-in-charge of the technology practice at Morris, Manning & Martin in Atlanta.

1982

Terry Collingsworth has been named managing partner of Conrad & Scherer's new Washington, D.C., office. Terry previously served as general counsel of the International Labor Rights Fund, now International Rights Advocates, and served as the organization's executive director.

Julia L. Frey has been named to the 2009 edition of *Best Lawyers in America* in the area of trusts and estates. Julia is a partner at Lowndes, Drosdick, Doster, Kantor & Reed in Orlando.



Richard Horwitz has been awarded DuPont's Legal Leaders' Circle Award for his work in intellectual property, breach of contract, insurance coverage, and other commercial litigation on behalf of DuPont, as well as for his work to support the goals of DuPont's Legal Model. Rich is a partner at Potter Anderson & Corroon in Wilmington, Del., where his practice includes commercial litigation, primarily focusing on intellectual property, contract, and business tort matters.

Donald Lampe has received the Chair's Award from the business section of the American Bar Association. Don is a partner at Womble Carlyle Sandridge & Rice in Charlotte, where he leads the firm's regulatory compliance and consumer credit practice team.

Mark D. Shepard has been named to the 2010 edition of *Best Lawyers in America* for commercial litigation. Mark is a shareholder at Babst, Calland, Clements and Zomnir in Pittsburgh.

1983

Richard Baer, executive vice president, general counsel, secretary, and chief administrative officer of Qwest Communications in Denver, shares with his legal team in the receipt of the Western Region "2009 Employer of Choice Award" presented by the Minority Corporate Counsel Association. The award recognizes industry leaders who have a commitment to and succeed at creating and maintaining an inclusive corporate legal department. Richard also been named top general counsel by the Ethisphere Institute.

Kathryn M. Battuello has been elected vice president of the King County Bar Foundation in Seattle. Kate works in the torts division of the Office of Washington State Attorney General. She previously was a professor at the University of Washington Law School.

Marianne Philip has joined the Danish Committee on Corporate Governance as vice chairman. Marianne is a partner at Kromann Reumert in Denmark where she is primarily engaged in advising businesses on mergers and acquisitions, stock exchange law, and general commercial and company law.



Bruce Ruzinksky has been named a 2009 Texas Super Lawyer by *Texas Monthly* magazine and has been named to the 2010 edition of *Best Lawyers in America* for bankruptcy and creditor-debtor rights law. Bruce is a partner at Jackson

Walker in Houston where he focuses his practice primarily on representing financial institutions, corporations, and other business entities in workout/restructure efforts as well as chapter bankruptcy proceedings.

Serena G. Simons has joined The Segal Company as senior vice president and national compliance retirement practice leader. Serena works in Segal's Washington, D.C., office and chairs the Employee Benefits Committee of the D.C. Bar Section of Taxation. She also is a member of the section's steering committee.

1984

Mary J. Hildebrand has been named to the 2009 edition of *Chambers USA* for intellectual property. Mary is the senior member of Lowenstein Sandler's tech group in Roseland, N.J., and focuses her practice on strategic planning, commercialization, protection, and management of intellectual property.

David Lips has published *Healthcare Capital Finance: In Good and Challenging Times*, which examines the impact of the credit crisis on the health care industry, particularly on nonprofit hospitals. David is a tax and transactions attorney at Hall Render Killian Heath & Lyman in Indianapolis.



John F. "Sandy" Smith has joined Womble Carlyle's Atlanta office as a member of the firm's corporate and securities practice group.



Lori Smith has joined Sedgwick Detert Moran & Arnold's corporate practice in New York. Lori previously worked at Goodwin Procter and has experience in all aspects of corporate and commercial law, including mergers and acquisitions, corporate governance, finance, venture capital, business transactions, and commercial contracts.

Patricia Anne Speth has been appointed as a municipal judge in Marion, S.C. Anne has practiced law for more than 20 years and formed her own practice in 1990. She handled real estate, probate and wills, small corporate, and family law.

1985

William W. Horton has been elected to a three-year term in the American Bar Association's health law section. He previously served for three years as chair of the section's programs executive committee and for two years as chair of its business and transactions interest group. Bill chairs Haskell Slaughter Young & Rediker's transactional practice group in Birmingham, Ala.



Laura Taylor '83 landed a 19-inch brown trout on her first-ever fly-fishing attempt — helped, no doubt, by making the right choice of fishing hat. Laura, a U.S. Bankruptcy Court judge in San Diego, released her catch back into the South Fork of the Snake River near Swan Valley, Idaho, Sept. 13, 2009. » Do you have a favorite photo in your Duke Law gear? If so, send it to [Matthew Taylor](mailto:mtaylor@law.duke.edu) at mtaylor@law.duke.edu for publication online or in print.

Janet Ward Black has received awards from the American Bar Association and the North Carolina Bar Association recognizing the 4ALL program, which promotes free legal services to the poor. Janet created the 4ALL program in 2008 during her tenure as NCBA president. She is the principal of Ward Black Law in Greensboro.

1986

Brent Clinkscale has been awarded the Thurgood Marshall College Fund's Founder's Award. Brent is a partner in Womble Carlyle Sandridge & Rice's Greenville, S.C., office where he focuses on complex business disputes and class actions. He is the chair of Womble Carlyle's diversity committee and has served as general counsel for the Thurgood Marshall College Fund for more than a decade.

1987

Robert E. Harrington has been named as a 2009 recipient of the North Carolina Bar Association's Citizen Lawyer Award, recognizing lawyers who provide exemplary public service to their communities. Rob serves as board chair for the Levine Museum of the New South and is a member of the Equity Committee of the Charlotte-Mecklenburg Schools. He practices with Robinson, Bradshaw & Hinson in Charlotte.

Jonathan Shapiro has been named to the 2010 edition of *Best Lawyers in America*. He also was recognized in the 2009 edition of *Chambers USA* as a leader in his field. Jonathan is the regional managing partner of Fisher & Phillips, where he practices employment, labor, and employee benefits law and litigation on behalf of management in the Portland, Maine, office.

David A. Schwarz is serving as a member of the Milton Marks Commission on California State Government Organization and Economy, an independent state oversight agency created in 1962. David is a partner at Irell & Manella in Los Angeles, where he specializes in the areas of securities litigation and complex commercial litigation and chairs the pro bono committee. He has two children, Max Auden and Simone Alexandra.

1989

Kimberly Brown has been elected president of the Allegheny County Bar Association for the year beginning July 1, 2009. Kimberly is a partner at Thorp Reed & Armstrong in Pittsburgh where she is a member of the commercial and corporate litigation practice group and coordinates the firm's pro bono program.

Alumni Notes

Eric Hiser married Anne Stone, an anthropology professor at Arizona State University, on March 15, 2008. They are pleased to announce the birth of their daughter, Eleanor, on Dec. 26, 2008. Eric practices environmental, natural resources, and administrative law at Jorden Bischoff & Hiser in Scottsdale, Ariz.

Paul Jolas has been elected executive vice president, chief legal officer, and secretary of Regency Energy Partners in Dallas. Paul previously served in various legal roles at Dallas-based Trinity Industries, most recently as vice president, deputy general counsel, and corporate secretary.

1990

Scott Kaufman has joined the business practice department at Wiggin and Dana in New York City. His practice focuses on mergers and acquisitions, private equity, and strategic transactions, including venture capital financings, and public and private securities offerings. Scott previously was a partner at Cooley Godward Kronish.

Sally McDonald is serving as president of the Chicago Bar Foundation. Sally is of counsel at DLA Piper, where she is a member of the labor and employment group and represents management in all areas of labor and employment law.

Donald M. Nielsen has been named to serve a three-year term on the administrative section council of the North Carolina Bar Association. Donald is an attorney at Bell, Davis & Pitt in Winston-Salem where his practice areas are administrative and municipal law, local government law, civil litigation, environmental litigation, environmental historic resources, and zoning and land use.

Lawrence Silverman has joined the new Miami office of Kasowitz, Benson, Torres & Friedman as managing partner. Lawrence formerly was a partner at Akerman Senterfitt where he oversaw a 70-lawyer litigation department and the firm's antitrust practice group.

1992

Robert S. Chang has joined the faculty at Seattle University School of Law and is the founding director of the school's Fred T. Korematsu Center for Law and Equality. Robert previously was a professor of law and the J. Rex Dibble Fellow at Loyola Law School in Los Angeles. Most recently, he served as the Sturm Distinguished Visiting Professor of Law at the University of Denver Sturm College of Law.

Omar McNeill has joined Freeh Group International in Wilmington, Del., as general counsel. Omar previously was chief counsel of Bank of America Card Services.

Don Willett and his wife, Tiffany, announce the birth of their daughter, Genevieve Elizabeth, on April 13. Genevieve joins brothers Jacob and Shane-David. Don continues to serve on the Texas Supreme Court.

1993



Jeffrey A. Benson has been named to the 2009 edition of *Chambers USA* in the area of real estate law. Jeffrey is a partner with Kilpatrick Stockton in Raleigh.

Bruce Elvin has been elected treasurer of the National Association for Law Placement for a two-year term. Bruce is the associate dean and director of the Career and Professional Development Center at Duke Law and co-teaches Business & Economics of Law Firm Practice.

Allan Gallatin has been promoted to partner in the tax services division of Grant Thornton in Edison, N.J.

Derrick Williamson has joined Spilman Thomas & Battle as a member in the firm's Mechanicsburg, Pa., office. Derrick's practice focuses primarily on energy and public utility law.

1994

Ted Edwards has been honored by the Construction Professionals Network of North Carolina for his work on downtown Raleigh's RBC Plaza. He also has been recognized by *Business Leader* magazine among its "Movers & Shakers" who are making a positive impact on their business and their community. Ted is a partner in the construction/real estate/development practice group in Smith Moore Leatherwood's Raleigh office.

John Haney has been promoted to vice president, Knoxville Brokerage, with Trotter and Company, a full-service commercial real estate group headquartered in Knoxville, Tenn. John and his wife, Jennie, also announce the April 2009 birth of their second daughter, Sarah Elizabeth.

Kevin Lally has been named Prosecutor of the Year by the Los Angeles Bar Association. Kevin was cited for his work in the investigation, indictment, and conviction of Anthony Pellicano, a private investigator, on charges including racketeering and illegal wiretapping. He is the deputy chief of the violent and organized crime section of the United States Attorney's Office for the Central District of California.



Christopher J. Vaughn has been named to the 2010 edition of *Best Lawyers in America* for real estate law. Chris's practice at Carruthers & Ross in Greensboro, N.C., focuses on commercial real estate including real estate development, finance, and title claims.

1995

Robert Lance Boldrey has been named to the 2010 edition of *Best Lawyers in America* for gaming law. Lance is a member of the government policy practice group at Dykema in Lansing, Mich., where his practice focuses on Indian law with an emphasis on gaming, economic development, and state-tribal relations.

Jacinda Townsend and her husband, David Gides, announce the birth of their second child, Fadzai Iman, on Sept. 3, 2009. Fadzai Iman joins her sister, Sade. Jacinda is an assistant professor in the English department at Southern Illinois University Carbondale.

1996

Amy Kunstling Irene married Michael Irene on May 30, 2009. Amy is an assistant attorney general in the appellate section of the North Carolina Department of Justice.



Pamela Polacek has been named one of *Central Penn Business Journal's* 2009 "Forty Under 40" for her commitment to business growth, professional experience, and the community.

Pam is a member of McNess Wallace and Nurick in Harrisburg, Pa., where she practices in the areas of electric, natural gas, and other energy product regulation, litigation, negotiation, and business counseling.



Jennifer Slone Tobin has become Florida Bar Certified in the area of real estate law. Jennifer is a partner in the Orlando office of Shutts & Bowen where she is a member

of the real estate practice group.

1997

Matthew Gaudet has been recognized by *Chambers USA* as a top intellectual property attorney. Matthew is a partner at Duane Morris in Atlanta.

Derek Hughey has founded Hughey Business Law, a virtual law practice that utilizes technological tools to reduce overhead. Derek's firm focuses on the corporate, securities, and general business needs of small- to mid-sized companies, venture capital firms, and entrepreneurs. Derek and his wife, Shanna, live in Washington, D.C.

Faith D. Kasparian has joined Morse Barnes-Brown Pendleton in Waltham, Mass., as a senior attorney. Faith practices intellectual property law, focusing on technology transactions and trademark adversarial proceedings. She previously was assistant college counsel at Emerson College and an associate at Covington & Burling.

Patricia Northrop married Han Huang in Lewes, England in May 2008. **Sue Maggioni '97** served as a reader at the ceremony. Pat is an assistant attorney

general in the charities bureau at the New York State Attorney General's Office.

Peter Ocko has published three articles in the *Daily Journal*: "Enhancing Your Value"; "Firms, Schools Should Collaborate to Create Engaging Training Models"; and "A Chance to Right the Ship." Peter is a managing director in the Los Angeles office of Major, Lindsey & Africa, the world's largest legal search firm.

1998

Kenichi Inagawa announces the birth of his son, Kazuma Inagawa, on Sept. 30, 2008. Kenichi is a manager with the Toshiba Corporation in Japan.

Seth Hillel Jaffe has started a detail to the White House Counsel's Office as an ethics adviser. Seth is an associate general counsel in the U.S. Office of Government Ethics.

Bobby Sharma has been named one of the "25 Most Influential South Asian Executives in the Media & Entertainment Industry" by Korn/Ferry International and was nominated by the Association of Media & Entertainment Counsel for its "2008 Sports Counsel of the Year Award." Bobby is currently the vice president & general counsel of the National Basketball Association's Development League. He lives in New York City with his wife, Courtney.

Jill E. Steinberg has joined the United States Attorney's Office for the Northern District of Georgia as an assistant U.S. attorney. Jill works in the national security and violent crime unit of the criminal division.

1999

David Bowsher and **Elizabeth Holt '00** announce the birth of their daughter, Meriwether Crawford Bowsher, in May 2009.

Anne Chapman has been elected to the board of directors of the National Association of Criminal Defense Lawyers. Anne practices criminal law at Osborn Maledon in Phoenix and regularly teaches courses on conducting international investigations and mitigation in capital cases around the country. She previously was a federal public defender in the Eastern District of Virginia.

Pascal Duclos has been awarded the European General Counsel of the Year award by the International Law Office (ILO) in association with the Association of Corporate Counsel Europe (ACC Europe). Pascal is general counsel and secretary to the board of directors at Dufry, a global travel retailer. He is the first Swiss general counsel to have won the award.

Amy Buckley Monahan and her husband, Liam, announce the birth of their second son, Kieran, in January 2009. Amy, formerly an associate professor at the University of Missouri School of Law, joined the

faculty at the University of Minnesota Law School in the fall 2009 semester.



Carrie Shufflebarger has been elected as a member of the firm at Greenebaum Doll & McDonald. Carrie is part of the regulatory and administrative practice group and practices in the areas of intellectual property counseling, prosecution, and enforcement, with an emphasis on intellectual property litigation. She is based in the firm's Cincinnati office.

Luis E. Sprovieri has been elected as a member of the American Law Institute and is working with the organization's consultative group on the report "Principles of the Law of Aggregate Litigation." Luis is an attorney at Baker & McKenzie Sociedad Civil in Buenos Aires, Argentina.

2000

Torrey Dixon has been named to Averett University's Alumni Association Executive Board. Torrey is the director of Fair Vote North Carolina.

Scott Dodson has joined the faculty at the William & Mary School of Law as an associate professor. Scott teaches Civil Procedure, Comparative Civil Procedure, and Federal Courts. He previously taught at Duke Law School and the University of Arkansas School of Law.



Jason Wells Goode and his wife, Annie, announce the birth of Clinton Wells Goode on May 13, 2009. Clinton joins his sister, Julia.

Elizabeth Holt '00 and her husband, **David Bowsher '99**, announce the birth of their daughter, Meriwether Crawford Bowsher, in May 2009.

Eric Liang and his wife, Tiffany, announce the birth of their son, Riley Trajan Liang. Eric is the director of business and legal affairs for Paramount Pictures' licensing group.

Jacqueline Goldberg Meyer and her husband, Robert, announce the birth of their daughter, Cate Elizabeth, on May 11, 2009. Cate joins sister Caroline. Jackie

BIRTHS
WEDDINGS
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is the U.S. professional development manager at Lovells in Chicago.

Jason Murphy has been selected as Ingersoll Rand's general counsel for Latin America. He will continue supporting Club Car, Inc., in Augusta, Ga., in his current role of vice president and general counsel.

Ignacio Pallares and his wife, Iratxe, announce the birth of their second daughter, Claudia, on April 1, 2009. Ignacio works as counsel at Latham & Watkins in Barcelona, Spain, and specializes in mergers and acquisitions and private equity.

2001

Faye Rodman Barbour and her husband, Chris, announce the birth of their son, Solomon Christopher, on Sept. 11, 2009. Faye is labor and employment counsel at Turner Broadcasting System, Inc. in Atlanta.

Kristi Bowman married Gabriel Wrobel on March 14, 2009, in Antigua, Guatemala. Kristi is an associate professor at Michigan State University College of Law.

Jeff Handlin has joined MDC Holdings in Denver as national vice president of acquisitions. Jeff previously worked as senior vice president of Starwood Land Ventures in Bradenton, Fla.

Erin Lovall has opened Franklin Skierski Lovall Hayward with three other attorneys. The Dallas firm focuses on corporate bankruptcy and litigation.

Seth Safra has been elected partner at Covington & Burling in Washington, D.C. Seth's practice focuses on employee benefits and executive compensation.



Peter A. Tomasi has been named to the 2010 edition of *Best Lawyers in America* for environmental law. Pete is an associate at Quarles & Brady in Milwaukee.

2002



Gabriel T. Aguilera has been listed among “40 Hispanic Leaders Under 40” by the Arizona Hispanic Chamber of Commerce and Univision Radio-Phoenix. Gabriel is a member of Los Abogados Hispanic Bar Association, the business law section of the State Bar of Arizona, and the Young Lawyers Division of the Maricopa County Bar Association. He is an attorney in the Phoenix office of Quarles & Brady.

Andrea Bradford and her husband, **Jeff Bradford**, announce the birth of their third daughter, Joelle Grace, on Feb. 23, 2009. Joelle is named in loving memory of Andrea’s father, **Joel Lasker ’69**. She joins sisters Zoe and Riley.

Christy E. Kiely has been elected secretary of the State Bar of Virginia’s Young Lawyers Conference Board of Governors. Christy is an associate at Hunton & Williams in Richmond where she focuses on employment litigation and a full range of employment issues.

Sarah Berger Laybourn and her husband, **Peter Laybourn ’04**, announce the birth of their daughter, Kaja Isabella, on March 2, 2009. Kaja joins her brother, Oliver.

Jennifer Tomsen has joined Greenberg Traurig’s Houston office. Jennifer and her husband, Chris Jermaine, also have adopted a son, Luke Hai Jermaine, from Vietnam.

2003

Thomas A. Burns has joined Hill Ward Henderson in Tampa as an associate in the firm’s litigation group. Thomas’s practice primarily involves complex commercial litigation, professional malpractice defense, real property litigation, securities litigation, and appellate litigation. He practiced for five years in Washington, D.C., with the appellate, complex commercial litigation, and securities litigation groups of Sidley Austin and Gibson, Dunn & Crutcher before returning to Florida in 2009.

Christopher Perry and his wife, Karen, announce the birth of their first child, Vivian Adele Perry, on July 19, 2009. Chris is an associate at Jones Day in Washington, D.C.

Lewis Schlossberg and his wife, **Sarah Stumpf Schlossberg ’04**, announce the birth of their daughter, Jessica Leigh, on June 24, 2009. Lew is an associate at Blank Rome; Sarah is an associate at Dechert in Philadelphia.

Allison Stiles and her husband, Josh Hargraves, announce the birth of their daughter, Huntley Taylor Hargraves, on Oct. 10, 2008. Allison is an associate in the litigation department at Goodwin Proctor in Boston. She concentrates her practice on general commercial litigation, intellectual property, and white collar crime.

Yair Zorea joined PricewaterhouseCoopers in New York as a tax manager in June 2008.

2004

Caroline Cosby and her husband, David Shuford, announce the birth of their daughter, Allison Pearson Shuford, on July 8, 2009. Allison joins brother William.

Scott Goldstein and his wife, Heather, announce the birth of daughters Cara Sydney and Ivy Larissa on Feb. 11, 2009. Scott is of counsel with the Flaster Law Group in Florham Park, N.J., where he handles litigation involving family and civil law.

David Koysza and his wife, Catherine, announce the birth of their daughter, Caroline Frances Koysza, on April 2, 2009. David is an associate with Wyche Burgess Freeman & Parham in Greenville, S.C., and was named one of the city’s “Best and

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Brightest 35 and Under" by *Greenville Magazine*. He practices in the areas of business, securities, and bankruptcy litigation.

Peter Laybourn and his wife, **Sarah Berger Laybourn '02**, announce the birth of their daughter, Kaja Isabella, on March 2, 2009. Kaja joins her brother, Oliver.

Neil Gregory McBryde and his wife, Virginia, announce the birth of their second child, Anne Gibson McBryde, on March 19, 2009.

Dawn Murphy-Johnson and her husband, Jim, announce the birth of their daughter, Riley Grace Johnson, in April 2009. Dawn is a senior associate in the litigation practice group at Miller Chevalier in Washington, D.C.

Sarah Stumpf Schlossberg and her husband, **Lew Schlossberg '03**, announce the birth of their daughter, Jessica Leigh, on June 24, 2009. Sarah is an associate at Dechert in Philadelphia; Lewis is an associate at Blank Rome.

Brian T. Sumner and his wife, Louise, announce the birth of their son, Henry Rogers, on Jan. 19, 2009. Brian is an associate at Fried Frank in Washington, D.C., where he specializes in securities enforcement and regulation, white-collar criminal defense, internal investigations, and monitoring.

Shannon Swallows has joined Kauffman Tire in Atlanta as its first general counsel. In that capacity she is responsible for establishing the legal department and managing all of the company's legal affairs. Prior to joining Kauffman Tire, Shannon was an associate in the commercial real estate practice group of Troutman Sanders in Atlanta.

Lisa Vatch married Jonathan Wilner on Aug. 16, 2009. Lisa practices commercial and intellectual property law at Fraser Milner Casgrain in Montreal, Quebec.

2005

Zachary Klughaupt is working in Sao Paulo, Brazil, as a managing director of operations for Fidelity National Financial, the world's largest title company.

Pietro Pouche has been named a partner at Carnelutti Studio Legale Associato in Milan, Italy. Pietro and his wife, Alice, have a daughter, Irene.

Robert Stevenson has joined General Atomics, maker of the Predator drone, as corporate counsel in the company's San Diego headquarters. Robert previously was an associate in the Orange County office of Paul, Hastings, Janofsky & Walker.

Ashley White and her husband, Joshua, announce the birth of their daughter, Olivia Kathryn, on Sept. 6, 2008. Ashley is an associate in Bradley Arant Boult Cummings' Huntsville, Ala., office, where she practices corporate transactions, state and local taxation, and trusts and estates.

2006

Kristi Ahlstrom has joined the office of Erie County District Attorney Frank J. Sedita III as an assistant district attorney. Kristi is currently assigned to the City Court Bureau in Buffalo.

John R. Collins and his wife, Laura, announce the birth of their son, John Henry Collins, on Oct. 11, 2009. John is an associate in the corporate department at Paul, Hastings, Janofsky & Walker in Atlanta, where he specializes in securities and corporate finance, mergers and acquisitions, and corporate governance.

Oleg Cross has launched Cross Law Group, a San Diego-based litigation boutique with practice areas in business litigation, appeals, and serious personal injury.

Alyssa Greenwald married Ted Wittenstein on Oct. 18, 2008, in New York City. Chief Judge James P. Jones, for whom Alyssa was a law clerk in 2006-2007, was a co-officiant.

Cari Stern '06 and **Alexia DePottere-Smith '06** were members of the bridal party as was Sarah Trent MA '06. Alyssa is a white-collar criminal defense associate in the Washington, D.C., office of Kirkland & Ellis.

Scott D. Mikkelsen has been recognized for providing more than 100 hours of service to the Polk County Bar Association Volunteer Lawyers Project in 2008. Scott is an associate in the business division at Davis Brown in Des Moines.

Julia Ann Noone married **William Ross Miller Jr.** on Aug. 8, 2009. Julia is an associate at Simpson Thacher & Bartlett in New York where she focuses on real estate law. Will is an associate in the litigation group at Davis Polk in New York. The couple resides in Brooklyn.

John Plecnik has been appointed an adjunct professor of law at Georgetown University Law Center. John serves as an attorney adviser to Judge David Gustafson of the United States Tax Court in Washington, D.C.

Ricardo Reveco has been honored as the best professor of Civil Law for 2008 at the University of Chile. Ricardo is a member of Carey y Cia's litigation group in Chile. He practices in the areas of civil and commercial law.

Teresa Sakash has joined the William J. Clinton Foundation in Boston, where she coordinates the foundation's risk management. Teresa previously was an associate at Bingham McCutchen.

Eriko Taoka has been working as a full-time lecturer at Kokushikan University in Tokyo since April 2009.

Amy Yeung has been elected to a two-year term in the American Bar Association's House of Delegates, where she will occupy the seat reserved for delegates under the age of 35. Amy is an associate in the securities

department of WilmerHale's Washington, D.C., office and is a member of the firm's investment management practice group.

2007

Sebastian Diaz married **Leanne Reagan '08** on May 22, 2009.

Sebastian is a senior associate with PricewaterhouseCoopers in New York.

Nicholas DiMascio has been awarded the 2009 Francis Deák Prize for meritorious scholarship by the American Society of International Law for a co-authored article he wrote as a Duke Law student, "Non-Discrimination in Trade and Investment Treaties: Worlds Apart or Two Sides of the Same Coin?" He is clerking for Judge Neil V. Wake on the U.S. District Court, District of Arizona. After the completion of his two-year clerkship he will clerk for Judge Barry Silverman on the U.S. Court of Appeals for the Ninth Circuit.

Kelcey Patrick-Ferree and her husband, Shannon Patrick, announce the birth of their second child, Alexandra Patrick-Ferree, in May 2009. Kelcey is an associate in the trademark, copyright, and brand management group at Dorsey & Whitney in Minneapolis.

Kimberly Beattie Saunders married Doug Saunders on April 25, 2009. Kimberly is an associate at WilmerHale in Washington, D.C., where she focuses on investment management regulatory and enforcement issues.

Erin B. Shively married Blake E. Sheppard on March 21, 2009. Erin is a government contracts associate with McKenna Long & Aldridge in Washington, D.C.

Jared Slade has joined Gunster as an associate in the business litigation practice of the firm's Jacksonville office.

2009

Rodrigo Ferrario is working for a Centurion Air Cargo, a Miami-based cargo airline, as a contracts and projects controller.

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Class of '37

David Henry Henderson, 94, died Sept. 6, 2009, in Charlotte. He received both his bachelor's and law degrees from Duke and practiced law in his family firm for 54 years. He served as president of the Mecklenburg County Bar Association, a post earlier held by his father, and as a member of the N.C. House of Representatives. He was a major in the Army Air Corps during World War II.

Mr. Henderson was active in the Charlotte Junior Chamber of Commerce and the Red Cross, and was first commander of the American Legion Post 262. He loved the outdoors, hunting, fishing, and gardening. He served as book editor for a national hunting magazine, wrote five published outdoor books — some illustrated by his daughter, Shep — family histories, poems, and stories.

Mr. Henderson was predeceased by two brothers and a sister. Survivors include his wife, Maxine; son, David; daughters, Anne Henderson and Shep Henderson Foley; three grandchildren; and five great-grandchildren.

Charles McKay McGee Jr., 96, died in Clemson, S.C., on Aug. 25, 2009. He grew up in Greenville, S.C., and attended Furman University, where he received a bachelor's degree and lettered in golf. After serving in the Army Air Corps in North Africa during World War II, he received a master's degree in English Literature at Duke. From 1946 to 1978, he taught English at Clemson University.

Mr. McGee was predeceased by his first wife, Olivia Jackson Parkhurst. Survivors include his wife, Catherine Rowell Bagwell; two stepsons, Jackson Parkhurst and Glen S. Bagwell; a niece; and a nephew.

Class of '39

Stanley Meyerson, 93, died on May 23, 2009, in Highlands, N.C. Survivors include his wife, Sherry.

Class of '40

Alex Rustin Josephs, 93, died July 10, 2009, in Charlotte. An accomplished musician who played clarinet from an early age, he performed with the Duke Ambassadors dance band during his college years at Duke University, also sailing twice to Europe as a member of a ship's dance band. He was a founding member of a band called The Filthy Five.

Mr. Josephs had just begun to practice law when he was drafted into the Army in 1941. He served for five years, spending time in North Africa and Italy during World War II and attaining the rank of major as a judge advocate. Following the war, he resumed practicing law in Charlotte.

In 1947, Mr. Josephs joined the New York Life Insurance Company as an agent, remaining with the company for more than 55 years. He served as president of the Agents Advisory Council in 1963-1964 and as president of each of the life insurance and estate planning organizations in Charlotte. He joined the "Million Dollar Round Table" in 1956 and remained a member. In 1984 he co-founded Barry, Evans, Josephs, and Snipes, a firm specializing in life insurance funding of corporate executive benefits and estate planning.

A member of Myers Park Presbyterian Church since 1931, Mr. Josephs served as an elder there for many years. He also served as a longtime board member of Carolinas Medical Center and the Charlotte Country Club where he was the house chairman for two years. He was a charter member of the Piedmont Club since 1948 and a former member of the Charlotte City Club. His many interests included tennis, golf, Duke basketball, lunches and dinners with his grandchildren and children, traveling to Europe at age 89 with his whole family, and taking a Spanish course with two of his daughters. He also loved his family beach trips, where he enjoyed cooking breakfast, fishing, riding waves, and drinking peach daiquiris.

Mr. Josephs was predeceased in death by his wife of 56 years, Nancy; a brother, Joe; two sisters, Julia Wall and Evelyn Phifer; and his grandson, Marshall Garrett. Survivors include his children, Blair Josephs Rohrer, Rusty Josephs Gray, and Anne Josephs Garrett; five grandchildren; a sister; and many nieces and nephews.

Albert Harrell Pope, 91, died July 20, 2009, in Greensboro. He received his undergraduate degree at Duke University before attending Duke Law, where he was editor of the *Duke Law Review* and a member of Order of the Coif. He joined the Army in 1942, serving with the Fifth Army in North Africa and Italy and attaining the rank of captain. He was awarded the bronze star for his wartime service.

Mr. Pope joined the Greensboro, N.C., firm that is now known as Smith Moore in 1947. In 1956, he became a trust officer for Security National Bank (now Bank of America) where he remained until his retirement in 1983. He then rejoined Smith Moore as counsel and practiced law until 1999.

He was a member of Holy Trinity Episcopal Church, where he served as a lay reader, teacher, member of the vestry, and junior warden. He served as secretary and treasurer of the Well Spring Retirement Community during its formative years and was a member of the Greensboro and American Bar Associations.

Mr. Pope was preceded in death by his brother, Lloyd Busbee Pope Jr., and sister, Barbara Pope Cavalle. Survivors include his wife, Helen Fifield Pope; brothers, Bill and Richard; daughters, Ann Shepherd and Charlotte Hope; sons, Albert and Jon; step-children, Lynn Black, Rich Fifield, Barry Fifield, and Guion Stewart Moore; five grandchildren; seven step-grandchildren; and two step-great-grandchildren.

Class of '47

Lawrence E. Wright, 89, died Aug. 2, 2009, in Marin County, Calif. At Simpson College he was editor of the newspaper, a member of the varsity debate team, and Alpha Tau Omega fraternity president. He attended law school at the University of Maryland before serving as a lieutenant, junior grade on the USS Harris attack transport in the South Pacific. He completed his legal education at Duke and began his law practice in San Anselmo, Calif. He served as president of the Ross Valley Rotary Club and Marin County Bar Association.

Devoted to his family, he enjoyed their camping trips, fishing, playing tennis and basketball, and weekends at their cabin. He loved yardwork, walking his dogs, watching college football and Duke basketball games.

Mr. Wright was predeceased by his son, Gary. He is survived by his wife, Elizabeth; sons, Jim and Chuck; daughter, Libby; a brother; five grandchildren; and nephews and nieces.

Class of '48

Max F. Ferree, 84, died April 26, 2009, in Wilkesboro, N.C. He attended Duke University on an NROTC Scholarship. He was commissioned as a lieutenant junior grade in the Navy and was called to duty in 1944, just short of graduation. He served in the South Pacific for the remainder of World War II. He was decommissioned in the spring of 1946 and returned to Duke to complete his undergraduate degree before enrolling at Duke Law.

Mr. Ferree entered the practice of law in 1949. He served for many years in various positions in the Wilkesboro, N.C., Democratic Party. He ran for state offices in 1952 and 1975, losing with good grace each time. He served for many years as the local draft board's appeals attorney. He was one of the earliest supporters and organizers of the North Carolina Trial Lawyers Association and served in various posts.

In 1981, Mr. Ferree was appointed to fill the unexpired term of District Court Judge Ralph Davis; he was elected to the position a year later. After his defeat in a 1986 bid for the post of district attorney of the 23rd Judicial District, he returned to private practice, from which

he retired in 2007. He most recently served as chairman of the Wilkes County Board of Elections.

Mr. Ferree taught Sunday school over a 50-year span and was a deacon at the First Baptist Church of North Wilkesboro. For several years he served as a member of the former North Wilkesboro School Board, where he advocated for desegregation. He was a member of the North Wilkesboro Blue Lodge and was a Scottish Rite Mason, a York Rite Mason, and a Shriner. He was a member of the North Wilkesboro Elks Lodge for 50 years and a Kiwanian, serving in various leadership positions with both organizations. He also was active in his local Chamber of Commerce.

Mr. Ferree was predeceased by his first wife, Betsy Russell Ferree, and a brother, Harold (Sam) Ferree. Survivors include his wife, Ettie Louella Johnson Ferree; two sons; one stepson; two sisters; two grandchildren; and six nieces and nephews.

Russell Menese “Neese” Gardner, 88, of Fort Lauderdale, died March 27, 2009. Mr. Gardner was a named partner in one of Broward County’s (Fla.) oldest law firms, McCune Hiasen Crum Ferris and Gardner. He later joined the law firm Gunster Yoakley and Stewart, where he worked well into his 80s. He was the Fort Lauderdale Historical Society’s longest-serving president, and he served on many boards, including the city’s Charter Review Board, the Stranahan House board, and the Symphony Society Board. He also was a leader at First Presbyterian Church.

Survivors include his wife of 63 years, Joyce; three children; and eight grandchildren.

Class of '49

John Thomas Conners Jr., 89, of Nashville, died on Sept. 8, 2009. He graduated in 1941 from Vanderbilt University, where he was a member of Sigma Nu fraternity. He served as a first lieutenant in the Army Air Forces and was an aerial observer instructor at Brooks Field in San Antonio, Texas. In 1944, after training at Air Intelligence School in Harrisburg, Pa., he flew as a photo intelligence officer with the 15th Air Force in Italy. Following the war, he started law school at Duke University and graduated in 1948 from Vanderbilt Law School where he was a member of Phi Delta Phi.

Mr. Conners was a partner at Boulton, Cummings, Conners and Berry, in Nashville, for more than 50 years. He was on the associate board of directors of Saint Thomas Hospital, an auxiliary member of the Daughters of Charity, and served as the first president of the Middle Tennessee Medical Center. He was active in the Nashville Bar

Association’s Medico-Legal Committee, the Circuit Court Committee, the Federal Disciplinary Board, and the Board of Professional Responsibility of the Supreme Court of Tennessee. He was a member of the Nashville and American Bar Associations and the Association of Trial Lawyers. He was a fellow of the American College of Trial Lawyers and the Tennessee Bar Foundation. He was a founding member of Saint Henry’s Church, where he was a parishioner for more than 50 years. He was one of the original members of the Sierra Club and a member of the Knights of Columbus.

Mr. Conners was predeceased by his wife of 39 years, Ann Chisholm Conners, and his sister, Mary Margaret Conners. Survivors include his nine children, Ginny, John, Elly, Jeanne, David, Richard, Nancy, Jim, and Amy; two sisters and a brother; 29 grandchildren; six great-grandchildren; and many nieces and nephews.

Class of '50

Arthur A. Weeks, 94, of Birmingham, Ala., died Aug. 22, 2009. He received degrees from Howard College (now Samford University), the University of Alabama Law School, and Duke Law. In 1980, he was awarded an honorary doctorate of laws by Widener University. He entered the Army in 1942 as a private and advanced to the rank of captain of infantry. His last military assignment was as chief legal officer of the Bremen Enclave in Germany following the cessation of World War II hostilities.

Mr. Weeks was a visiting distinguished professor of law at Samford University’s Cumberland School of Law. He previously had served as dean at Widener University’s Delaware School of Law and at Cumberland School of Law. Under his leadership, Cumberland School of Law was relocated from Lebanon, Tenn., to Howard College (Samford University) in Birmingham, Ala. Both schools earned accreditation from the American Bar Association during his tenure as dean. He also engaged in the private practice of law between his academic tenures. He was a member of the American Bar Association, the Alabama Bar Association, and the Tennessee Bar Association. He also was a member of Phi Alpha Delta and Delta Theta Phi legal fraternities.

Mr. Weeks loved music and the arts and served as deacon and Sunday school teacher at Ruhama Baptist Church and Vestavia Hills Baptist Church.

Mr. Weeks was predeceased by his wife, Carol Jones Weeks; brothers, Lelwin Weeks and Seibert Weeks; son, Phillip Earl Jones; and great-granddaughter, Isabel Lee Adderhold. He is survived by his brother, William M. Weeks; sister,

Juliet Weeks Landrum; wife, Grace Weeks Marquez; children, John David Weeks, Tina Weeks Martin, Nancy Weeks Bondarenko, Carolee Jones Adderhold, and William Dow Jones Jr.; 13 grandchildren; and nine great-grandchildren.

Class of '51

Grace Collins Boddie, 92, died Aug. 23, 2009, in Durham. She received her undergraduate degree, with honors, from Longwood College (now Longwood University) in Farmville, Va., where she established an endowed scholarship to assist undergraduate applicants of Charlotte and Prince Edward Counties, Va. During her senior year at Longwood she entered the U.S. Naval Reserve College Program. She attended Officer Candidate School at Mt. Holyoke College in South Hadley, Mass., and earned her ensign commission. She was then assigned to Uptown Hunter College, New York City, where she taught Navy recruits. She remained in the Navy for several years after being released from active duty and attained the rank of lieutenant commander.

Mrs. Boddie worked as a staff attorney for the Law School’s Legal Aid Clinic for two years after graduation. She subsequently worked as comptroller and director of scientific services for the U.S. Army Research Office on the Duke campus. She later served as vice president and senior counsel of Research Triangle Institute and continued as a consultant to Research Triangle Park corporations following her retirement.

Mrs. Boddie was a member of the 14th Judicial District Bar, North Carolina State Bar, North Carolina Bar Association, and the American Bar Association. She was certified to practice before Federal Middle District Court and was a certified mediator. She was a long-time member of Duke Memorial United Methodist Church and served in a number of capacities in its administration.

Survivors include her son, Needham James Boddie II, and daughter, Mary Boddie Jacobs; seven grandchildren; and a great-granddaughter.

Arnold B. McKinnon, 81, of Norfolk, Va., died on May 18, 2009. Mr. McKinnon joined Southern Railway in 1951 as a law assistant and later served in a number of leadership positions. He became executive vice president of marketing on the 1982 merger of Southern and Norfolk and Western Railway. In 1987, he became chairman, president, and CEO of Norfolk Southern Corp. and served in that capacity until 1992. After retiring as CEO, he served on the Norfolk-based company’s board of directors until 2000. As a director he helped guide the company in its takeover

In Memoriam

battle with CSX Corp. for Conrail Inc. in the late 1990s; this increased the railroad's size by half and positioned it for long-term growth. Norfolk Southern named its headquarters in Norfolk in his honor in 2007.

Mr. McKinnon was a supporter of The Chrysler Museum of Art and served on the boards of the Virginia Symphony Orchestra and Old Dominion University.

He is survived by his wife, Oriana McArthur McKinnon; and sons, Arnold Borden McKinnon Jr., Colin McArthur McKinnon, and Henry Alexander McKinnon III.

Class of '52

James C. Rehberg Sr., 91, of Macon, Ga., died Aug. 5, 2009. A veteran of World War II, he served with the U.S. Navy for three years as a radio telegraph operator. His tours carried him to Iceland, North Africa, and throughout the Mediterranean. Upon discharge from the Navy he entered Mercer Law School, graduating in 1948. He worked as a public school teacher before becoming Mercer's law librarian in 1949. He completed his LLM at Duke.

Professor Rehberg began teaching law full time at Mercer Law School in 1954, serving as assistant dean from 1976-1977. Among other subjects, he taught real estate and property law. He formally retired in 1988 but continued to teach part time until 2003 as professor emeritus. In 1987, he was honored by Mercer Law School's graduating class with its Distinguished Faculty Service Award. The school's James C. Rehberg Real Estate Award, established in his honor by the Attorney's Title Guarantor Fund, is awarded annually to the graduating student who best exemplifies the standards of professionalism and expertise in real estate law set by Professor Rehberg.

A longtime member of First Baptist Church in Macon, Professor Rehberg taught Sunday School for college students and became a deacon.

Professor Rehberg was predeceased by his wife of 25 years, Leda; and his five brothers. He is survived by his children, Jeanne and Ches; two grandchildren; and his close friend, Dixie Gordon.

William J. "Bill" Rokos Jr., 85, of Tarpon Springs, Fla., died April 25, 2009. He received both his bachelor's and law degrees at Duke. He was a World War II veteran, having served in the Army Air Corps and flown 51 combat missions in the China-Burma-India Theater as a medium bomber pilot. He was awarded the Air Medal with an oak leaf cluster. After the war, he served in the Judge Advocate General Division of the Air Force Reserves, from which he retired in 1972 with the rank of lieutenant colonel. Upon his retirement, he was awarded the U.S. Air Force Commendation Medal for Meritorious Service.

Mr. Rokos practiced law in Union County, N.J., for 35 years, and also served as an attorney for a municipal zoning board, a municipal prosecutor, and a councilman in Roselle. From 1979 to 1987, he served as judge of the municipal courts in the boroughs of Roselle and Roselle Park. He was appointed by the New Jersey Supreme Court to act as presiding judge of all 21 municipal courts in Union County. He was admitted to practice before the U.S. Supreme Court and the U.S. Court of Military Appeals, as well as the Maryland Court of Appeals and the state and federal courts of New Jersey.

He is survived by his sons, Jeffrey J. Rokos and Dr. James W. Rokos; daughter, Jill R. Elliott; and two grandsons.

Class of '55

Harold F. Warren Jr., 82, of Tuckerton, N.J., died June 20, 2009. A Navy veteran of World War II and a member of the Marine Corps reserves during the Korean conflict, he also served in the Coast Guard reserves for several years. He received his undergraduate degree from Duke University before attending law school.

Mr. Warren taught U.S. history and coached football and track for 35 years. He received the Brooks Irvine Coach of the Year award in 1970 and was inducted into both the National Football Foundation Hall of Fame and the New Jersey Scholastic Coach's Association Hall of Fame. He summered in the Adirondacks, was an avid skier, and retired to Brighton, N.Y., where he served as mayor. Survivors include his sons, Harold and Brad, and five grandchildren.

Class of '56

B. Richard Burdman, 76, died Oct. 30, 2009, in Scottsdale, Ariz. Better known as "Dick" or "Dicky" by his friends and family, Mr. Burdman was born in Youngstown, Ohio, to Harry and Doris Burdman, and he grew up in a home steeped in international culture and civic participation. He received his undergraduate degree from Youngstown State before attending Duke Law School. At age 22, he was the youngest person to pass the Ohio bar in 1956. Despite offers from big-city law firms, he chose to return to Youngstown to start his career. There he met and married Babette Feldman in 1960.

After practicing for a few years with the Youngstown firm of Rigelhaupt and Rigelhaupt, and then with attorney Martin Goldberg, Mr. Burdman joined several attorneys in establishing a new firm, which most recently went by the name of Burdman, Kretzer, Ellington, Stein, and Marando. In 1987, the firm merged with Nadler and Nadler to form Nadler, Nadler, and Burdman, and continues to operate by that name in downtown Youngstown. Mr. Burdman's

practice was primarily devoted to real estate, small business, and taxation law. He also maintained a significant pro bono practice, helping friends, family, and others in need manage legal aspects of their personal and business affairs.

Mr. Burdman also partnered with his brothers, Kenneth and Ronald, in a real estate development business. Burdman Brothers built and managed post offices, office buildings, shopping centers, and industrial properties across the Northeast. Even after retiring, Mr. Burdman remained involved part-time in both his legal practice and the family development business for a number of years.

Continuing his family tradition of civic service and expressing his gratitude for the opportunity to practice law, he served for years on Duke Law School's Board of Visitors and was an honorary life member. Both a faculty lounge and an endowment for public service fellowships were established at Duke as a result of his generosity. He and his wife also were supporters of numerous civic organizations and Jewish community agencies in the Youngstown area. Mr. Burdman was a member of the Mahoning County, Ohio, and American Bar Associations, and an honorary member of the Ohio State Bar Foundation. He also belonged to the legal fraternity Phi Delta Phi, El Emeth Synagogue, the Simon Weisenthal Center's International Leadership Council, the St. Albans Lodge of the Masonic Order, and numerous other organizations.

Along with Babette, Mr. Burdman enjoyed traveling, cultural pursuits, and a wide circle of friends across the country. They moved to Arizona, where they had maintained a vacation home, six years ago.

Family was always an important focus of his life, and the Burdmans had an ever-growing extended one. Mr. Burdman was also a father figure to younger generations outside his immediate family, especially after the death of his brothers and others close to the family.

Mr. Burdman is survived by his wife of 49 years, Babette, his children, Linda Fine and Pamela Burdman; his sister, Ina Rae Levy; and two grandchildren.

Class of '62

Frederick C. Schneider III, 71, died June 24, 2009, in Pompano Beach, Fla. In addition to his law degree, he received a bachelor's degree from Princeton University and a master's of business administration from Rutgers University. He was a judge in East Brunswick, N.J., before retiring to Pompano Beach.

Mr. Schneider was a world traveler who visited 111 countries during his lifetime. He also was an avid sports enthusiast, attending sporting events throughout the world.

Mr. Schneider was predeceased by his sister, Polly Brescka, and brother, Robert. He is survived by two nephews, Thomas Schneider and William Brescka; a niece, Tammy Markheim; and six grandnieces and grandnephews.

Class of '67

David W. Pancoast, 67, of Cleveland, died Aug. 8, 2009. He graduated from the College of Wooster before earning his law degree at Duke. His practice in real estate law spanned 40 years and included work with Thompson Hine (and Flory) and the Jacobs Group in Cleveland. He retired as vice president and general counsel for the Jacobs Group in 2002.

As a lifelong Cleveland sports fan and historian, he was honored to serve as secretary for the Cleveland Indians in 1998. He also enjoyed sailing, cruising, fishing, and watching freighters work the Great Lakes. His charitable efforts benefited, among others, the Cleveland Playhouse, the Boy Scouts of America, The Bay Village Schools, Case Western Reserve University, The Borneo Project, and the College of Wooster, where he established the Pancoast Scholarship.

Mr. Pancoast was predeceased by his parents, John R. and Katherine (nee Wick) Pancoast. He is survived by his wife of 44 years, Carol; daughter, Jennifer Cochran; son, Wick Pancoast; sister, Linda Michaels; and five grandchildren.

Class of '71

Wright Tisdale Jr., 65, of Knoxville, Tenn., died July 22, 2009. He was a member of the Tennessee and North Carolina bar associations and worked as director of planned giving at Carson-Newman College in Jefferson City, Tenn. He previously served in the same capacity at the Baptist Health System Foundation. He enjoyed fishing and hunting and shared his passion for both with his sons and grandsons. He also loved fine food and wines and was known for cooking a wonderful beef tenderloin.

Mr. Tisdale is survived by his wife, Susan Greer Tisdale; sons, Trescot Wright and Alexander Holland Tisdale; brother, Boyd; extended family including son, E. Russell Greer, and daughters, Paige Wardell, Cathy Greer White, and Lawson Greer Duncan; 13 grandchildren; and several great-grandchildren, nieces, and nephews.

Class of '78

David C. Kohler, 56, died on Oct. 15, 2009. He was a professor of law and director of the Donald E. Biederman Entertainment and Media Law Institute at Southwestern Law School, where he was appointed to the full-time faculty in 2003. He taught a First Amendment seminar, Mass Media Law, Media Litigation, and Representing Journalists, as well as directing the Institute, supervising Entertainment Practicum externships, and overseeing the Entertainment and Media Law LLM program. He had served as a guest lecturer at Duke, Emory, Harvard, UCLA, and William and Mary law schools, and as an adjunct professor at Virginia Commonwealth University.

Mr. Kohler produced numerous scholarly articles on copyright and First Amendment issues, the most recent of which appeared in the *Duke Law and Technology Review*, *Hofstra Law Review*, *Hastings Communications and Entertainment Law Journal*, *Federal Communications Law Journal Forum*, and *Oregon Law Review*. His book, co-authored with Lee Levine, *Media and the Law*, was published by LexisNexis/Matthew Bender in 2009. He was also instrumental in establishing the *Journal of International Media and Entertainment Law* that is co-produced by the Institute and the American Bar Association Forums on Communications Law and the Entertainment and Sports Industries.

Mr. Kohler was a veteran of more than 25 years in the field of media law where he worked with a variety of broadcast, cable and print media companies. He spent nearly a decade with TBS and CNN where he was senior vice president and general counsel. He played a major role in some of the most significant media cases of the past two decades, including several resulting in key Supreme Court decisions. In 1991, he joined TBS, and soon thereafter became assistant vice president and deputy general counsel. He was promoted five years later to senior vice president and general counsel of CNN. He handled First Amendment issues, copyright concerns, domestic syndication, joint ventures, labor matters, new media services, and ethics. He also had a considerable background in private practice, most significantly with the firm of Christian & Barton of Richmond, Va., where he was a partner serving clients in the publishing, television, radio, and cable television industries.

Mr. Kohler held a number of leadership posts in national media and entertainment bar associations and was frequently featured as a speaker at programs of the

American Bar Association Forum Committee on Communications Law, the National Association of Broadcasters, Associated Press, and the Copyright Society of America. He also served on the board of the Los Angeles Copyright Society.

Class of '03

Katelin Rose Oakley, 30, died April 1, 2009, in Boulder, Colo. She graduated *summa cum laude* from the University of Colorado with a degree in English before earning her law degree at Duke. She worked as an attorney in Denver for Davis, Graham and Stubbs. She loved to ride horses, ski, and laugh.

She is survived by her sons, Tyler and Jason, as well as her grandparents, Rosemary and Butch Mobbs, Ralph and Joyce Wilson; parents, Frances Wilson and Peter Passman; and brothers, Foster Bailey and Wyatt Passman.

Class of '09

Federico Carvallo, 32, died Sept. 26, 2009, from injuries sustained in a polo accident in Las Salinas de Pullally, Chile. He attended Universidad de Chile, where he earned a bachelor of social science and humanities and law degrees, and a diploma in economics and finance for lawyers in the School of Business and Economics. He completed his LLM degree at Duke in May 2009 before returning to Chile to work as a lawyer. Throughout his education and work as a lawyer, he devoted time and energy to public service programs and pro bono work.

Mr. Carvallo worked as corporate counsel for the Chilean subsidiaries of three highway builders and operators, whom he successfully represented in the implementation of an urban highway project in Santiago; the free-flow toll road system was the first of its kind in the world. His law practice focused on corporate law, including contracts, labor, services, construction, insurance, and finances. He also taught an Introduction to Law course at Universidad Finis Terrae and was a law clerk at the Santiago law firm of Vial y Palma Abogados. Most recently, he was an associate with the Santiago law firm of Aninat Schwencke y Cia. He also was an avid athlete; his favorite sport was squash, but he enjoyed many athletic endeavors. In 2002-03 he competed in a difficult adventure run through South America and in 2005 he participated in Chile's national endurance motorcycling league.

Mr. Carvallo is survived by his wife, Maria Bernardita Bulnes Leon, and their two young children.



» View memorials to Everett at www.law.duke.edu/everett

Remembering Robinson O. Everett LLM '59

ROBINSON O. EVERETT, professor of law and senior judge of the United States Court of Appeals for the Armed Forces, died June 12, 2009. He was 81.

A leading authority on military law and justice, Everett served on the U.S. Court of Appeals for the Armed Forces, including 10 years as chief judge. His work as counsel to a Senate subcommittee in the 1960s helped lead to legislation that modernized the U.S. military court system.

A beloved member of the Duke Law community, Everett served on the school's faculty for 51 years. He taught courses in military justice, criminal law, sentencing, and criminal procedure. Generations of students admired him as much for his warmth and kindness as they did for his scholarship and vast legal knowledge. Known as a caring mentor, he helped many former students secure their first jobs; many later sought his advice on life and work in the law.

"For so many Duke Law alumni, Judge Everett is Duke Law School," said Dean David F. Levi. "He embodied the qualities of leadership and service in and through the law. He was a model of the citizen-lawyer. He made a difference to his community, his profession, and his country. His distinguished career as a law professor and judge has been an inspiration to faculty, students, and alumni. We all miss his ready smile, his generosity of spirit, and his inexhaustible supply of ideas for new projects and new opportunities for students and for this Law School.

"Robinson once said that law provides wonderful opportunities for service to others and is also a means to a productive life," said Levi. "This understated description seems so typical of Robbie. He did not consciously set out to achieve greatness, he sought a productive life through service. But he sought it so constantly, so energetically, and so unselfishly, that in the end greatness came to him unbidden and unsought."

A Durham native, Everett was born on March 18, 1928, to two prominent local attorneys, Kathrine R. Everett, one of the earliest women graduates of the University of North Carolina Law School (Class of 1920), and Reuben O. Everett, one of Duke University's first law students (Trinity Class of 1906). He graduated from high school in 1943, attended Phillips Exeter Academy for one year, and in June 1944 enrolled at the University of North Carolina. Later, he transferred to Harvard University, where he was a Wendell Scholar and received his AB *magna cum laude* in 1947, at the age of 19.

In 1950, Everett graduated *magna cum laude* from Harvard Law School, where he had served two years on the *Harvard Law Review*. He began teaching at Duke Law School shortly thereafter; only 22 at the time, he remains the youngest-ever person to teach at Duke Law. He became a full-time member of the faculty in 1957 and gained tenure in 1967. In 1959, he completed a master's of law degree at Duke.

An officer and a gentleman

Everett served on active duty with the U.S. Air Force for two years during the Korean War in the Judge Advocate General's Corps. Upon his release from active duty, he became a commissioner of the U.S. Court of Military Appeals. He remained a member of the Air Force Reserve until April 1978, when he retired as a colonel.

From 1961 to 1964 he served part-time as counsel to the Subcommittee on Constitutional Rights of the Senate Committee on the Judiciary, and from 1964 to 1966 he was a consultant for that subcommittee. During this period he participated actively in extensive studies and hearings that led to the enactment of the Military Justice Act of 1968, which created the position of military judge and formalized the military court system.

In February 1980, President Jimmy Carter nominated Everett to the U.S. Court of Military Appeals. He served as chief judge from 1980 to 1990, when he assumed senior status.

His successor as chief judge, Eugene Sullivan, was quoted in a June 15, 2009, story in *The Veterans Herald*, saying that Everett left an indelible mark on the court: "Nobody replaced him, only followed him. He raised the court to new levels and gave us all a goal to strive toward."

A forward-thinking scholar, a warm classroom presence

Everett published the textbook *Military Justice in the Armed Forces of the United States* in 1956 and produced legal scholarship throughout his career that addressed issues relating to military justice, criminal procedure, and redistricting, among other topics. He also served as associate editor of Duke's *Law and Contemporary Problems*.

In 1993, Everett founded the Center on Law, Ethics and National Security (LENS) at the Law School to support and encourage teaching and scholarly research on national security law topics.

"He was way ahead of his time, in terms of foreseeing legal and policy issues that now dominate the political, ethical, and military landscape," said Katharine T. Bartlett, the A. Kenneth Pye Professor of Law and dean of Duke Law School from 2000 to 2007.

"He was never at a loss for some kind of creative idea for a program, a conference, or a course that had not been done before," said Professor Scott Silliman, the veteran Air Force lawyer and expert in national security law who Everett recruited to serve as executive director of LENS. In addition to annually presenting a widely-respected conference on national security at Duke, LENS joins annually with the American Bar Association's Standing Committee on Law and National Security to co-sponsor a national security law update and review conference in Washington, D.C.

"The center is in many ways a fitting tribute to a man who is so widely respected," said Silliman.

In the classroom he inspired equal parts admiration and affection in his students, developing strong relationships with students and treating many like family members.

Llewelyn Pritchard '61 studied criminal law with Everett in 1959. "Those were the days some teachers made it their business to terrorize you, but he was always polite, kind, and interested in what you had to say."

More than 50 years later, Natalie Bedoya '10 took Everett's Criminal Procedure class and noted the same kindness and patience. "I particularly recall how he conducted our final exam review session with enthusiasm and devotion," she said. "His dedication to the student body was also remarkable — he attended every on-campus function without fail."

William A. Reppy, the Charles L. B. Lowndes Emeritus Professor of Law, who

first met Everett in 1970, noted Everett's unflinching sensitivity toward students who needed friendship and guidance. "He energized many a lonely, somewhat lost student and made them happy to be at Duke, just as he was happy to be here," said Reppy. "And he always knew when a younger faculty member could use a pat on the back."

Everett's substantial financial contributions to Duke Law helped address financial aid and student needs. His philanthropy included establishing the Reuben Oscar and Robinson O. Everett Scholarship Endowment. He chaired his Law Reunion Committee and served in a leadership capacity on fundraising campaigns.

The Duke Law Alumni Association awarded Everett the Charles S. Murphy Award for public service in 1993 and the A. Kenneth Pye Award for integrity, intellect, and compassion toward students in 2008.

A legacy of leadership in law, business, and civic affairs

Everett often recalled being sworn into the U.S. Supreme Court Bar in 1954 along with his parents as one of his proudest moments. He joined them in practice shortly after returning to Durham in the fall of 1955 and maintained an active law practice until 1980. He also served as an officer of and counsel to various business organizations and nonprofit corporations.

Everett also was involved in redistricting litigation. From 1992 to 2000 he was both a plaintiff and lead counsel challenging the creation of North Carolina's 12th congressional district; he argued four times before the U.S. Supreme Court in connection with the case. In 1996, the Supreme Court ruled that the district was unlawfully created.

Everett was active in a leadership capacity in the North Carolina Bar, the American Bar Association and other local, state, and national bar organizations. He was a commissioner on Uniform State Laws and in various law reform efforts. A life member of the American Law Institute and of the National Conference of Commissioners on Uniform State Laws, Everett was a director of the American Judicature Society. He served on the advisory committee on the Federal Rules of Criminal Procedure and Evidence from 1988 to 1991, and from 1991 to 1993 he was a member of the Committee to Review the Criminal Justice Act of 1964.

He received the American Bar Association's Morris I. Liebman Award in 2000, the John J. Parker Memorial Award from the North Carolina Bar Association in 2004, and the Professionalism Award from the North Carolina Chief Justice's Committee on Professionalism, among many other honors. In 2000 he was the first recipient of the Judge Advocates Association's Life Service Award, which is now named for him.

Often partnering with his mother, with whom he started a number of regional television stations, Everett successfully maintained multiple business interests. Also known for his civic engagement, he chaired Durham's urban renewal effort during the civil rights era. In a posting to the Law School's website, journalist James Srodes '65 credits his leadership with helping Durham avoid the unrest that erupted in other Southern cities during that time.

"... Durham was blessed with a group of men and women who were determined to bring about peaceful change," wrote Srodes, who worked for the *Durham Morning-Herald* during that period. "Robinson O. Everett was the most effective and prominent leader in that group. If Durham is a better place to live today it is because of him."

Everett used his many charitable efforts as an opportunity to carry out his mother's wishes through support for Duke Law, the University of North Carolina School of Law where the law library is named in her memory, and First Presbyterian Church, of which he was a longtime member.

Among his myriad accomplishments, Everett consistently identified persuading his wife, Lynn McGregor Everett, to marry him, as his crowning achievement. He is survived by his wife; his sons Rob Jr. (Elizabeth), Greg, and Luke (Sherry); and four grandchildren.

Paying tribute at the Law School's September memorial service to the man he knew, successively, as professor, mentor, co-counsel, friend, and finally as a co-teacher of courses in sentencing and punishment, Judge James Deaver III '87 of the U.S. District Court for the Eastern District of North Carolina said, "Robinson was both utterly brilliant and disarmingly humble and kind. There are a lot of brilliant people in the world, but to find someone who is both brilliant and disarmingly humble and kind, that individual is a rare individual. That individual is Robinson Everett." ♡

NO. D1DC-09 [REDACTED]

THE STATE OF TEXAS § IN THE 167TH JUDICIAL
VS. § DISTRICT COURT OF
[REDACTED] § TRAVIS COUNTY, TEXAS

MOTION TO COMPEL STATE'S ATTORNEY TO DROP HIS ACCENT

NOW COMES the defendant, in the above styled and numbered cause, and through his attorney of record, moves the Court to order the State's prosecuting attorney to quit using his accent. Counsel has reason to believe that the State's attorney is merely emphasizing his accent to curry favor with female jurors. Frankly, it really hurts defendant's case. The State's attorney has been a prosecutor in Texas long enough that he should be ordered to wear boots and speak like a proper Texan

Respectfully submitted,

CHRISTOPHE
State Bar No. [REDACTED]
ALAN BENNE
State Bar No. [REDACTED]
MERIL "GENE"
State Bar No. [REDACTED]
Gunter & Benn
600 West Ninth
Austin, Texas 7
(512) 476-249
(512) 476-2497
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Attorneys For [REDACTED]

No. D1-DC-09 [REDACTED]

THE STATE OF TEXAS § IN THE 167TH JUDICIAL
VS. § DISTRICT COURT OF
[REDACTED] § TRAVIS COUNTY, TEXAS

STATE'S RESPONSE TO DEFENDANT'S MOTION TO COMPEL

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES THE STATE OF TEXAS, by and through [REDACTED] Assistant District Attorney of Travis County, Texas, and responds to Defendant's Motion to Compel State's Attorney to Drop His Accent (hereinafter the "Motion").

Defendant's Motion should be denied for several independent reasons, as follows:

1. The Doctrine of "Unclean Hands." It is well known around the courthouse that [REDACTED] is from Hackensack, New Jersey. Despite this, he adopts a slow, lazy drawl when speaking to juries and pretends to be from Texas. If he can, we can.
2. The Doctrine of "Necessary Englishness." The State admits that an English accent helps with juries. However, given that the Prosecutor in question also (a) has a Ukrainian law degree, (b) has no clue what he's doing, and (c) sometimes forgets his pants, an English accent is the only advantage the State has when he's trying a case. His accent is, therefore, legally "necessary."
3. Defendant's Motion is moot. The Prosecutor in question has already acceded to one of the Defendant's concerns: he wears cowboy boots. Further, he refrains from several other acts of Limey-ness, which the Court should take into account. First, he has ceased the practice of serving tea and crumpets to the jury panel during voir dire (tea service is now reserved for jury deliberation). Second, he only wears his wig when the jury is out of the room; and third, he has yet to challenge defense counsel to a duel (though he admits to putting stale cucumber sandwiches into [REDACTED]'s briefcase).

IN CONCLUSION, Defendant's Motion should be denied because (1) he's *totally* a hypocrite, (2) I wanna, and (3) he can't make me.

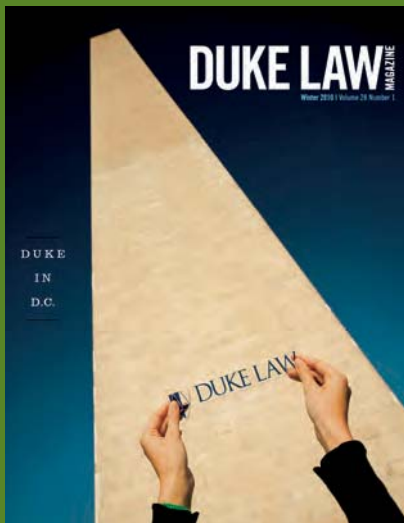
By:
Assistant District Attorney
Travis County, Texas



Fun with motions

Mark Pryor '02 is the Travis County, Texas, assistant district attorney whose British accent came under (friendly) fire from criminal defense lawyer Gene Anthes. The two filed legitimate motions with the court.

Pryor's highly-entertaining blog is "D.A. Confidential," which includes the promise of "all your criminal needs met: news, issues, trivia, and a weekly literary twist."
» See www.daconfidential.blogspot.com/.



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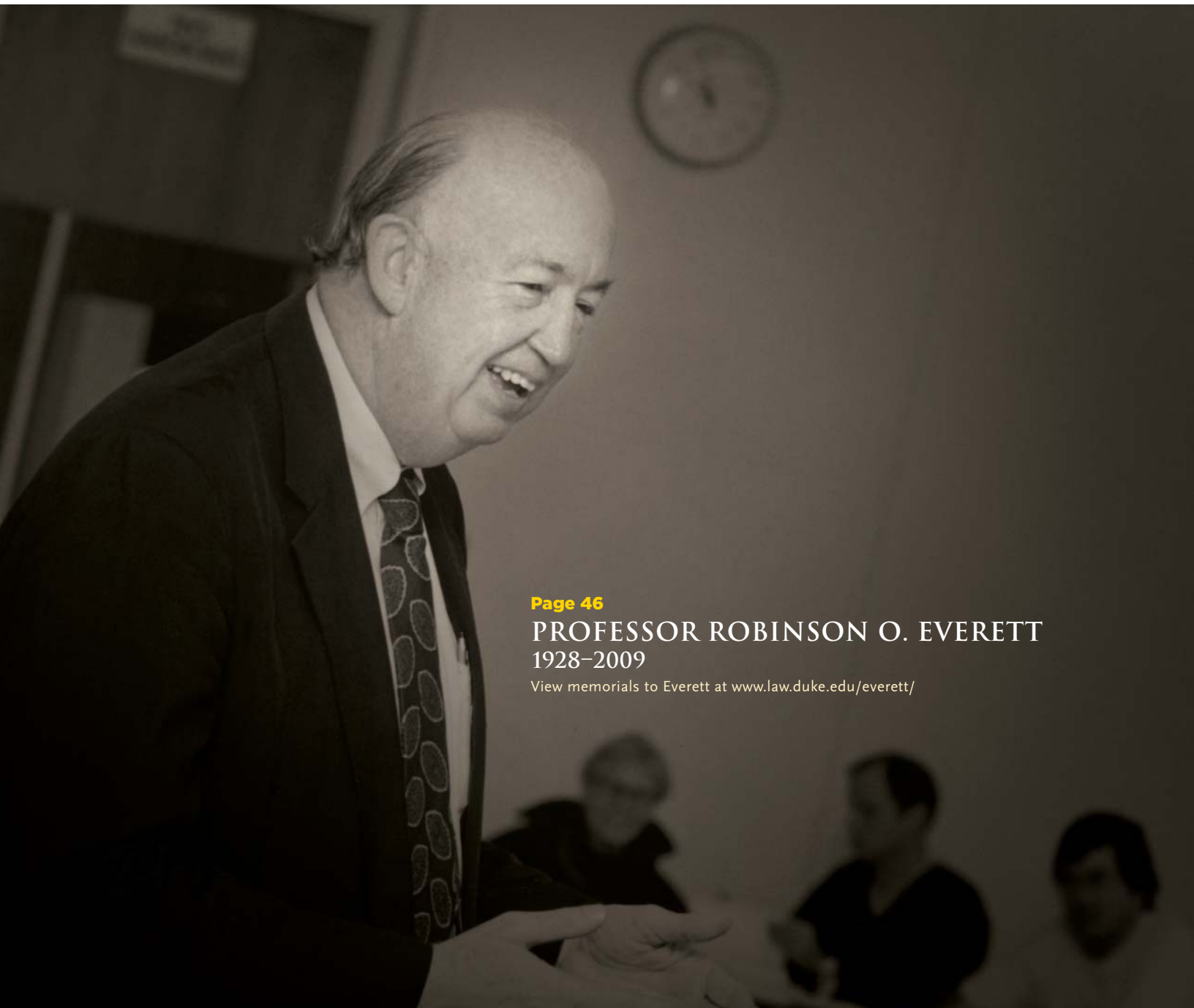
Among the stories in the winter 2010 online supplement:

- » **The Dean's Course:** A yearlong class exposes 1Ls to the different kinds of careers and the many different questions that lawyers routinely have to address
- » **Faculty Focus:** Talking Practice with Donald Beskind LLM '77
- » **Profiles:** Sean Andrussier '92, Kimberly Bart '02



Selected Spring 2010 conferences, symposia, and events:

- 1/22** **Terrorism and Changes to the Law of War**
Duke Journal of Comparative & International Law Symposium
- 1/30** **Opting Out of Customary International Law**
Center for International & Comparative Law Scholarship Roundtable
- 2/2-4** **Domestic Violence, Same-sex Marriage, and Women in Non-traditional Roles**
Duke Journal of Gender Law & Policy Symposium
- 2/5** **The New Face of Discrimination: "Muslim" in America**
Duke Forum for Law & Social Change Conference
- 2/5-6** **ESQ**
Business Law Society Career Symposium
- 2/23** **Herbert L. Bernstein Memorial Lecture in International and Comparative Law**
John Bell, Professor of Law and Chair, Council of the School of Humanities and Social Sciences, University of Cambridge
- 3/2** **Brainerd Currie Memorial Lecture**
Mark Tushnet, William Nelson Cromwell Professor of Law, Harvard Law School
- 4/8-10** **From Slavery to Freedom to the White House: Race in 21st-Century America, A Conference in Honor of John Hope Franklin**
Duke Center on Law, Race and Politics
- 4/15-16** **Duke Law National Security Conference**
Center on Law, Ethics and National Security, Program in Public Law, and Center for International & Comparative Law

**Page 46****PROFESSOR ROBINSON O. EVERETT**
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