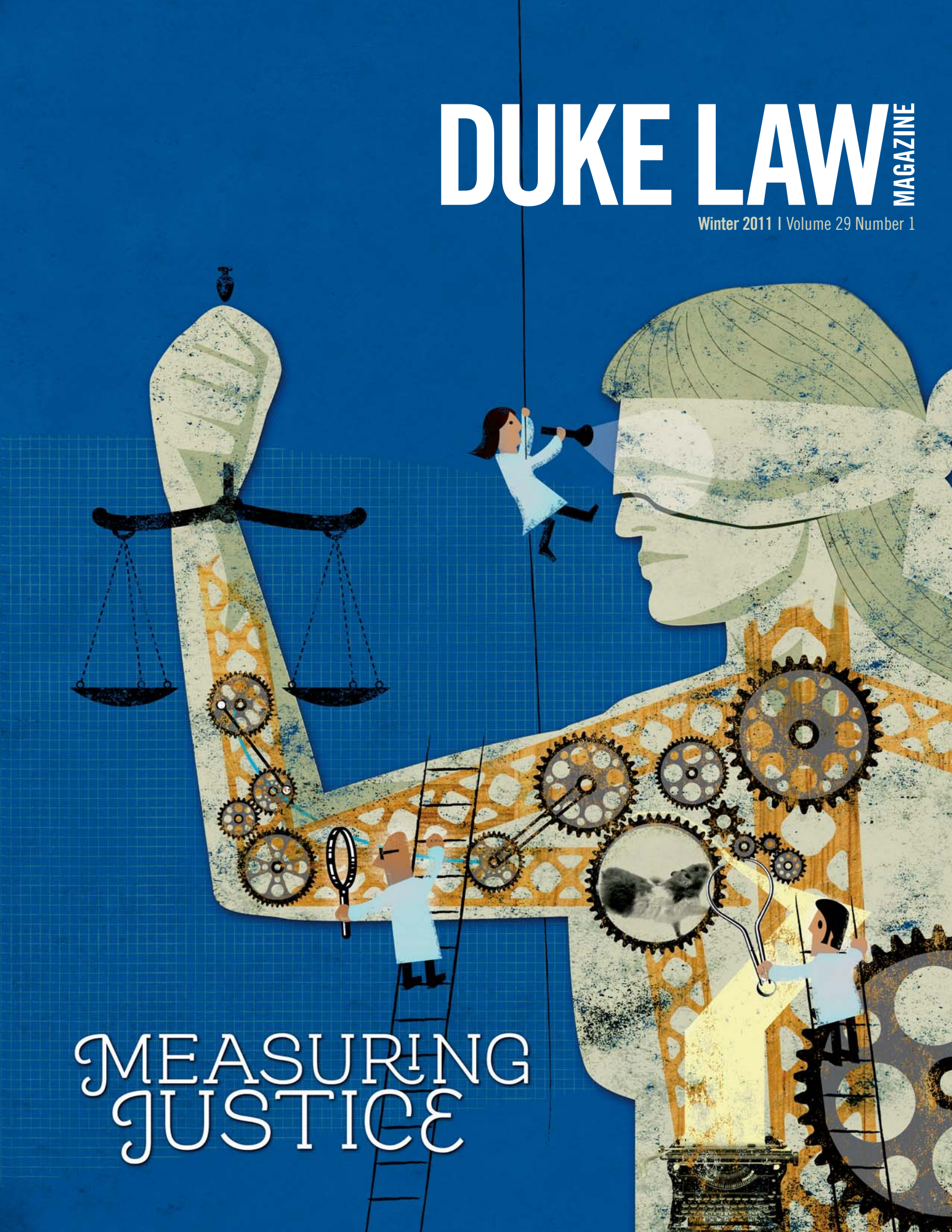
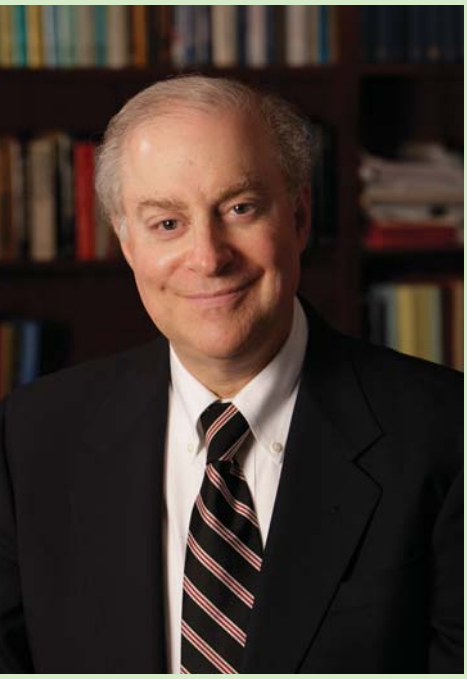
DUKE LAW MAGAZINE

Winter 2011 | Volume 29 Number 1



MEASURING JUSTICE

From the Dean



DEAN DAVID F. LEVI

Dear Friends,

Many of you are concerned about the high cost of legal education at schools like Duke. I share that concern. It's an important issue that has become more salient with the downturn in the legal economy. We do not want our students to graduate with unmanageable debt that may unduly constrain their choices.

Tuition at Duke Law School hit nearly $47,000 this year. Although high, our tuition is in line with that of other top schools. Yale Law's tuition is $48,500; Stanford's is $45,000; and Harvard's is $45,450. The three law schools with the highest tuitions are Cornell ($51,150), Northwestern ($49,444), and Columbia ($48,648). Berkeley Law charges out-of-state residents $52,244. For a further point of reference, tuition at Duke's Fuqua School of Business is $48,000 a year for an MBA.

By contrast, the size of our endowment is not comparable to those of our peers. Yale Law's endowment per student is approximately $1.1 million; Stanford's is approximately $800,000. Duke's is less than $200,000. Others of our peers have much bigger student bodies and thus more tuition payers. Yet, despite our much smaller endowment and smaller student body, we have been able to do so much for our students. By maintaining an unwavering focus on our critical priorities we have been able to greatly increase scholarship assistance and at the same time expand the curriculum to include more intensive, small courses in which students work closely with faculty to master important professional skills and bodies of knowledge.

Because financial aid is a high priority for our Law School and because of the commitment and generosity of many of our alumni, we have made dramatic strides in keeping our doors open to the outstanding students who want to come here. In 2004 the median grant given to members of the entering class was just $8,333. In 2010 the median grant was $18,000. Overall spending on JD scholarships has risen from $5.3 million in 2007-08 to more than $9 million in this academic year. This is remarkable progress.

Loan assistance is also an important part of the picture. The average loan burden at graduation is very high, more than $100,000. To address this burden, we have added to our Loan Repayment Assistance Program (LRAP) and redesigned it to work in tandem with the federal government's loan forgiveness program. Under certain provisions in the College Cost Reduction and Access Act of 2007, a student with federal loans who works 10 years in public interest, nonprofit, or governmental positions such as legal services or a district attorney's office can have his or her loans entirely forgiven.

At the same time, our curriculum has never been stronger. If you have not been back to Duke for several years you might not realize just how rich and varied our programs have become, responding to the changes in law practice, academic inquiry, and the legal profession. For example, we have expanded offerings in international and comparative law, business and finance, quantitative skills, multidisciplinary problem solving, and professional/practical skills training across a broad range of possible endeavors in the law. We offer students unparalleled opportunities to work closely with faculty. Our student/faculty ratio is among the smallest in the nation, particularly if we include full-time instructors from our writing and clinical faculty who do so much to ready our students for practice.

We will take all reasonable steps to keep the cost of a Duke Law education within reach. But there are some things we cannot do. We will not compromise on the quality of the education we provide. We will not change our small school size or character.

We will take all reasonable steps to keep the cost of a Duke Law education within reach. But there are some things we cannot do. We will not compromise on the quality of the education we provide. We will not change our small school size or character. We will not push our students into higher-paying positions in large firms (although our record of placement in such firms continues to be exemplary); our students deserve to have a full range of choices in the public, private, and nonprofit sectors. We will not ask our faculty and staff to make further sacrifices in salary; salaries already have been frozen for the past two years.

We will not compromise on our commitment to law scholarship. We are part of a small group of great law schools in this country whose faculties contribute the ideas, insights, and research that drives our understanding of the law and legal institutions and that can lead to important law reform. It is simply our duty to uphold that tradition of excellence.

So what can we do? We can continue to hold down costs. We are scrutinizing every budget, every expenditure. For example, we are using technology to the fullest extent, shifting away from print to digital tools for course materials, research, and communications. By holding down costs, we have more available for financial aid.

And we can do a better job of raising support from our friends and alumni. Although tuition only covers about two-thirds of the cost of an education at Duke Law, even this figure is too high and makes us tuition-dependent to a greater degree than we would like. We have wonderful examples of generosity by donors such as Stanley and Elizabeth Star who are highlighted later in this magazine. Their gifts are inspirational leadership gifts that we hope will bring many other givers into the fold.

Those of our friends and alumni who have endowed scholarships know firsthand from our students the great gratitude such gifts inspire and the doors that are opened. I know many of you agree that helping our students attend Duke Law without taking on a crushing financial burden must be a top goal. Together we can do this, but only together. The power of philanthropy for a law school like ours, which lacks a single transformational donor, is through united action. This is what it means to be a part of the Duke Law community and family.

Sincerely,

David F. Levi

David F. Levi
Dean and Professor of Law

DUKE LAW MAGAZINE

Winter 2011
Volume 29 Number 1

Duke Law Magazine is published under the auspices of the Office of the Dean, Duke University Law School, Science Drive and Towerview Road, Durham, NC 27708

This publication was produced using paper which supports Duke's commitment to sustaining our environment.

FSC Mixed Sources
Product group from well-managed forests, controlled sources and recycled wood or fiber
Cert no. SW-COC-002351
www.fsc.org
© 1996 Forest Stewardship Council

DUKE LAW

News Briefs

STUDENTS PURSUING DUKE'S LLM IN LAW AND ENTREPRENEURSHIP EXPLORED THE DISCIPLINE AND PROCESSES THAT UNDERLIE CREATIVITY DURING THEIR AUGUST ORIENTATION. ABOVE, ILYSE FISHMAN AND PADOWITHZ ALCE

Law and Entrepreneurship LLM program breaks the law school mold

NOW IN THEIR SECOND SEMESTER of studies, students pursuing Duke's Law and Entrepreneurship LLM are settling into their practicum placements with entrepreneurial ventures in North Carolina's Research Triangle.

Ilyse Fishman, who worked in Duke University's Office of Licensing and Ventures as a technology transfer intern during her first semester, is externing with a leading Triangle restaurateur. Having received her JD from Duke Law in 2010, Fishman says she has appreciated the program's focus on substantive experience.

"The classes are very practical and our professors make themselves unbelievably accessible," she said midway through the fall term.

The 14 members of the Law and Entrepreneurship LLM (LLMLE) program's inaugural class also are participating in a variety of courses, including the mandatory Law and Entrepreneurship course, as well as a number of "beyond-the-classroom" activities, such as an informal yearlong seminar titled The Anatomy of a Deal. Presented by Kip Frey '85, chair of the the program's advisory board and CEO of Zenph Sound Innovations in Research Triangle Park, the seminar offers students an inside view of one of Zenph's business deals as it unfolds.

"The things we are focusing on are completely hands on, and applicable to the effective counsel of startups," said Colin Kirby. "[During our first semester] we spoke personally and at length with a number of venture capitalists, in-house attorneys, and attorneys working for specialized startup firms. I have counseled and am working with undergrad startups and with medical researchers and engineers to develop health care technologies." Kirby, like most of his classmates, including Fishman, is participating in Duke's "Start-Up Challenge," an entrepreneurship competition for Duke University students.

"As with art, a startup requires vision, drive, and the creative agility to think beyond the obvious solutions to meet new challenges."

— Carrie Cottingham LLM '11

COLIN KIRBY LLM '11

Setting a distinctive tone

Duke Law launched the LLMLE program with an unusual orientation exercise designed to set a distinctive — and decidedly non-law school — tone for the new program.

During a two-day, mid-August session led by the Innovation Institute, a professional and personal development organization based in Charlotte, N.C., and started by some of that city's most prominent business leaders, students were challenged to explore their own capacity to take risks and be innovative. The goal of the exercise was to enable the students to understand better the discipline and processes that underlie creativity and to develop the tools needed to better utilize the creative process in their future professional lives as entrepreneurial lawyers.

"Lawyers who work with entrepreneurs need a unique combination of skills," said Professor James Cox, faculty director of the LLMLE program. "Not only do they need to be highly competent legal practitioners, they need to be savvy business people and effective problem solvers who are skilled at helping to transform ideas into marketable opportunities. Finding the courage to take risks and developing the capacity for creative thinking are essential."

The Innovation Institute program, led by a team of facilitators that included a professional educator, a banker, and two artists, incorporated art making, personality testing, and guided self-reflection to help the LLMLE students develop new insight into their own creative processes as well as into the mindsets of the entrepreneurs and innovators they will one day advise.

Carrie Cottingham saw the use of artistic exercises in the orientation program as a chance for students to think critically about their natural tendencies to avoid risk. "We were asked to create something without first making a plan," she said. "It would be an understatement to say, as lawyers, we were not comfortable to just dive in without knowing all the facts, possible risks, and outcomes. But, as with art, a startup requires vision, drive, and the creative agility to think beyond the obvious solutions to meet new challenges.

"Seeing the risks and challenges down the road may be a good skill when advising a client, but if that is all we see then we're missing the big picture," she added. "The orientation program forced me to focus on the process towards success, instead of only the fear of failure."

Reimagining legal practice

"One of the things we're trying to do here is reimagine what it means to be a lawyer," said Clinical Professor Andrew Foster, acting director of the LLMLE program. "We want students to learn to create possibility — for clients, for their firms, for themselves. We are shifting the dynamic from issue-spotting to problem-solving."

Cottingham sees the LLMLE program as a natural response to the changing demands of the marketplace.

"There are so few attorneys with the requisite interdisciplinary skills to oversee the key aspects of a company's formation and early growth," she said. "By bringing together these courses under one umbrella, combined with the opportunity of real-world experience, this program addresses a modern business reality. A lawyer with this very unique and specific skill set is a new breed of attorney who meets a real need in today's new business landscape."

Members of Duke Law's Class of 2013 come from:

116 undergraduate institutions

8 foreign countries

39 states plus the District of Columbia

with **31** from California, the largest cohort from one state

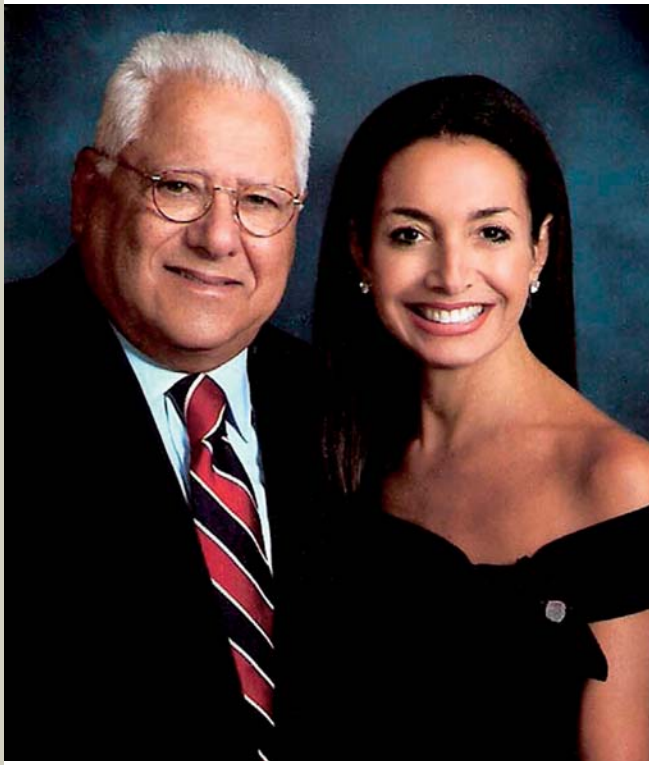
Among them are:

- a member of the Obama Presidential Transition Team
- a former Iraq grants specialist in the Bureau of Democracy, Human Rights, and Labor
- a former employee of the State Department's Office of Presidential Appointments
- a number of former educators who have taught abroad, in grade schools, and through Teach for America
- a congressional reporter for Dow Jones Newswires and the *Wall Street Journal*
- several veterans of U.S. armed forces
- a Bronze Star recipient
- a former EPA biologist
- a software engineer
- a Duke neuroscientist
- an Ernst & Young accountant
- a certified wildland firefighter
- a city planner
- and a co-founder of the Hardscrabble Brewing Co.

Giving

Stanley and Elizabeth Star continue tradition of philanthropy

DONORS HOPE TO INSPIRE ADDITIONAL ALUMNI CONTRIBUTIONS TO SUPPORT FACULTY, STUDENTS



"Stanley is an inspiration for everyone associated with Duke Law School to try to do more for the school." — David Ichel '78

A $5 MILLION GIFT to Duke Law School from Stanley A. Star '61 and Elizabeth Star will serve as the centerpiece of a matching gift initiative designed to inspire contributions from alumni and friends of the Law School. The initiative will make it possible for donors to derive greater benefit from their philanthropy and increases the likelihood that the Law School can address key priorities like faculty positions and student scholarships. The gift continues a generous history of philanthropy by the Stars that has included investments in faculty enhancement and student scholarships, as well as Law School programs and infrastructure.

"Stanley Star is one of the great entrepreneurs of his generation," said Dean David F. Levi. "By designating this gift as a challenge to others, the Stars again are demonstrating tremendous creativity and leadership. Just as their gift to create the Star Commons enriched our physical plant, this gift has the potential to enrich the academic life of our school by supporting and extending the work of our faculty and the opportunities we provide to students. It is a gift that will have a lasting, substantive impact on the Law School. We are grateful for this and all that Stan and Elizabeth do to support Duke Law."

The former principal of Cliffstar Corp., Stanley turned his family's 19th-century Dunkirk, N.Y., winery into one of the country's leading private-label juice manufacturers. He is a member of the Law School's Board of Visitors as well as the Board of Advisors of the Global Capital Markets Center, a joint initiative with the Fuqua School of Business, and previously served as co-chair of the Law School's Building Campaign Committee.

The Stars recently contributed funds to help launch the Law and Entrepreneurship LLM program, which welcomed its inaugural class in August 2010. Stanley explained at the time that his support was based in part on an appreciation for the program's hands-on approach to training students in areas related to his professional work.

The couple's $3 million pledge in 2004 allowed for the construction of the Star Commons, a 4,200-square foot common area at the Law School that has become a favorite gathering spot for study, socializing, and staging special events. Previous gifts by the Stars have funded the Stanley A. Star Professorship of Law & Business, currently held by Steven A. Schwarcz, and the Star Scholarship, which provides financial support to students. The couple has hosted multiple Duke Law events in their Naples, Fla., home and has deep connections with Duke; in addition to Stanley's time at Duke Law, two of the Stars' children have Duke undergraduate degrees, and their son-in-law graduated from the Fuqua School of Business.

"Stanley is an inspiration for everyone associated with Duke Law School to try to do more for the school," said David Ichel '78, chair of the Law School's Board of Visitors.

"There are some people who leave a huge positive footprint on our world. Stanley is one of them," Ichel continued. "I count myself very fortunate to call him and Elizabeth my friends."

Duke University Trustee Peter Kahn '76 says he and his wife, Debbie, also are "blessed" in their friendship with the Stars.

"The Stars' gift inspired Debbie and me to join the effort, and we hope others will likewise feel that same sense of excitement about how great this Law School can be if we all come together to support it," said Kahn.

L–R: BILL BROWN '80, MILES PALMER, DEAN DAVID F. LEVI, LANTY SMITH '67

Alumni entrepreneurs make Duke Law a shareholder

TWO ALUMNI and their business partner have made gifts of private stock to Duke Law School.

Bill Brown '80, a professor of the practice at Duke Law, and his business partner, Miles Palmer, have committed to donate shares of stock worth 5 percent of 8 Rivers Capital, a private-equity company they founded to support entrepreneurial businesses in clean energy, transportation, biomedical devices, and telecommunications. Lanty Smith '67, chairman and CEO of Tippet Capital and former chairman of the board at Wachovia, also has committed to give shares of stock worth 5 percent of Net Power, a clean energy company held by 8 Rivers.

The gifts highlight the growing relationship between the Law School's programs in entrepreneurship and the hotbed of entrepreneurial activity in the Raleigh-Durham region, said Dean David F. Levi.

"This is an unusual gift — we can't yet quantify it, we don't know what it will mean to us in the coming years. But the potential is huge. These companies are developing technologies that could transform our lives," he said. "These gifts represent both the faith our alumni have in the work these companies are doing and their confidence in our ability to prepare lawyers to be leaders in a changing economy."

Smith is an emeritus member of the Duke University Board of Trustees and a founding and now life member of Duke Law School's Board of Visitors. A longtime donor and staunch supporter of the university, he credits Duke Law with providing him an education and professional community that have created opportunities for him throughout his successful career in business and finance. His many gifts to Duke Law include the creation and endowment of the prestigious Smith Mordecai Scholarship program, through which he also offers thoughtful mentorship of student recipients.

The stock gifts are unrestricted, so they can be used at the discretion of the dean to support a variety of programs that are part of the school's core mission, which Smith believes is to "provide a superb legal education and prepare students to be leaders in the profession, for our country, and in their communities."

"These gifts represent both the faith our alumni have in the work these companies are doing and their confidence in our ability to prepare lawyers to be leaders in a changing economy." — Dean David F. Levi

In this regard, Smith cited Brown's academic work as being especially creative. Since joining the faculty in 2008 after a long career on Wall Street, most recently as global co-head of listed derivatives at Morgan Stanley, Brown has been instrumental in expanding the Law School's focus on entrepreneurship, including the new Law and Entrepreneurship LLM program.

Brown launched 8 Rivers Capital and Palmer Labs along with Palmer, an innovator and aerospace engineer and undergraduate classmate of Brown's at MIT. The private-equity firm works to commercialize Palmer Labs' technologies (primarily in clean energy, transportation, and telecommunications) and those of others, including several students at and recent graduates of Duke University and the University of North Carolina at Chapel Hill.

For Brown, there is little separation between his entrepreneurial endeavors at 8 Rivers and his teaching in the classroom and beyond. More than a dozen recent Duke alumni and students (including Robertson Scholars from Duke and UNC) have worked in his offices, helping to develop innovative technologies and, in some cases, pursuing their own entrepreneurial ideas.

HORVITZ PHILANTHROPY STRENGTHENS PROGRAM IN PUBLIC LAW

THE ONGOING PHILANTHROPY of Richard Horvitz '78 has served as the underpinning of the Program in Public Law for more than a decade, offering clear evidence of his belief in the importance of public and constitutional law and his commitment to the Law School and its excellence in these areas.

He has recently added to his longstanding philanthropic commitment to the Law School by pledging his continued financial support of the Program in Public Law and the Horvitz Professorship, held by Curtis A. Bradley, a leading scholar of constitutional and foreign relations law.

"My jaw drops at the opportunities and practical experience [students are] getting. I'm thrilled to be in a position to be able to help." — Richard Horvitz '78

"Over the years, Rick has had a tremendous impact on the Law School. His vision for the robust study and discussion of public law issues and debates is invigorating," said Dean David F. Levi. "His sustained commitment to the Law School, even during difficult economic times, is a testament to the loyalty that Duke Law alumni feel because of the excellence of the education they received here."

Horvitz lives in Cleveland with his wife, Erica Hartman-Horvitz, and is chairman of Moreland Management Company. Despite geographic and professional distance — he has not practiced law since 1980 — Horvitz remains emotionally invested in Duke Law School and in the law generally.

"I think that the law, especially constitutional law, particularly for a person like myself who's not a practicing lawyer, serves as kind of the linchpin for how the public perceives law," he said. "To me, an understanding and discussion of constitutional law in the academy and the more general public is highly important."

Horvitz said he is proud of all the Program in Public Law initiatives, but he thinks the Law School derives special benefit from the Lives in the Law speaker series that has brought, among others, Supreme Court Justices Samuel A. Alito, Stephen G. Breyer, Antonin Scalia, Ruth Bader Ginsburg, Sandra Day O'Connor, and former Chief Justice William Rehnquist to the Law School to speak about their legal careers.

In the summer of 2010 he funded the Horvitz Public Law Fellowship, which supports public law-related summer positions for first- and second-year students and combines his interests in promoting public law and helping students.

"This is one of the areas where Dean Levi's leadership has been really impressive," Horvitz said. "Recently, because of the economic environment, Dean Levi has allocated money to fellowships to help some of the students get meaningful summer experiences. They have [sent] me emails and letters about working for federal judges and in the Department of Justice, and it's been one of the most rewarding things I've ever done in a philanthropic sense. My jaw drops at the opportunities and practical experience they're getting. I'm thrilled to be in a position to be able to help. I'd like to appeal to the other alumni of the school to stay with Duke, to continue to support it in these hard economic times."

ROWE TRUST WILL FUND PROFESSORSHIP

TOM ROWE, WHO RETIRED in 2008 after spending more than 30 years on the Duke Law faculty, has included the Law School in a revocable living trust that eventually will fund a chaired professorship, the Thomas D. Rowe Jr. Professorship.

"It is a place where I spent my career and that was very good to me," said Rowe, the Elvin R. Latty Professor of Law (Emeritus), who now lives in Marina del Rey, Calif., with his wife, Susan French. "I had regularly given annual donations when I was earning income from the Law School, and it just seemed to me a natural fit with how I had spent my career to give something back.

"The school provided far more than a decent salary," he added. "I had great colleagues, students, and support."

While his annual giving patterns changed after he retired, "the sense of wanting to help didn't change," he said.

The third-generation academic joined the Duke Law faculty in 1975. Although he served as a visiting professor at Georgetown, Michigan, Virginia, UCLA, and Pepperdine, he said he never seriously considered moving. Duke "was the place I liked best and where I was most comfortable, so they were stuck with me."

DUKE LAW COMMUNITY HELPS BUILD HABITAT HOME IN HONOR OF ROBINSON O. EVERETT

FACULTY, STUDENTS, AND ALUMNI came together on three fall weekends to help build a Durham home in memory of Professor Robinson O. Everett LLM '59. Everett passed away in June 2009, after serving as a member of the Duke Law faculty for 51 years.

Completed in mid-December, the two-story, four-bedroom Habitat for Humanity house is now home to a family of four. The construction project was launched by the congregation of Durham's First Presbyterian Church, of which Everett was a lifelong member, with the Duke Law community playing an important role in its completion.

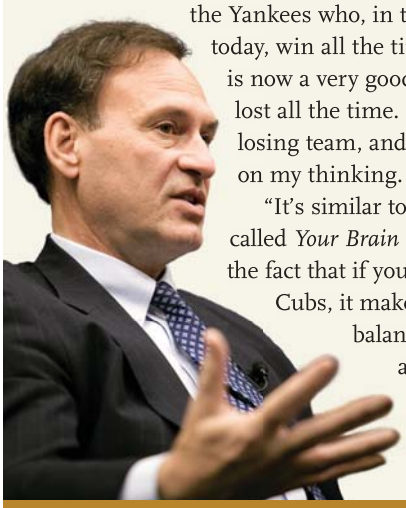
"It was a great chance for the various groups from our community to get to know one another better while helping the building rise," said Clinical Professor Theresa Newman '88, who recruited Duke Law volunteers along with Abby Faulkner Jones '11.

Lives in the Law

JUSTICE SAMUEL A. ALITO: ROOTING FOR "LOSERS" HELPS IN LAW AND LIFE

JUSTICE SAMUEL A. ALITO shared reflections on the Supreme Court confirmation process and operation and his service in the U.S. Department of Justice as U.S. attorney, deputy solicitor general, and in the Office of Legal Counsel during a lunchtime "Lives in the Law" conversation with Dean David F. Levi on Sept. 15. On campus reprising his popular weeklong seminar for upper-year Duke Law students titled Current Issues in Constitutional Interpretation, the Trenton, N.J., native noted that the Court benefited from the justices' diverse range of perspectives. "We learn a lot from each other," he said. As a devoted fan of the Philadelphia Phillies, however, he was emphatic that no similar benefit comes from having a balance on the Court between American League and National League or Yankees and Phillies fans.

"I have evidence to support that. There have actually been psychological studies of people who have grown up rooting for winning sports teams and people who have grown up rooting for losing sports teams. Now when I became a baseball fan — a Phillies fan — it was a matter of free choice. I could have been a fan of the Yankees who, in those days, in the 1950s as today, win all the time, and the Phillies, which is now a very good team, but in the '50s they lost all the time. For some reason, I chose the losing team, and I think it had a big effect on my thinking.



"It's similar to Chicago. There's a book called *Your Brain on Cubs* and it substantiates the fact that if you grow up rooting for the Cubs, it makes you smarter, more balanced, a more critical thinker, and more realistic in your expectations about life."

» To see the full interview, visit **www.law.duke.edu/magazine.**

SARAH CAMPBELL '09 BOUND FOR SUPREME COURT CLERKSHIP

JUSTICE SAMUEL A. ALITO has selected Sarah Campbell JD/MPP '09 as a clerk for the next Supreme Court term. She will begin her clerkship in July.

Campbell, currently a litigator at Williams & Connolly in Washington, D.C., called the offer a "once-in-a-lifetime opportunity." She previously clerked for Judge William H. Pryor Jr. on the U.S. Court of Appeals for the 11th Circuit in Birmingham, Ala.

"Sarah will be a great law clerk for the justice," said Dean David F. Levi, who has worked closely with faculty and the Career Center to facilitate clerkship opportunities for Duke Law graduates. Professor James Coleman, who supervised Campbell when she was a student in the Appellate Litigation Clinic, called her an "outstanding young lawyer who is well prepared for whatever she decides to pursue."

Campbell is the second Duke Law graduate Alito has selected as a clerk and the fourth selected for a Supreme Court clerkship in the past year.

»CLINIC NEWS

Wrongful Convictions Clinic

Client has conviction overturned after almost 18 years in prison

JONATHAN SCOTT PIERPOINT, a client of the Wrongful Convictions Clinic, was freed from a North Carolina prison on July 6 after serving 17 years and nine months of a life sentence for a crime he did not commit. North Carolina Superior Court Judge Charles P. Ginn overturned Pierpoint's 1992 conviction for first-degree sexual offense and dismissed the charges against him. The district attorney for Madison County, Jerry Wilson, did not oppose the motion for Pierpoint's release that was filed by the clinic.

Clinical Professor and clinic co-director Theresa Newman '88 represented Pierpoint at a hearing at which his alleged victim, his former stepson, testified. Eight at the time of the alleged abuse, the accuser recanted his story at age 13 and for more than 13 years afterward, was steadfast in his insistence on Pierpoint's innocence; he blamed his false testimony on his youth and on inappropriate influence from those charged with his care. In his order, Ginn stated that in light of the new evidence, "no reasonable juror would have found the defendant guilty by a reasonable doubt."

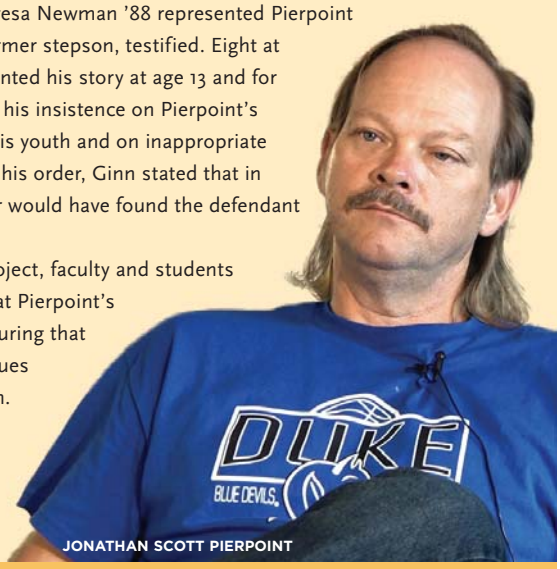
Through the clinic and Duke's Innocence Project, faculty and students worked for two years to develop their claim that Pierpoint's conviction was the result of false testimony. During that investigation, they also identified troubling issues related to Pierpoint's prior legal representation.

"At the end of the hearing, the judge told Pierpoint's former stepson that there were few people who would pursue justice for so many years and with such earnestness," said Newman. "The judge told him that he would be able to take pride in his actions for the rest of his life."

She echoed the judge's praise. "This is a young man who has been trying to get people to listen to him for years," she said. "Finally, Duke Law School listened. Once the District Attorney's Office and the judge listened, justice could be done."

Newman worked on Pierpoint's case, along with 2009 graduates Jacob Warren and Craig Porges and Christian Dysart '07, who worked on the case in his capacity as a graduate fellow with the Center for Criminal Justice and Professional Responsibility.

After his release, Pierpoint spoke to members of the Class of 2013 about his ordeal and eventual vindication, as did Shawn Massey, a clinic client who was freed last May after serving 12 years in prison following a conviction based on faulty eyewitness identification. Pierpoint was succinct in praising his representation by Duke Law students and faculty: "Duke Law rocks!"



JONATHAN SCOTT PIERPOINT

Pursuing wrongful convictions, claims of innocence at Duke Law

- In the **Innocence Project**, 49 students are investigating claims of innocence on behalf of 13 inmates; eight student case managers are overseeing the investigations.
- In the **Wrongful Convictions Clinic**, 16 students are pursuing claims of innocence on behalf of seven inmates, some of which have entered litigation.
- Faculty, staff, and students are handling several more wrongful convictions claims through Duke's **Center for Criminal Justice and Professional Responsibility.**

Get Involved: Professors James Coleman and Theresa Newman, who co-direct the center and Wrongful Convictions Clinic, welcome participation from alumni volunteers, particularly when the clinic cases are headed to court. "It really does 'take a village' to investigate and litigate a wrongful convictions case," said Newman '88. If you are interested in getting involved, please contact her at **newman@law.duke.edu.**


STEPHEN RAWSON '10

Appellate Litigation Clinic

Quick thinking secures win in oral argument

IN SEPTEMBER, the United States Court of Appeals for the Fourth Circuit vacated a conviction against a South Carolina man who was represented on appeal by Duke Law School's Appellate Litigation Clinic. The ruling, released in a written opinion, means that the clinic's client, Timothy Rice, will not have to serve a five-year term for a weapons offense added to a sentence he is serving for a drug-related conviction.

Rice was represented in his Fourth Circuit appeal by 2010 graduates Michael Gilles, Brian Kappel, Jim McKell, and Stephen Rawson; Rawson presented oral arguments in April. They were supervised by clinic co-directors James Coleman, the John S. Bradway Professor of the Practice of Law, and Senior Lecturing Fellow Sean Andrussier '92.

In the appeal of the district court's denial of his habeas petition, Rice contended that his 1990 conviction for use of a firearm during a drug trafficking offense did not meet a standard set by the U.S. Supreme Court in 1995, which requires active employment of the firearm during the drug offense. The Fourth Circuit reversed on a ground separate from the issue it flagged for briefing, ruling that the district court erred in denying the government's motion to vacate the conviction for use of a gun during or in connection with an illegal drug transaction, explained Coleman. Rawson had to address the motion to vacate issue during oral argument without knowing he would be asked to do so.

"Talk about thinking on your feet!" said Coleman.

The Appellate Litigation Clinic argued three cases before the Fourth Circuit and D.C. Circuit Courts of Appeal in the last academic year, prevailing in all three.

Rawson is working as the Dean's Fellow during the current academic year, after which he will clerk at the North Carolina Supreme Court.

Environmental Law and Policy Clinic

Students experience trial preparation, "unpredictability"

AS THEY NEARED THE END of their fall semester in the Environmental Law and Policy Clinic, students learned of a significant development favoring one of their clients. On Dec. 1, the North Carolina Department of Environment and Natural Resources (DENR) revoked a certification essential to Alcoa Power Generating, Inc.'s renewal of a 50-year license to operate dams on the Yadkin River, resulting in suspension of testimony in an ongoing hearing. The clinic has represented the nonprofit Yadkin Riverkeeper for two years in its attempt to convince the state to deny Alcoa the certification.

Testimony and emails introduced by Clinic Director Ryke Longest and lawyers working on behalf of others opposed to the certification persuaded DENR to revoke it. In a letter, the director of the DENR Division of Water Quality cited testimony that showed Alcoa "intentionally withheld information material to determining the project's ability to meet the state's water quality standards for dissolved oxygen" as reason for the revocation.

Longest and clinic students from the Law School and Duke's Nicholas School of the Environment have prepared and presented legal and scientific arguments to show granting the certificate violates the Clean Water Act and the North Carolina Environmental Policy Act.

Under Longest's supervision, 3Ls Adrian Broderick, Greg McDonough, and Andrei Mamolea appeared on behalf of Yadkin Riverkeeper in a September motion hearing. McDonough and Hillary Bunsow '11 conducted direct examination of witnesses during the recertification hearings.

"We have had a lot of exposure to both trial preparation and the unpredictability that arises when you take all that preparation to court," said Broderick. "It has been exciting to watch the trial progress and to participate as new issues arise."

Community Enterprise Clinic

Classroom project highlights Haiti relief

CONDUCTING LEGAL AUDITS of nonprofit companies is a standard part of the Community Enterprise Clinic curriculum. Through the fall semester, five clinic students challenged themselves to apply this exercise to benefit Haitian relief and development efforts by identifying and assessing high-impact nonprofits operating in the earthquake-ravaged country. The result: "Duke Law in Relief," a blog summarizing their research and inviting support for five diverse charities the students deemed fiscally responsible and effective on the ground.

After broadly researching aid organizations, 3Ls Nick Collevecchio, Tricia Hammond, Christina Jones, Greg Pollaro, and Brian Schwartz each selected one U.S.-incorporated 501(c)(3) that stood out. Each proceeded to examine the organization's public corporate and financial documents and press coverage about its work and efficacy, then interviewed principals and requested further disclosures.

"This has been an exciting project for the clinic and it was a great vehicle for several of our teaching objectives, among them the challenge of designing and implementing a corporate due-diligence process," said Clinical Professor Andrew Foster, who directs the Community Enterprise Clinic. "All in all, I am really proud of what the students accomplished and am pleased that the project advanced our educational and service goals so well."

The organizations selected are:

- **Appropriate Infrastructure Development Group** (AIDG), which funds small-scale sanitation, water, and renewable energy projects that can be built, operated, and maintained by members of the communities they serve;
- **Haitian Education and Leadership Program** (HELP), which provides comprehensive merit-based scholarships and support for students pursuing post-secondary education;
- **The Lambi Fund of Haiti,** which promotes civil society and democracy in the country through its support of grass-roots organizations and development projects;
- **1000 Jobs Haiti,** which combats poverty through the development of fair and sustainable employment programs;
- **Medical Missionaries,** which has offered health care to more than 100,000 Haitians in the Central Plateau since it was founded in 1997.

» **Visit** Duke Law In Relief at **http://dukelawinrelief.wordpress.com/**

CLOCKWISE FROM TOP LEFT: 3Ls TRICIA HAMMOND, BRIAN SCHWARTZ, CHRISTINA JONES, NICK COLLEVECCHIO, AND GREG POLLARO

The Duke Law Journal turns 60!

Duke Law Journal staff members, alumni, and guests gathered on Oct. 30 for a 60th anniversary celebration. Robinson, Bradshaw & Hinson sponsored the banquet at Durham's Parizade Restaurant.

In his welcoming remarks, Editor-in-Chief Phil Rubin '11 reflected on the hope for the publication voiced by Professor Robinson O. Everett LLM '59 in his forward to Volume 1 of the *Duke Bar Journal*, as it was then called.

"Noting the newness of the endeavor he and his students had set upon, he hoped that, 'with the support and criticism of its readers, this new legal periodical will constantly grow in stature to fulfill its high purpose,'" said Rubin. "And it has. Sixty years later, the *Duke Law Journal* is widely recognized as one of the preeminent law journals in the country." *DLJ* has been cited in 80 Supreme Court decisions, almost 200 Supreme Court briefs, 1,200 times in other federal court opinions, and at least 10,000 times in law journal articles.

"But it isn't all about citations ... it's about the relationships, the experience of doing this most detailed work with a team of dedicated peers and the lasting friendships and bonds forged during that endeavor," said Rubin.

Other speakers included Senior Lecturing Fellow and Appellate Litigation Clinic Co-Director Sean Andrussier '92, a former staff editor and mentor to many of *DLJ*'s current members, and former Editor-in-Chief James C. Dever III '87, U.S. District Judge for the Eastern District of North Carolina.


CHARLES PETTY '63 (EDITOR IN CHIEF)

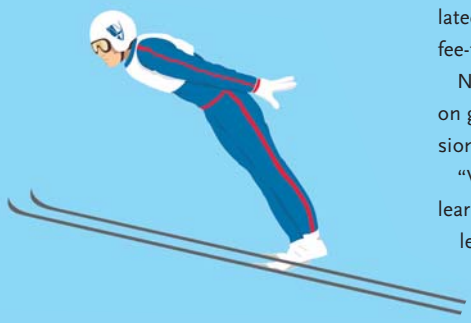

JUDGE JAMES C. DEVER III '87 (EDITOR IN CHIEF)


EDITOR-IN-CHIEF PHIL RUBIN '11


JENNIFER BANDY '12 (STAFF EDITOR) AND JACKSON BROWNING JR. '73 (RESEARCH AND MANAGING EDITOR)


ADAM DOERR '06 (EDITOR IN CHIEF), JOHN WESTER '72 (COMMENT EDITOR), JOHN MILLER '75 (ARTICLES EDITOR), AND STEPHEN LYNCH '86 (EDITOR IN CHIEF), ALL OF ROBINSON, BRADSHAW & HINSON, IN CHARLOTTE

STUDENTS TRADE SKIS FOR SKILLS DURING WINTERSESSION 2011



MORE THAN 250 Duke Law students cut their winter breaks short to return to campus for three days of professional skills development and networking as part of a new program dubbed Wintersession.

The program centered on a slate of short, intense courses that emphasized interactivity. In Deposition Practice, students took simulated depositions and received feedback from practitioners. In Capital Markets Financing and Advanced Business Strategy, students worked through a complex simulated business transaction. All courses were fee-free and worth a half-credit.

Non-credit programs included a session on getting and keeping a job and a discussion about finding work-life balance.

"Wintersession served as a chance to learn how practitioners attack specific problems that arise in the legal environment," said Claudia Ahwireng '11. "Also, the extracurricular programs were a helpful way to get some tips on professionalism and gaining confidence as a young attorney."

The most unusual program? Golf for Professional Success, in which students learned the basics of golf — and how to build business relationships on the links. The non-credit lunch session was sponsored by 1983 alumni Chris and Valerie Mason who also are sponsoring ongoing lessons for 10 students.

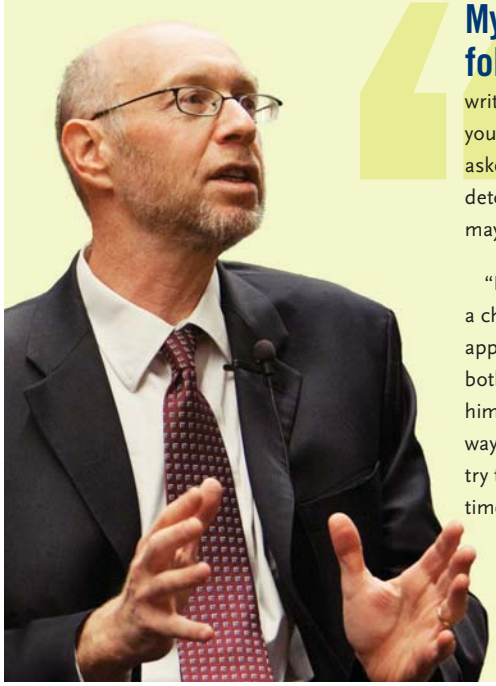
Guest instructors and speakers included two former judges, eight law firm partners, four in-house and general counsel, an associate director of enforcement for the Securities and Exchange Commission, and the chair of the U.S. International Trade Commission. Fourteen of the instructors were Duke Law alumni. Professor James Cox taught an Introduction to Accounting course using the casebook he wrote.

Dean David F. Levi sees the extraordinary student response to Wintersession as evidence of students' eagerness to build professional and practice skills.

"We want to give our students every opportunity to hit the ground running when they begin their legal careers," he said. "The courses focused on particular professional skills and covered topics that don't necessarily require an entire semester of study. And it was a fun way for them to further develop as professionals and lawyers."

Wintersession is just one of a variety of programs Levi has implemented that integrate professional development into the Law School's curriculum.

On Supreme Court Advocacy:



My preparation [for oral argument] always follows the same sequence. I do all the reading and writing that you normally would expect to do — you read all of the cases, you read the briefs, you write down questions that you might expect to get asked when you are appearing before the Court. And then I usually try to detour into a conversational phase, where I seek out people who may or may not be lawyers, but are intelligent observers of the legal scene.

"My best sounding board, when he was alive, was my dad. My dad was a chemist. He was not a lawyer, although he has two children who are appellate lawyers for the government. And he had an excellent sense of both nuance and overview. What I had to do when I explained a case to him was boil it down to its essentials and make it comprehensible in a way that avoided legal jargon. And that forced me to simplify the case and try to get to its essence. And then he would ask me questions, and oftentimes they were questions that had immense common-sense appeal but had eluded me because I had been reading too many Supreme Court cases and focusing on this three-part test or that doctrinal twist. And that process actually greatly improved, I think, my ability to get to the heart of a case in a short period of time."

— Michael Dreeben '81, *criminal deputy solicitor general at the U.S. Department of Justice, discussed advocacy before the Supreme Court of the United States with his former Criminal Law professor, Sara Sun Beale, on Nov. 1. Dreeben, who taught Appellate Practice and a seminar on Constitutional Litigation and Criminal Law at Duke Law School during the fall semester, called his 14-year-old daughter his current favorite sounding board. "She is very independent-minded and she will sometimes say that I am absolutely right and sometimes say that I am absolutely wrong. She doesn't hold anything back."*

Duke Law scholars are using empirical research tools to illuminate the inner workings of the law – and propose ways of doing things better.

MEASURING JUSTICE

by Frances Presma and Forrest Norman

IN AN ADDRESS to the Ninth Circuit Judicial Conference last September, Justice Anthony Kennedy urged legal scholars to undertake — and law journals to publish — empirical research. Doing so, he said, would significantly benefit the legal profession.

When writing opinions, Kennedy explained, Supreme Court justices make assumptions "based on what we think we know is happening in the legal profession," although most of the

> "EMPIRICAL RESEARCH is a HIGH-IMPACT AREA. It can affect the development of law, it can affect the design and construction of legal institutions, and it can affect funding decisions. It's knowledge in the service of society."
> – DEAN DAVID F. LEVI

justices themselves are years, even decades, removed from practice. By way of example, he listed several recent cases where the justices could have benefited from statistical evidence in the briefs to guide them as they deliberated or where subsequent studies could help test their assumptions.

Dean David F. Levi observes that it isn't only Supreme Court justices who find themselves operating on speculation. "If you look at any of the big questions that come to the courts and even to Congress for resolution, the decision maker is almost always in the position of having to make certain assumptions about the legal world as we know it and also about what the effect of the new legislation or rule of law will be," says Levi, who served on the federal bench for 17 years prior to becoming dean. "Many of the justices have said that the Court would welcome help in understanding whether its predictions and assumptions were right. Did the justices make the right prediction? If not, then over time the Court can correct itself."

Solid data and interpretation, says Levi, are likely to generate the reform proposals that will help courts and legislatures make necessary corrections.

Neil Vidmar has spent his career generating and analyzing data to test assumptions underlying law and policy and, where necessary, to affect change. The Russell M. Robinson II Professor of Law and a social scientist by training, Vidmar conducts intensive quantitative and qualitative examinations of jury behavior, medical malpractice litigation, punitive damages, and dispute resolution.

Vidmar was a somewhat novel hire for Duke in 1989. Today, he is gratified to find himself among a number of empiricists on the Law School faculty and in the legal academy.

Taking academic inquiry beyond the ivory tower and beyond legal doctrine has, in fact, long been a central tenet of a Duke Law education; since 1933, for example, the journal *Law and Contemporary Problems* has examined how specific areas — and doctrines — of law operate when challenged by social, economic, and political factors, among others. Empirical research has factored into almost every issue.

"Empirical research is a high-impact area," says Levi. "It can affect the development of law, it can affect the design and construction of legal institutions, and it can affect funding decisions. It's knowledge in the service of society. There is a wonderful tradition of this kind of work at Duke Law School, which was founded in the midst of the legal realism movement."

Completing the scholarly circle

All lawyers benefit from understanding empirical tools, says Professor Barak Richman. "It's wildly useful for a lawyer to understand basic statistics, theory of causality, how a theory generates hypotheses, and what data you need to prove or disprove those hypotheses," he says. "If you understand empirical tools you can litigate better, you can understand how the law itself operates and then find ways to improve the law. You can begin to look at concrete consequences of legal rules and legal actions, and you can measure them, evaluate them, and come up with ideas about how to improve them."

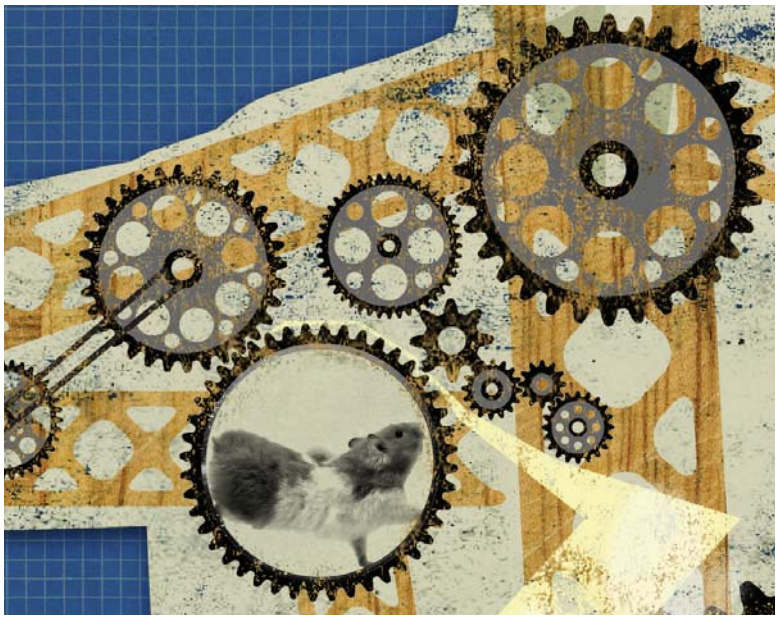
Richman, who has a PhD in business administration in addition to his JD, engages in theoretical and empirical inquiry in his own scholarship on institutional economics, antitrust, and health care policy. On the empirical side he has, among other efforts, co-authored case studies comparing the delivery of cardiac care in the United States to that in India and the relative effectiveness of white and minority physicians in communicating treatment advice to minority patients; he also has undertaken a quantitative inquiry into whether equalizing health insurance coverage actually equalizes insurance use across race and class. (See more, Page 22.)

Many of his Duke Law colleagues, like Vidmar, employ a broad range of methodologies — from observational studies and interviews to database analysis — are cross-disciplinary in their training, and collaborate with colleagues from other scholarly disciplines.

Vidmar, who serves as research director for the Center for Criminal Justice and Professional Responsibility (CCJPR), has used

his research findings to challenge assumptions made by courts, policymakers, and legislators. He recently published a major study on jury awards made in 2005 in the 75 largest county courts in the United States and, in the process, challenged the Supreme Court's concerns, voiced in *Exxon Shipping Co. v. Baker*, that juries are prone to make sky-high awards of punitive damages. (See more, Page 19.)

In recent months Vidmar also has used empirical data to argue, as a friend of the court, that death-qualified African American jurors are routinely excluded from juries in North Carolina and, in *Judicature*, that the Supreme Court should rethink its stance on eyewitness confidence articulated almost 40 years ago in *Neil v. Biggers*. He and CCJPR co-directors James Coleman, the John S. Bradway Professor of the Practice of Law, and Clinical Professor Theresa Newman '88 are now bringing empirical methods to bear on the criminal justice process that sometimes leads to wrongful convictions.



As a member of the psychology faculty, Vidmar is an example of Duke University's institutional commitment to interdisciplinarity, long embraced by its legal scholars. The tradition gives rise to countless innovative collaborations, notes Professor James Cox.

"Duke is a pretty seamless environment in terms of being able to work across disciplines and schools," he says. "It's easy for individuals who don't have quantitative skills to 'marry up' with others in the academy who do. I expect that we'll see more of these marriages happening."

Cox, the Brainerd Currie Professor of Law and an expert in corporate and securities law, is no stranger to empirical inquiry; along with a colleague at Vanderbilt Law School and others, he has assembled and analyzed a database that now includes well over 800 securities class action settlements spanning a two-decade period. He says this project, which has yielded nine well-received articles over the past five years, has sharpened his insights into the issues surrounding shareholder litigation.

"While I continue to believe that shareholder suits are often necessary, my empirical work has made me more cognizant of where the problem areas are than I ever was before," he says.

Fresh insights generally raise fresh questions, he observes. Having found in his recent study, for example, that firms exposed to securities class action settlements are "significantly more likely" to experience financial distress around the time of the settlement, Cox wonders "if things would be different if more of the settlements were paid by real individuals — the people who actually 'cooked the books' — as opposed to the corporations." (See more, Page 20.)

Two cutting-edge empiricists joined the faculty last July. John de Figueiredo, whose research interests intersect law, economics, and political science, came to Duke Law from the UCLA Anderson School of Management and School of Law. He engages in mathematical and statistical modeling of business problems; his research integrates all three disciplines in such areas as law and economics, political and legal strategy, the management of technology and innovation, and competitive strategy.

A highly prolific scholar, de Figueiredo's empirical studies have focused on such diverse topics as the role of politics in expanding the number of federal trial judges, competitive interactions between dominant and fringe firms in various industries, and the mechanics of lobbying; his extensive examination of lobbying includes how corporate lobbyists affect Federal Communications Commission policy and how state-level lobbying firms work. (See more, Page 20.)

Daniel Chen, a former Kauffman Fellow at the University of Chicago Law School, is a JD and PhD economist. A key aspect of his wide-ranging research agenda involves measuring the moral and economic consequences of judicial discretion and the effects of particular laws and regulations. (See more, Page 21.)

Among other studies, Chen is currently investigating how interactions with pharmaceutical companies affect the way physicians prescribe drugs. He is using two complex data sets — one containing prescription information for 80,000 physicians and the other culled from pharmaceutical companies' disclosures to state attorneys general regarding their payments to physicians. Another recent project involved a series of experiments on incentive schemes for motivating workers in an online labor market; Chen posed a number of questions to data-entry workers to test how their moral commitments were affected by different incentives.

Like de Figueiredo, Chen is interested in empirical scrutiny of claims made about laws and regulations. "Politicians or lawmakers will debate an issue and make claims and counterclaims, yet very often there is no data to back up either side," he says.

Cox is pleased by the increased scope of empirical inquiry de Figueiredo, Chen, and others are bringing to Duke.

"In finding individuals who have an interest in law and legal institutions and come to that with good quantitative skills, we're in step with a movement that has been going on across the legal academy," says Cox. "We are all informed by the data."

> "IF YOU UNDERSTAND EMPIRICAL TOOLS YOU CAN LITIGATE BETTER. … You can begin to look at concrete consequences of legal rules and legal actions, and you can measure them, evaluate them, and come up with ideas about how to improve them."
>
> – PROFESSOR BARAK RICHMAN

Excellence in theory, however, remains critical to the enterprise, he points out.

"Empirical research completes the circle at Duke. You can't do good empirical research unless you have a good hypothesis, and hypotheses come from good theory," says Cox. "But at some point, you have to test the hypothesis. You have to 'eat your own cooking,' so to speak. To me, it makes things more complete."

Formulating the right questions

Duke is home to two of the leading scholars in the empirical study of the judiciary, Professors G. Mitu Gulati and Jack Knight. Gulati, whose diverse scholarship has addressed such issues as sovereign debt, the evolution of contract language, and the history of international financial law, has co-authored several studies designed to measure judicial performance, among other empirical investigations relating to judicial behavior; one 2009 study challenged the common assumption that judges are underpaid through the compilation and analysis of a unique data set of judicial rulings from the high courts of every state between 1998 and 2000.

Knight, a political scientist and legal theorist, examines judicial behavior and decision making as part of a broader research agenda focused on institutional design and governance. Among other books and articles on the subject, he is the co-author of the award-winning 1997 book *The Choices Justices Make*, which has been particularly influential in the field.

Levi, Gulati, and Knight, who are research and teaching collaborators, have convened two interdisciplinary workshops at which legal scholars, social scientists, and jurists have considered exactly what questions can and should be studied to help understand and possibly improve judicial decision making. Their approach reflects their firm belief that the quality of all empirical research is predicated on asking the right questions.

The first, held in February 2009, examined the often-controversial efforts by social scientists and others to develop a body of empirical evidence regarding the way judges make decisions; proceedings from the conference appear in an April 2009 symposium issue of the *Duke Law Journal*. A September 2009 workshop, funded by a National Science Foundation grant and co-convened by Professor David E. Klein of the University of Virginia, added the perspectives of scholars of jurisprudence to help determine "whether different theories of judging could lead us to ask different empirical questions and lead to a new understanding of judicial decision making," Levi explains. (Gulati and Knight report and reflect on how judges view their profession and empirical measurement of their work in "Talking Judges," http://scholarship.law.duke.edu/faculty_scholarship/2213/.)

They believe in listening to the skeptics and, in this regard, Levi notes the significant contributions of Ernest Young, Duke's Alston & Bird Professor of Law. In a forthcoming paper, Young criticizes the "attitudinal model" of judicial behavior, prevalent among social scientists who attempt to empirically study the field.

Positing that judicial officers make decisions dictated primarily by their ideological, policy, and political preferences, without feeling constrained by legal precedents, "the attitudinalists constantly strip judicial decision making of all nuance, repeatedly relying on crude and, frankly, unrealistic definitions of law, ideology, and coding criteria that elide the complexities of real cases," Young writes. He suggests that empiricists can make a more useful contribution to the study of judicial behavior in studies concentrated on particular subject areas or focused on improving traditional legal analysis.

Moving beyond the casebook

Familiarity with empirical research and methodologies is essential for students heading into careers in law and business, Levi says, recalling that he often presided over statistically complex cases as a judge.

"The practice of law is fact intensive," he notes. "When our students move into practice, most will find that what is confusing or difficult, and what is at issue in any particular case, is not so much the law itself, but its factual context. They are going to spend a lot of time trying to understand the facts — what happened in a particular transaction or how an industry or a market works. They are frequently going to be working with experts who are empiricists and who study certain areas of the economy or of the society, and they will need to understand statistical studies. These are just basic tools that a lawyer needs to know."

De Figueiredo, who teaches classes relating to business and administrative law strategy, says that introducing students to analytical methods and teaching them to spot patterns in data helps them better serve their clients.

"If your client is a corporation, you need to understand what they're doing. Not all lawyers need to be able to do the statistics, but they need to be able to understand them to act on their clients' behalf and make good decisions," he says. "Hugely important legal issues are being determined by experts using statistics. If lawyers can't convey their clients' position relative to these issues clearly, they're at the mercy of confusion."

De Figueiredo incorporates empirical research into his classes, and says the Law School's institutional appreciation for the importance of economic and empirical study in legal education was a key factor in his decision to come to Duke.

"Duke Law School has made a decision to teach lawyers to learn the law not just on a case-by-case basis, but by learning to recognize the patterns in the law," he says.

In Empirical Methods and the Law, Chen teaches upper-year students the tools of statistics and econometrics that are increasingly used in litigation and regulation. As students undertake a term-length project examining the consequences of judicial discretion in legal areas of their choosing, they learn how to critically evaluate claims about law and public policy and execute an evaluation in a simulated partnership with an expert witness or government consultant.

Courses and seminars taught by other faculty, such as Vidmar and Professor of the Practice Bill Brown '80, involve deep dives into statistical and economic analysis, decision analysis, game theory,

Law and Contemporary Problems: Re-examining doctrine

"... DOCTRINE IS NOT SELF-EXECUTING, but is part of a vast and intricate system on which we rely for the realization of our doctrine's objectives," Professor David F. Cavers told Duke Law students in 1988, explaining the origin of and vision for *Law and Contemporary Problems*. Cavers helped establish the Law School's oldest and most interdisciplinary journal in 1933.

"As scholars," he continued, "we have tended too long to concentrate on the formulation of the doctrines and their judicial application, and the neglect of imperfections and inadequacies in the implementing system. ... Many of the discontents that we confront in law today have their roots in neglect of the system problems. Our compelling attention needs to be drawn to the defects in the system and opportunities for their correction, thereby often requiring a re-examination of doctrines."

Since its founding — and under the oversight, for decades, of the late Professor Mel Shimm — *L&CP* has continually published articles featuring empirical research that reveal how law and policy actually operate. They are collected in symposium issues that allow for topics to be examined from multiple and interdisciplinary perspectives — law, science, social science, and humanities, to name a few.

"*L&CP* is one of the few legal publications that we know for a fact is routinely read by scholars outside of the legal academy," says Neil Vidmar, the Russell M. Robinson II Professor of Law and a professor of psychology. Vidmar served as special editor of a 2009 issue titled "Conventions in Science and Law," which explored the convergence and disjunction between legal and scientific thinking.

"A 2010 issue includes sociological and psychological research pertaining to the corporal punishment of children," he notes. "In 2008, a whole issue was devoted to the work of legal scholar Marc Galanter and examined the impact of empirical research in our understanding of law in its social context. A 2006 issue was devoted to the impact of behavioral genetics on the criminal law, and in 2003 an issue explored the over-representation of minorities in the criminal justice system." Still other issues have examined the role of science in the regulatory process (2003), children as victims and witnesses in the criminal trial process (2002), and distributional issues in health care (2007).

law and economics, and the use of social science evidence in law, with some involving simulation exercises that demonstrate their use in different areas of practice.

In order to both illustrate the consequences of judicial opinions and to introduce their students to social science research tools applicable to law, Levi, Knight, and Gulati launched a classroom examination of the Supreme Court's 1984 ruling in *United States v. Leon* in their seminar on judicial behavior; they invited police officers, federal magistrate judges, and other legal actors to share with students their firsthand experiences in applying the *Leon* criteria for the "good faith" exception to the exclusionary rule for evidence.

The central aim of the exercise was to demonstrate the consequences of the *Leon* ruling, Knight explains. "When a ruling starts to filter down from D.C., what effect does it have on the ground in the day-to-day lives of the people who have to enforce the laws and implement the decisions? We wanted our students to consider what effect they really have, not to simply *assume* they are important." The three professors eventually decided that the classroom exercise raised issues worthy of deeper study and launched their own research project. (See more, Page 24.)

For Levi, the growth in empirical activity at Duke Law is another facet of the school's deepening partnership with the profession, bringing the practice and practitioners into the classroom both literally and figuratively in new and exciting ways.

And, having himself become an empiricist in both his teaching and scholarship, Levi says the interaction among the faculty and students who are embracing empirical study has been intellectually invigorating, providing another dimension to the sort of scholarly engagement and collaboration that is a Duke Law hallmark.

"Empirical studies engage faculty who are doing exciting scholarship and engage members of the profession because they are looking at how the legal system works," he says. "It's a great place for a law school that is training professionals and that is trying to have an impact on law reform and the way we understand our legal system. It's important to young lawyers as part of their training, it's important to our alumni and to the legal profession, and it's a tremendous area for pure scholarship. It brings everything together."

Empirical expertise now standard part of library support

Supporting empirical research at Duke Law School has been a key factor in the recent evolution of the J. Michael Goodson Law Library, beyond the physical renovation completed in 2008. In addition to finding an array of spaces for easy collaboration, faculty and students can access technical and research support at a single-stop service desk. They will also find personnel with expertise in empirical methodologies.

"We have tried to establish a model where we can support faculty who are engaged in empirical research by having someone on staff who is skilled in the tools and methods of empirical research," says Senior Associate Dean for Information Services Richard Danner, the Rufty Research Professor of Law, explaining the library's empirical research associate position, which was established in 2007. To date the position has been held by individuals at advanced stages of graduate study in political science. Legal reference librarians also function as research associates for faculty — research partners, in effect — as do student research assistants trained through a library-run program.

How do state lobbyists affect policy?

How do securities class action settlements affect targeted firms?

Do sexual harassment laws decrease gender inequality in the workplace?

Do insurance expansions hurt those they are designed to help?

A FEW GOOD QUESTIONS

How does the law work — and how can it work better? Here are some of the myriad inquiries members of the Duke Law faculty have recently undertaken.

Who is more precautionary, the United States or Europe?

Does variation in process between federal appellate courts affect equity and outcome?

Are juries prone to make excessive awards of punitive damages?

NEIL VIDMAR'S LATEST STUDY addresses a concern raised by the Supreme Court in its 2008 ruling in *Exxon Shipping Co. v. Baker*: that juries are unpredictably prone to make outlandish awards of punitive damages that exceed the Court's guideline of a single-digit ratio to compensatory damages.

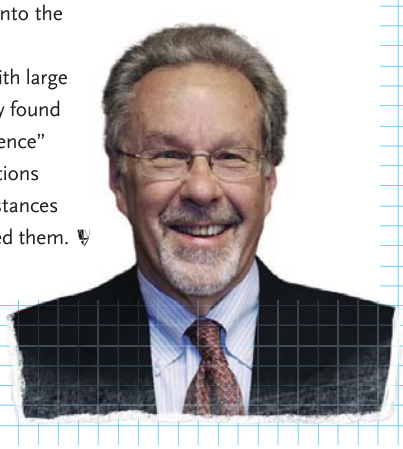
Vidmar, Duke's Russell M. Robinson II Professor of Law and a professor of psychology, and Mirya Holman, an assistant professor of political science at Florida Atlantic University, say the Court's concern is misguided. Their audit of punitive damages awarded by juries in 2005 appears in the *Suffolk University Law Review.*

See: The Frequency, Predictability, and Proportionality of Jury Awards of Punitive Damages in State Courts in 2005: A New Audit, 43 *Suffolk University Law Review* 855–885 (2010)

As their primary data set, Vidmar and Holman used the U.S. Bureau of Justice Statistics (BJS) 2005 Civil Justice Survey of State Courts, which provided information on all completed civil jury cases from the 46 largest county courts in the country. The BJS data recorded 6,427 civil jury trials, in which punitive damages were requested in pleadings 567 times, or in 8.8 percent of the cases. Punitive damages were awarded in 131 of the trials — 2 percent of all trials and 23 percent of cases where punitive damages were requested in the pleadings. Only 14 punitive award verdicts exceeded a single-digit ratio guideline. Strikingly, although the controversy about punitive damages frequently involves claims about such awards in product liability cases, except for a single asbestos case there were no other punitive awards for product liability, they note. The representative general patterns revealed by the BJS data were consistent with other quantitative surveys on jury awards of punitive damages conducted by Vidmar and others.

Noting that the Supreme Court has ruled that the appropriateness of awards is a qualitative, or subjective, judgment, Vidmar and Holman, who served for two years as the Goodson Law Library's inaugural empirical research associate, supplemented the BJS data with a qualitative analysis of punitive damage awards from nine states. This additional database provided details about the disputes and procedural matters associated with the trials and offered insights into the litigation outcomes.

In fact, in the 11 cases identified with large punitive to compensatory ratios, they found what they called "arguably clear evidence" pointing to the reprehensibility of actions by the defendant — the very circumstances where the Supreme Court has allowed them.



How do securities class action settlements affect targeted firms?

JAMES COX'S RECENT PROJECT focuses on the institutional cost of securities class action lawsuits — the impact of suits and settlements on defendant firms' financial vitality. The study, co-authored with Lynn Bai of the University of Cincinnati College of Law, is the latest in an ongoing, multi-year collaboration between Cox, Duke's Brainerd Currie Professor of Law, and Randall S. Thomas, the John Beasley Professor of Law and Business at Vanderbilt University.

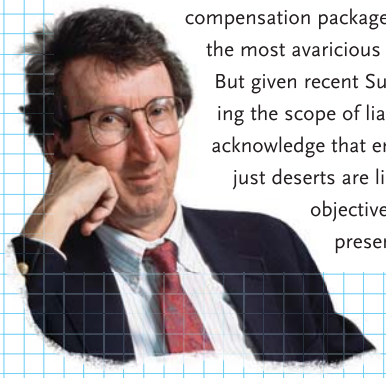
Cox and his colleagues analyzed the impact of securities class actions on the financial health and stock market performance of 480 companies that were defendants in settled lawsuits whose class period commenced after 1996, one year after Congress passed the Private Securities Litigation Reform Act of 1995. After establishing the firms' financial performance at set intervals using a range of metrics, including stock returns, they made comparisons with the performance of similar companies.

Settlements did not significantly affect defendants' sales opportunities, the investigators found, but the companies operated at reduced efficiency while the lawsuits were pending. Most significantly, the defendant firms were found to experience liquidity problems after settlement, and a worsening overall level of financial distress. In fact, 43 of the companies in the sample filed for bankruptcy protection during the study time period.

See: Lying and Getting Caught: An Empirical Study of the Effect of Securities Class Action Settlements on Targeted Firms, 158 *University of Pennsylvania Law Review* 1877–1914 (2010)

The clear correlation between settlements and financial distress strongly supports the view that suits are better directed towards the individual executives, officers, and advisers who were responsible for the fraudulent representations that spawned the lawsuits, argue Cox and his colleagues.

"Suits so directed do not pose the same burdens on the subject corporation as do suits whose prosecution and ultimate settlement are focused on the corporation itself," they write, noting that lucrative executive-compensation packages "yield a financial target worthy of even the most avaricious class of plaintiffs and their attorneys." But given recent Supreme Court jurisprudence narrowing the scope of liability in securities fraud litigation, they acknowledge that entity liability is likely to continue, "and just deserts are likely to remain an unfulfilled public policy objective founded on data such as what we have presented here."



How do state lobbyists affect policy?

HOW LOBBYING WORKS has proven to be a fertile avenue of scholarly inquiry for **John de Figueiredo,** one that already has resulted in seven published articles and a massive, growing database.

Among the findings yielded by a data set that currently contains more than 50,000 observations: Lobbying during budgetary sessions is much more effective than lobbying close to election time and, contrary to popular belief, the mere act of lobbying alone does not result in earmarks, or legislative provisions directing funds to specific projects.

"In fact, lobbying for earmarks is only effective when it is coupled with a representative of your district who is also a powerful legislator," explains de Figueiredo, a leading scholar in the areas of political and legal strategy, innovation management, law and economics, and competitive strategy who joined the Duke Law faculty last July. "Powerful legislators will sometimes craft earmarks with virtually no lobbying. Representation by powerful legislators plus lobbying results in lots of earmarks [for a legislative district]."

See: Academic Earmarks and the Returns to Lobbying, Working papers 4245-02, Massachusetts Institute of Technology (MIT), Sloan School of Management (2002)

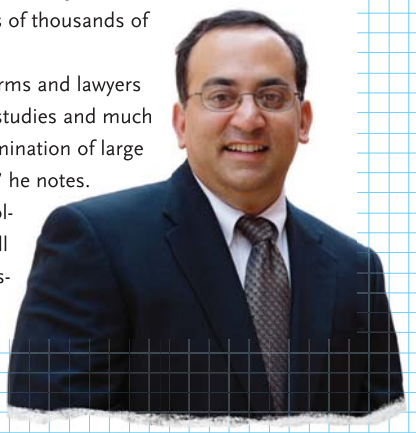
Why Is There So Little Money in U.S. Politics? *Journal of Economic Perspectives* 17, 1 (Winter 2003)

De Figueiredo engages in mathematical and statistical modeling of complex problems to spot, analyze, and interpret patterns of behavior that affect business and law in myriad ways; he has compiled databases that illuminate the workings of courts, business strategy, the management of technology and innovation, competitive strategy, and administrative law, to name just a few.

To build his own data set on lobbying expenditures, de Figueiredo interviewed lobbyists, discovering that many had never examined exactly why the most effective strategies worked. Choosing to focus at the state level, he gathered aggregate data from all 38 states that monitor lobbying, and then began collecting data on individual lobbyists.

"That way I could see how much AT&T lobbied in Massachusetts in 1991 versus 1992, and compare that with Oregon in the same years," he says. De Figueiredo anticipates eventually collecting hundreds of thousands of observations based on the activities of thousands of firms. Why?

"There's very little written on how firms and lawyers actually lobby. There are a lot of case studies and much anecdotal evidence, but very little examination of large data sets to find patterns in lobbying," he notes. "When you want to actually change policy, how do you do it? This data set will allow us to answer this and other questions in a systematic manner."



Do sexual harassment laws decrease gender inequality in the workplace?

SEXUAL HARASSMENT LAWS reflect one attempt by legislators to make the workplace friendlier to women; sexual harassment is widely thought to be a major impediment to women's participation in the labor force in both developed and developing countries, says Professor **Daniel Chen.**

"But we don't know if this has been good or bad for women. Some say that forbidding harassment will make women happier at work, they will be more likely to come to work, and along a number of different dimensions gender inequality would decrease," he says.

"There are scholars who say, 'If you forbid sexual harassment, these women become potential litigants. Firms might not hire as many women, or they might sweep things under the rug or otherwise try to avoid implementing programs or procedures to reduce sexual harassment.'"

Chen's recent study examines the effects of sexual harassment decisions to see if they had the labor market consequences theorists hoped for. Along with co-author Jasmin Sethi, an associate at Mayer Brown in Washington, D.C., he amassed a database of legal decisions in sexual harassment cases and information related to the effects of sexual harassment laws, such as the number of women in the workplace, numbers of women in management positions, wage equality statistics, and implementation of human resources policies regarding sexual harassment.

See: Insiders and Outsiders: Does Forbidding Sexual Harrassment Exacerbate Gender Inequality? at http://www.duke.edu/~dlc28/papers.htm

Sexual harassment laws do decrease gender inequality — to a degree, the investigators report in a forthcoming paper.

"We found that these laws actually do increase gender equality in a number of areas," Chen explains. "But we find that this effect is reduced for small firms, probably because they don't have the resources to develop the kinds of programs intended for curbing the problem."

In all of his wide-ranging and highly sophisticated empirical research, Chen examines how laws and legal theories translate into actual human behavior.

"Too frequently, there has been very little empirical scrutiny of claims made by legal scholars and judges about the effect of laws and regulations. When others make contradictory counterclaims, we don't really know what is true," says Chen. "I develop tools to verify or disprove these claims."

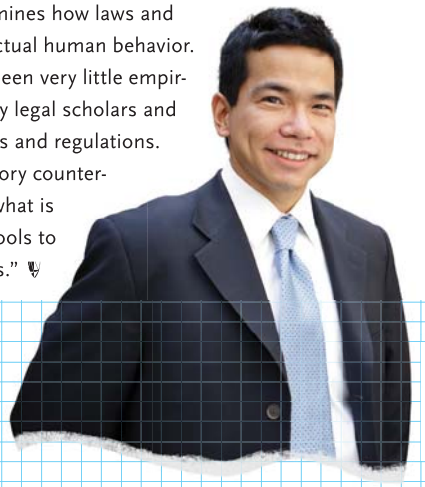


Photo: Chris Lake

> "TOO FREQUENTLY, THERE HAS BEEN VERY LITTLE EMPIRICAL SCRUTINY of claims made by legal scholars and judges about the effect of laws and regulations. When others make contradictory counterclaims, we don't really know what is true. I develop tools to verify or disprove these claims."
>
> —PROFESSOR DANIEL CHEN

MEASURING JUSTICE
A FEW GOOD QUESTIONS

Does variation in process between federal appellate courts affect equity and outcome?

THE FEDERAL RULES OF APPELLATE PROCEDURE establish a set of rules to govern how appeals are handled but leave room for enormous variation when it comes to the processes by which cases are to be shepherded through the courts. Whether or not procedural disparities and differences are fair is the question at the root of Lecturing Fellow **Marin Levy's** current empirical study.

Over the past year, Levy has been travelling to federal appellate courts, interviewing judges and clerks of court in order to document exactly how they handle cases after they are filed.

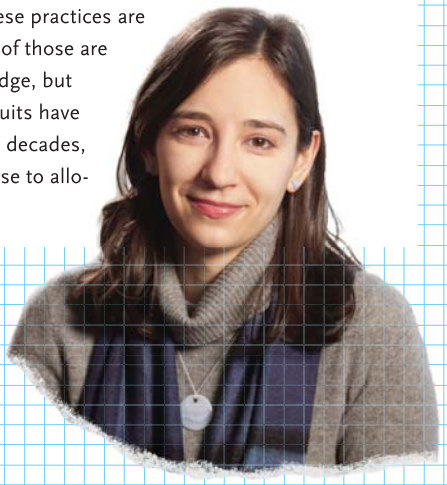
"How many people are reviewing each case?" asks Levy, who clerked for Judge José A. Cabranes on the United States Court of Appeals for the Second Circuit prior to joining the Duke Law faculty in 2009. "Do staff attorneys, rather than judges, look at the cases and do much of the work? Will there be oral argument, or will a case be treated in some other way?" The answers to those questions get to the heart of her inquiry, she says.

"Is it a problem that you could have a litigant in one circuit who is getting oral argument, who is getting a lot of judicial time and investment in the case, whereas a similarly situated litigant, just by virtue of being in a different circuit, could get none of those things?"

To date, Levy has conducted interviews about process in the D.C., First, Second, Third, and Fourth Circuits.

"What I've discovered is that there are two things that really shape the practices of any given circuit," she says. "One is the docket. For example, the Second Circuit had a huge influx of immigration cases, and as a result created a non-argument calendar — a track for handling immigration cases without oral argument.

"Additionally, what drives these practices are the values of the circuit. Some of those are dictated by the current chief judge, but you also find that different circuits have different traditions dating back decades, and that affects how they choose to allocate judicial resources."



Do insurance expansions hurt those they are designed to help?

MOST OF AMERICAN HEALTH POLICY is premised on expanding health insurance to the currently uninsured. But research by Professor **Barak Richman** suggests that this strategy might be ineffective at best and perhaps even harmful to intended beneficiaries.

In a widely cited 2007 *Health Affairs* article, "Insurance Expansions: Do They Hurt Those They Are Designed to Help?," Richman studied a socioeconomically and racially diverse population that enjoyed comparable health insurance benefits. He found that whites and people with higher incomes used their insurance to help pay for certain outpatient health services significantly more than did their African American, Asian, and low-income counterparts. For pharmaceutical and mental health insurance, for example, whites were shown to receive "nearly four times the annual insurance dollars that African Americans expected to receive and more than three times the dollars that Asians expected to receive," Richman writes.

"This means that whites and high-income individuals are getting more insurance dollars than their non-white and lower-income co-workers," says Richman. "At the very least, it suggests that efforts to expand insurance coverage are more likely to benefit the affluent, or those who are not the targets of the policy."

Given the general consensus among health economists that employees themselves are the ones who ultimately bear the cost of health insurance premiums in the form of lower wages, these findings suggest that forcing low-income and minority employees to pay insurance premiums for more affluent whites amounts to a regressive redistribution of wealth. The findings, he notes, "raise serious questions about the efficacy and fairness of mandating mental health and pharmaceutical benefits."

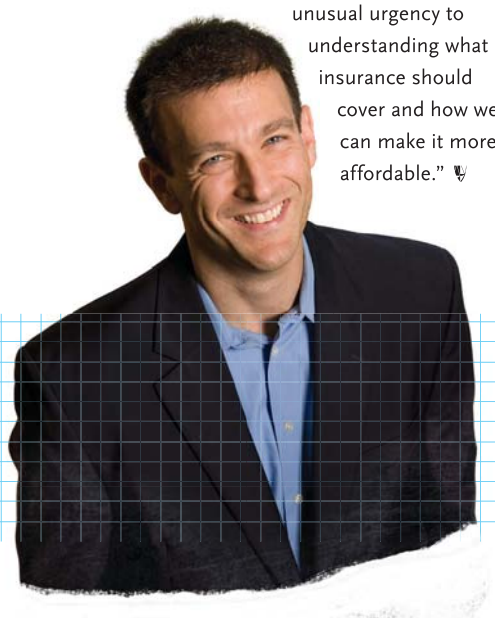
In follow-up research on mental health insurance, Richman examined differences in how individuals sought mental health care and measured whether the additional consumption of mental health services by higher-income and white insureds led to better health. He found little

evidence that the specialized outpatient care consumed by white and high-income employees achieved results substantially different from that achieved by those who instead sought care from their primary care physicians.

"[T]here is no statistically significant evidence that receiving outpatient care from a mental health care provider reduces the likelihood of adverse mental health," Richman writes in a working paper. "[Yet] white and affluent workers take greater advantage of the mental health insurance benefit than their nonwhite and lower-income coworkers, [who instead] are significantly more likely to seek care from general practitioners than from mental health care providers. ... [T]hese results suggest that expanding mental health benefits increases regressive and undesired wealth transfers [and] raise serious questions about the provision of mental health insurance."

See: Insurance Expansions: Do They Hurt Those They Are Designed to Help?, 26 *Health Affairs* 1345–1357 (Sept./Oct. 2007)

Richman acknowledges that his empirical findings "raise as many questions as they answer" and might come at a particularly critical time. "President Obama's Affordable Care Act means that many more Americans will have health insurance in the years to come," he says. "That is an extremely positive development, but it brings unusual urgency to understanding what insurance should cover and how we can make it more affordable."



Who is more precautionary, the United States or Europe?

WHETHER EUROPE OR THE UNITED STATES adopts a more precautionary stance regarding risk regulation has been a matter of intense debate for decades. With risk now a global concern and demands on policymakers to take protective action on such risks as chemicals, climate change, food, finance, and terrorism, the inquiry has implications for future regulatory research and policy and could illuminate appropriate areas for international dialogue.

Jonathan Wiener, Duke's Perkins Professor of Law, professor of public policy, and professor of environmental policy, undertook a thorough, multi-year examination of the question, along with a team of transatlantic legal scholars, scientists, and experts in specific areas of risk and regulation. He is the co-editor of a new book about the project, titled *The Reality of Precaution: Comparing Risk Regulation in the United States and Europe* (RFF Press/Earthscan, 2010, with Michael. D. Rogers, James K. Hammitt, and Peter H. Sand, eds.).

The project included what may be the most comprehensive and methodologically rigorous comparative study of relative precaution in risk regulation conducted to date. In addition to offering a dozen in-depth case studies on salient risks, Wiener and his colleagues developed a matrix of almost 3,000 risks identified in the scholarly literature over the last three decades and categorized them by type of source (such as alcohol and tobacco, terrorism and war, consumer products, and pollution) or by cause and end point — ecological, health, or safety. They randomly selected 100 for thorough analysis.

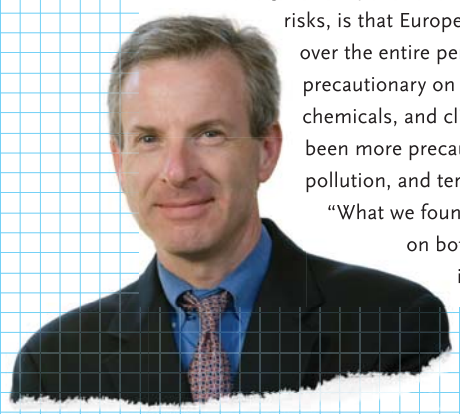
For each of the 100 sampled risks, they scored the relative stringency of regulation in Europe and the United States from 1970 to 2004; their analysis of the distribution and trends in these scores can be found in the chapter titled "A Quantitative Comparison of Relative Precaution in the United States and Europe, 1970–2004."

"The polity that regulates a risk earlier and more stringently than the other was considered more precautionary," they write.

See: A Quantitative Comparison of Relative Precaution in the United States and Europe, 1970–2004, in *The Reality of Precaution: Comparing Risk Regulation in the United States and Europe* (2010)

Overall, they find the United States and Europe to exhibit rough parity in relative precaution over the last four decades, with occasional divergence on particular risks. "The most common pattern, exhibited by 33 risks, is that Europe and the United States are equally precautionary over the entire period," they write. While Europe has been more precautionary on risks such as genetically modified foods, toxic chemicals, and climate change, they find that the United States has been more precautionary about risks such as mad cow disease, air pollution, and terrorism.

"What we found is that the reality of precaution is very selective on both sides of the Atlantic, with frequent borrowing of ideas," says Wiener.



How has the Supreme Court's ruling in *United States v. Leon* affected search warrant practices in federal district courts?

IN ITS 1984 RULING IN *UNITED STATES V. LEON*, the Supreme Court stated that a warrant obtained in good faith from a neutral magistrate cannot later be attacked for lack of probable cause; the onus is on the defendant seeking to undermine the warrant to prove that police (or prosecutors) actively misled the magistrate or that no reasonable magistrate would have issued it.

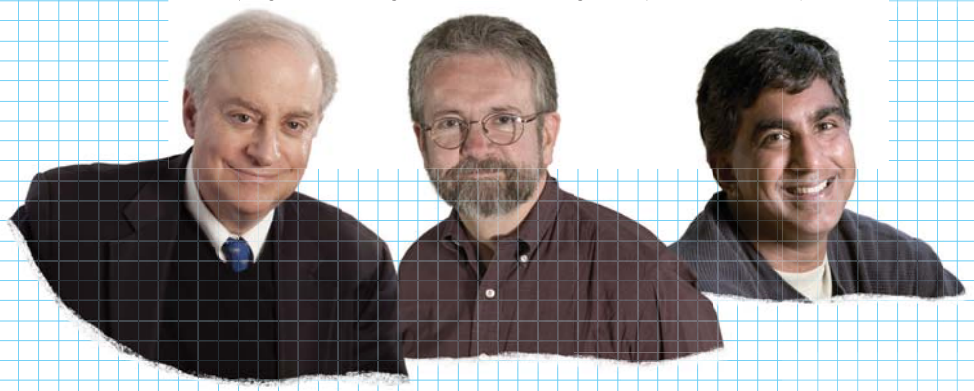
Dean **David F. Levi** and Professors **Jack Knight** and **Mitu Gulati** (pictured left to right, below) are investigating how *Leon's* "good faith" exception to the probable cause rule may have changed the practices of police, prosecutors, and magistrate judges seeking, processing, and issuing warrants and, more broadly, the impact of a Supreme Court opinion over time.

The three are examining all warrants issued in the U.S. District Court for the Eastern District of North Carolina during specific intervals before and after *Leon* until the present. They also are checking returns on the warrants and conducting supplementary interviews with judges and magistrate judges about their practices.

Knight points out that in his *Leon* concurrence, Justice Harry Blackmun invited exactly the sort of inquiry he and his colleagues are now undertaking. "He speculated about the implications of the assumptions they were making and said they would have to be tested in the 'real world' of law enforcement." If they resulted in a "material change" in police compliance with the Fourth Amendment, wrote Blackmun, the Court would reconsider the exception.

Levi, who had firsthand experience interpreting and implementing *Leon* as a district court judge, offers an example. "Because of the good faith exception, it's much less likely that the probable cause will ever be litigated. Does that mean that the judges who sign warrants have a different role now that they are the final line of defense?

"What about the U.S. attorney's office? Do prosecutors in effect certify the warrants before signing off? We're finding that in many districts, magistrate judges are looking for some form of sign-off by the U.S. attorney."



Online and open access: considering the future of law journals

PHIL RUBIN '11, the *Duke Law Journal* editor in chief, concedes that paper-and-ink issues of his and other venerable law journals are likely on their way out.

"I think everybody recognizes, deep down, that eventually the printing presses will stop, not because of some ideological view, but because it's going to become the overwhelmingly sensible thing to do," he said. "The question everyone is asking is about timing and preparation. There is a lot of preparation for going solely online. You want to really understand online publishing. If that's going to be the only way you present your journal, it has to be really good."

Rubin and other law journal editors got a leg up on preparation — and aired concerns — during a daylong workshop on open-access best practices, held at Duke Law School on Oct. 22. Co-sponsored by Duke's J. Michael Goodson Law Library and Center for the Study of the Public Domain, along with the Harvard Law School Library, the workshop featured editors, law librarians, and leading thinkers on open access, legal, and digital publishing; in addition to those in attendance, students and scholars at Harvard and elsewhere participated via videoconference and social networks.

Held during national Open Access Week, the workshop advanced the principles articulated in the 2009 Durham Statement on Open Access to Legal Scholarship, explained Richard Danner. Duke Law's senior associate dean for information services and Rufty Research Professor of Law, he was the workshop's chief organizer. Developed at a Duke Law meeting by 12 library directors from the country's top university law libraries, the Durham Statement calls for making law journal articles "available in stable, open, digital formats in place of print."

"The Durham Statement was meant as a call for people to start thinking about this," Danner said. "It had two purposes — to call for making journals openly accessible, and to hasten the move toward

"The Durham Statement ... had two purposes — to call for making journals openly accessible, and to hasten the move toward online-only journals." — Professor Richard Danner

online-only journals. The idea was that law journals and deans would say, 'This is a really great idea. We should stop wasting all this money printing things people look at online.'" All leading law journals publish electronically as well as in print, he observed.

"The workshop promoted a discussion of open-access issues and provided some fairly practical guidance to law review editors about issues in this digital era when, regardless of whether they continue to print or not, electronic publishing platforms, access, and preservation all need to be addressed," Danner said.

Phasing out print — slowly

Rubin and his counterparts from the *Texas Law Review*, *Georgetown Law Journal* and *Northwestern University Law Review* agreed that a phase out of print is inevitable, though not imminent, during one panel discussion. Still, said Rubin, individual journal editors are reluctant to make the first move, fearing a loss of subscribers and status among readers and scholars.

"We still have authors who would choose us over an online-only journal because of the prestige that they associate with print, which is not something, necessarily, that we have control over," said Stephanie Kissel, editor of *Northwestern University Law Review*.

Danner cited preservation as another frequent argument for sticking with print.

"There is still no stable, permanent way to preserve digital media, and so you have people making the argument for printing these things because that's the only way you can be sure they're going to be here in 50 years," he said. "Taken on its own that's true, but there are ways to do it. The media change, but what that means is that you have to keep moving what you're storing onto different media. I think that's inevitable — the next thing isn't going to be the last, permanent, storage medium."

Adjusting skill sets for the digital era

Paolo Mangiafico, Duke's director of digital information strategy, outlined the various considerations law journal editors need to assess as they consider online-publishing platforms.

"What's your budget? What kind of tech support will you have available? What kinds of workflows do you want integrated into your delivery platform? Some platforms have pretty extensive workflow built in for the editorial process, but some people prefer the more informal way, which is to communicate via emails."

Rubin identified the short tenure of law journal editors as an obstacle to making large-scale transitions, particularly when the transition presents a complicated set of time-consuming tasks. "You're 'new' the whole time, and by the time you're not new, you graduate and you leave," he said. Journal editors would be wise to experiment with small-scale change, or at least think through the implications of making changes, during their time helming journals.

"Then you have to leave a lot of 'notes to my successor,'" he said.

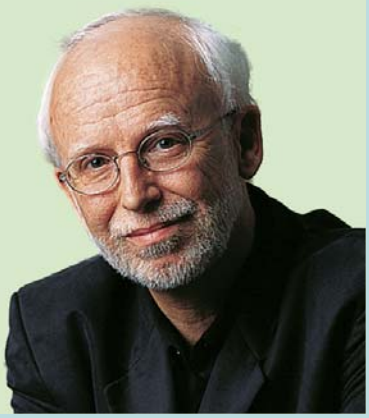
— Forrest Norman

Open access at Duke Law

UNDER PROFESSOR RICHARD DANNER'S leadership, the Law School became, in 1998, the first in the country to make all the articles published in its law journals — including back issues — freely accessible online. In addition, unlike most other law reviews, Duke's journals explicitly allow authors to post articles published in the journals without restriction on freely accessible third party web sites, as well as on Internet sites under their own control.

In 2005, Duke Law furthered its commitment to open access by establishing an online archive of faculty scholarship, providing free access to the majority of articles published by Duke Law faculty. The contents of that archive are now the foundation of the Duke Law Scholarship Repository, which includes the text of lectures delivered at Duke Law, webcasts from scholarly presentations and conferences, publications of Duke Law's research centers, Duke Law student works, and more. Hosted on Berkeley Electronic Press (bepress) and created in partnership with Digital Commons, the Duke Law Scholarship Repository features advanced search functions and cross-indexes scholarship through other bepress sites and Digital Commons repositories.

By making scholarship as easily and widely accessible as possible, Duke does a service to the authors who publish in its journals, said James Boyle, William Neal Reynolds Professor of Law. "Imagine spending a year writing an article and discovering after you finished it that only someone with a sophisticated library or an expensive subscription could read it," he said. Duke's commitment to open access increases readership for authors, which include faculty from other schools as well as student scholars, and can contribute to higher citations for Duke-published work. "It's a huge benefit to both our students and to faculty authors," Boyle said.



PROFESSOR RICHARD DANNER

"I'm a better athlete, a better-positioned sports businessman, and a more intelligent individual because of Professor Haagen."
— Paul Harraka, Duke junior and member of NASCAR's Drive for Diversity Program

Paul Haagen: Going the extra mile for athletes

IN HIS ROLE AS CHAIR of the Duke Student-Athlete Counseling Committee, Professor Paul Haagen has advised members of all four men's basketball national championship teams including, most recently, Jon Scheyer and Brian Zoubek. However, Haagen's responsibilities extend beyond the hardwood. During more than 20 years as committee chair, he has helped a wide range of athletes prepare for professional sports careers: golfers, members of the soccer, baseball, and football teams, and even an aspiring NASCAR driver.

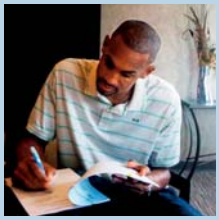
No matter the sport, Haagen has enjoyed the same reward: "Seeing our athletes succeed. Seeing them take the opportunity and optimize it. That's the payoff," he says.

Universities are not required to have a counseling committee and participation with the committee is voluntary for athletes.

"The hope of the committee is that it can do three different sorts of things," says Haagen, who also serves as senior associate dean for academic affairs at Duke Law School. "First, we want to make it possible for athletes to get genuinely independent advice on their options and prospects. Next, we want to avoid a situation where they go directly to agents, which has the potential to compromise their eligibility. Finally, we want to get them thinking more broadly about what they're trying to accomplish and to develop plans for doing that.

"You're just trying to provide counseling," he continues. "You're going over agreements, you're helping them to think through, the way any good lawyer would, the structuring of representation and the kinds of issues that they're facing. You just try to make certain that they have the best information they can, and you try to do what you can to develop a baseline of trust."

Haagen says he wants athletes to be mindful of how they can best position themselves to be successful during their



Haagen's Roster

Pictured clockwise: **Alana Beard, Grant Hill**, **Paul Harraka**, and **Harrison Till** are just some of the many Duke student athletes Haagen has counseled over more than 20 years as chair of Duke's Student-Athlete Counseling Committee.

playing careers and in subsequent professional endeavors.

A former college athlete himself, Haagen succeeded Professor John Weistart '68 as chair of the Student-Athlete Counseling Committee in 1989. Initially, Haagen says, he focused on listening, learning, and building trust with Duke athletes and coaches. "I was trying to be a counselor-lawyer, which meant I had to learn the industry in order to counsel."

As his expertise grew, so too did the challenge, in part because more athletes were starting to leave college early in order to pursue their professional ambitions.

"When I first started doing it, it was dramatically easier in the sense that most athletes stayed in school all four years," Haagen says. "You were dealing with more mature people, and you were dealing with much more finished products. People were all on a level, comparable field. You're now dealing with a situation in which so much emphasis is on potential that players start to think of themselves as failures if they don't leave early."

Haagen, who has a book forthcoming on the law and sports, also teaches a class on that subject and serves as director of the Duke Center for Sports and the Law. His experiences advising athletes past and present, from the marquee players to less-recognized competitors, demonstrate how he has learned firsthand about professional sports and used his accumulated knowledge to benefit Duke athletes.

From mentorship to friendship

Harrison Till came to Haagen in 2002 as an 18-year-old freshman walk-on football player and track and field athlete seeking counsel on course selection as well as life after college. He was immediately impressed by Haagen.

"He's a great adviser," Till says. "From the second I met him I knew I was meeting someone who is humble, down to earth, and grounded. He was so easy to work with."

Haagen's advising role grew larger three years later when Till completed his Duke degree early and began exploring the possibility of continuing his football career as a graduate student. Till sought Haagen's advice as he contemplated a transfer that would allow him to retain his remaining eligibility.

After the pair weighed the available options, Till enrolled at Ohio State University, where he played on two Big Ten championship teams and participated in the Fiesta Bowl as well as the national championship game. With a master's degree in business, labor, and human resources management, Till now works in Merrill Lynch's asset protection group and maintains a relationship with Haagen, whom he considers a mentor and friend.

> **"He was willing to help in any way. He didn't care if you were Grant Hill or an 18-year-old walking onto the football team at Duke."** — Harrison Till, former Duke football player

Haagen's counsel "meant the world to me," Till says. "He invested so much time and energy that he didn't have to. There was nothing in it for him except watching a student learn and grow. He wants you to make the best decision possible and is focused solely on the best interests of the athlete.

"He was willing to help in any way," Till continues. "He didn't care if you were Grant Hill or an 18-year-old walking onto the football team at Duke."

Information without influence

The Detroit Pistons selected Grant Hill with the third pick in the 1994 NBA Draft after a Duke career that included NCAA championships in 1991 and 1992 and an appearance in the 1994 national title game. Haagen represented Hill on a pro bono basis for the better part of a month in 1994 as the player decided on full-time representation.

"You need someone who's extremely knowledgeable of the law, interested in athletics, but not from a financial aspect, dedicated to the institution, and thoughtful in the process but doesn't attempt to influence the process," says Grant's mother, Janet Hill, a Duke University trustee. "Paul is very knowledgeable about sports and legal issues related to sports."

In spite of their professional accomplishments — Janet graduated from Wellesley and co-founded the Washington, D.C.-based consulting firm Alexander & Associates, and husband Calvin played in the NFL after graduating from Yale — nothing in the couple's background prepared them for the process their son faced when he entered the NBA Draft, she says. "There isn't a parent of a high school student or college athlete who knows enough about the NBA to know this process."

A review of Grant Hill's NBA player contracts and many endorsement deals suggests he has signed in excess of 30 contracts and earned more than $250 million during his 16-year playing career. His mother says the Student-Athlete Counseling Committee was of "tremendous value" and that everyone involved allowed Grant to make his own decisions.

"Grant grew up fast. That's a maturity thing," she says. "He's extremely well-advised."

On a different track

Paul Harraka came to the Student-Athlete Counseling Committee seeking advice on current professional contracts rather than future ones. Harraka, a junior, races in the NASCAR K&N Pro Series West and is a member of NASCAR's Drive for Diversity Program, which targets minority and female drivers.

Harraka says he decided to utilize the committee to help him establish a personalized business model that includes marketing representation for sponsorship and promotional partnership development and legal representation to handle contract matters; he says it is now essential for drivers to line up their own sponsorships before approaching established teams.

Haagen helped Harraka locate representation that could work cooperatively with his marketing group and that had no motorsports connections, in order to avoid potential conflicts of interest.

"Professor Haagen has been an invaluable resource for me as I climb the ladder in NASCAR racing," Harraka says. "He is one of the most accessible professors I have ever encountered, always willing to schedule a meeting or answer an emailed question. He helped me distill what I needed and what I didn't need."

"I would certainly recommend him to any friends I had who were going pro," Harraka says. "He was interested in what I want to accomplish and applied what he knew from other sports to motorsports. His in-depth knowledge of the business of sport and his legal understanding produce a combination that has helped me best position myself as I move into the professional ranks of racing.

"I'm a better athlete, a better-positioned sports businessman, and a more intelligent individual because of Professor Haagen," Harraka says. —*Matthew Taylor*

»FACULTY NEWS BRIEFS

KAUFMAN HEADS TARP OVERSIGHT, COMPLETES SENATE TERM

SENIOR LECTURING FELLOW and Sen. Ted Kaufman is serving as chair of the Congressional Oversight Panel for the Troubled Asset Relief Program. Kaufman completed his two-year term as Delaware's junior senator on Nov. 15, having served out the balance of Vice President Joe Biden's term. In his final floor speech Kaufman, who earlier served for 22 years on Sen. Biden's staff — 19 as chief of staff — observed that "the history of the Senate is that of a struggle between compromise and intransigence," and paid tribute to his colleagues on both sides of the aisle. An excerpt follows.

"The Senate is a magnet for those who feel called to public service. It is the destination for countless improbable journeys. Our constitutional framers would have been relieved to see their noble experiment working — to know that in the Senate today serve a farmer from Big Sandy and a realtor from Cobb County, a mayor from Lincoln and a former Army ranger from Cranston, a social worker from Baltimore and a doctor from Casper.

"All of them are here for the same reason — because they love this country and their communities dearly and want to give back. Their paths of public service may have been different in their first steps, but they converged here, and this is what continues to sustain my faith in the United States Senate.

"Here, this leg of my own improbable journey comes to an end. Though I leave the Senate as a member, I will not be leaving the Senate behind. I will continue to teach about the institution to my students and encourage them to pursue their own paths in public service. I will continue to speak out on issues that I worked on here, because that important work — as always — goes on.

"Mr. President, I love the Senate, and I will always cherish the unlikely opportunity I had to serve Delaware as its senator."

DURING HIS TERM, Sen. Ted Kaufman emerged as a champion of financial regulatory reform and served on the Judiciary Committee, the Foreign Relations Committee, the Committee on Homeland Security and Governmental Affairs, and the Armed Services Committee. Among his many activities and achievements he:

- co-sponsored the Fraud Enforcement and Recovery Act (with Sens. Patrick Leahy and Chuck Grassley);
- chaired oversight hearings in the Judiciary Committee on law enforcement efforts to pursue financial fraud associated with the financial crisis;
- participated in two Supreme Court confirmation hearings, for Justices Sonia Sotomayor and Elena Kagan;
- made two official trips to Israel and the Middle East, three to Afghanistan and Pakistan, and four to Iraq;
- delivered 126 Senate floor speeches;
- honored 100 federal employees from the Senate floor;
- co-founded the Senate Caucus on Global Internet Freedom to promote greater access to freedom of expression and freedom of the press online (with Sen. Sam Brownback);
- co-authored legislation (with Sen. Johnny Isakson) to curb abusive short selling and legislation funding the development of Internet censorship circumvention technology in Iran;
- co-authored (with Sen. Sherrod Brown) the "Brown-Kaufman Amendment" to tackle the problem of "too big to fail" in the financial reform debate.

»FACULTY NEWS BRIEFS

WETTACH HONORED BY N.C. JUSTICE CENTER

CLINICAL PROFESSOR JANE WETTACH, director of Duke's Children's Law Clinic, was honored in September by the North Carolina Justice Center with its 2010 "Defender of Justice Award" in the area of litigation.

Wettach was among five individuals and organizations recognized for contributions to the Justice Center's broad mission of ending poverty in North Carolina and for improving the lives of poor and working families in the state, said Executive Director Melinda Lawrence.

The award recognizes both Wettach's "lifetime of work" as an advocate on behalf of children and families and her recent efforts on behalf of students subjected to long-term school suspensions and expulsions, said Lawrence. In October, the N.C. Supreme Court ruled for the first time that schools must provide strong reasons for denying alternative schooling or tutoring to students after they are suspended for misbehavior. Wettach argued the case on behalf of two suspended students.

She also has brought together key stakeholders, including representatives of teachers and school administrators and parents' and children's advocates, to review existing laws governing school suspensions and expulsions and how they are applied. She is helping to craft a reform bill for introduction in the N.C. Legislature in 2011.

McGOVERN APPOINTED SPECIAL MASTER IN BP CASE, HONORED BY CRIME VICTIMS' ADVOCATES

PROFESSOR FRANCIS McGOVERN has been appointed special master in the multidistrict litigation stemming from the BP oil spill by Judge Carl Barbier of the U.S. District Court for the Eastern District of Louisiana. McGovern, who has served as a court-appointed special master in almost 100 cases, is responsible for communication, coordination, and cooperation in the litigation, which is anticipated to be one of the largest mass tort actions in history.

McGovern was honored by the National Center for Victims of Crime with a 2010 Leadership Award in September. The advocacy group, which focuses on helping crime victims, their families, and communities rebuild their lives, honored McGovern as a leader who has "fought tirelessly on behalf of victims of financial crime," according to a statement issued by the organization. As a court-appointed special master or neutral expert, "his creative solutions for significant mass claim litigation, wide-ranging financial crimes and the tragic Station Nightclub fire litigation have helped numerous victims receive justice more quickly than was previously possible," the statement said.

McGovern also is working pro bono as reporter for the Judicial Panel on Multidistrict Litigation Study Project. He is interviewing more than 100 lawyers to obtain feedback from the bar concerning the operation of the panel and of transferee judges.

WIENER URGES BROADER REVIEW OF GENETICALLY MODIFIED SALMON

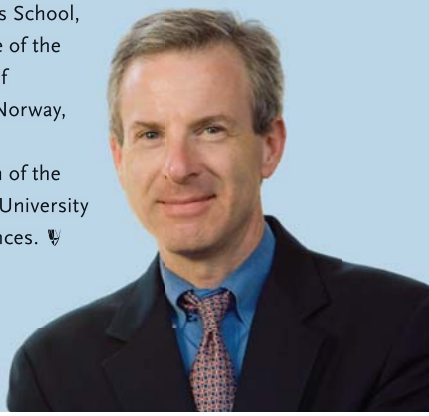
A RECENT PAPER, co-authored by Professor Jonathan Wiener and published in *Science,* argues that the U.S. Food and Drug Administration's review of a fast-growing transgenic salmon fails to gauge the full impact of widespread production.

The salmon, whose genome contains inserted genes from two other fish species, could become the first genetically modified animal approved for human consumption in the United States. The FDA held two days of hearings in September to assess the fish's human and environmental health risks.

Wiener and his colleagues say the FDA evaluated the fish's safety only by comparing its nutritional profile to an equivalent portion of nonmodified salmon and screening it for known toxins and allergens. That process, argue the researchers, ignores potential health and environmental impacts — both risks and benefits — associated with how the fish's faster growth and need for less feed could increase farmed salmon production and consumption. They call on the FDA or Congress to broaden the review to include an evaluation of the overall safety of the new fish compared to other protein sources that it might replace, such as beef.

"A more useful approach would be to evaluate whether society is better off overall with the new product on the market than without it," said Wiener.

Wiener is the William R. and Thomas L. Perkins Professor of Law at Duke Law School, professor of environmental policy at the Nicholas School of the Environment, and professor of public policy at the Sanford School of Public Policy. His collaborators on the paper include lead author Martin D. Smith, associate professor of environmental economics at the Nicholas School, Frank Asche of the University of Stavanger, Norway, and Atle G. Guttormsen of the Norwegian University of Life Sciences.



BUELL TESTIFIES ON FRAUD PROSECUTIONS BEFORE SENATE JUDICIARY COMMITTEE

PROFESSOR SAMUEL BUELL testified before the Senate Judiciary Committee on Sept. 28 about the fate of fraud prosecutions in the wake of the Supreme Court's ruling in *United States v. Skilling*. A former federal prosecutor and member of the Enron Task Force, Buell suggested alternatives that Congress can consider to craft a fraud law "flexible enough to deal with serious, novel forms of intangible harm but confined enough to allay fears about overbroad application in the hands of imprudent prosecutors." An excerpt from his testimony follows.

"... One might draft a statute that applies only to 'willful' violations and, contrary to Congress's usual practice, include within the statute an explicit definition of willfulness that embodies the requirement that violators must know that what they are doing is wrongful (though not necessarily illegal under any specific law). The Supreme Court itself has often observed that actors who are aware of the wrongfulness of their own conduct are not in a position to complain that they have been the victims of surprising application of allegedly vague laws.

"Second, Congress might look more extensively at the question of what kinds of relationships tend to involve the serious instances of intangible harm that a federal criminal statute ought to reach. A new statute might be limited to important fiduciary and trust relationships and made inapplicable, for example, to ordinary employment and contractual relationships.

"Third, Congress might consider possible thresholds for sorting serious cases of harm from less serious ones. ... One might choose, for example, to require that the relationship in which the intangible harm occurs be one involving a single transaction or a course of conduct in which the victim had at risk something of a value of at least $50,000.

"... Regardless of whether new legislation is pursued, or of what shape it might take, I urge this committee and Congress to uphold the centuries-long commitment of our legislatures, courts, and other legal institutions to deal with the ever challenging and evolving problem of fraud."

BOYLE NAMED TO U.K. IP REVIEW PANEL, HONORED BY ELECTRONIC FRONTIER FOUNDATION

PROFESSOR JAMES BOYLE, the William Neal Reynolds Professor of Law and co-founder of the Center for the Study of the Public Domain, received a 2010 Pioneer Award from the San Francisco-based Electronic Frontier Foundation (EFF) on Nov. 8. In December, he was appointed to a panel of five experts reviewing the intellectual property system's effects on U.K. economic growth.

One of four recipients of the Pioneer Award, Boyle was recognized for his "exceptional scholarship on the 'second enclosure movement' — the worldwide expansion of intellectual property rights — and its threat to the rich public domain of cultural and scientific materials that the Internet might otherwise make available," according to an EFF press release. The organization also cited Boyle's work over 20 years "as both an academic and institution builder to celebrate and protect the values of cultural and scientific openness."

Boyle was appointed by the U.K. Intellectual Property Minister to the expert panel charged with advising an independent review of the intellectual property system. The review, due in April, will examine a number of factors relating to IP and growth, including barriers to Internet-based business models, the cost and complexity of enforcing intellectual property rights within the U.K and internationally, and the challenges faced by small and medium-sized enterprises in accessing services to help them protect and exploit their intellectual property, according to a release issued by the Intellectual Property Office.

Boyle is an original board member of Creative Commons and co-founder of Science Commons, which promote open access to creative works and research, respectively. He is the author of the award-winning books *The Public Domain: Enclosing the Commons of the Mind* and *Shamans, Software and Spleens: Law and Construction of the Information Society* and co-author, with Jennifer Jenkins and Keith Aoki, of the educational comic books *Bound By Law* and the forthcoming *Theft! A History of Music.*

"... I urge this committee and Congress to uphold the centuries-long commitment of our legislatures, courts, and other legal institutions to deal with the ever challenging and evolving problem of fraud."
— Professor Samuel Buell, testifying before the Senate Judiciary Committee, Sept. 28

Profiles


ROBERT K. MONTGOMERY '64


FREDERICK BROWN '75


KAREN L. MANOS '86


STEVEN SHOEMATE '88


KARL NELSON '91


CHRISTOPHER DUSSEAULT '94

The Gibson Dunn-Duke Connection

STRONG RECRUITING, COLLEGIAL CULTURES CREDITED FOR THE FIRM'S UNUSUALLY HIGH CONCENTRATION OF DUKE LAW GRADUATES IN SENIOR ROLES

THAT FIVE OF THE EIGHT U.S. offices of Gibson, Dunn & Crutcher are headed by Duke Law School alumni might be a surprising fact to some, but it all makes sense to the "Gibson Dunn Dukies."

"At both Duke and Gibson Dunn, there is a combination of a high level of quality of work balanced with the collegial and comfortable personality of the place," says Karl Nelson '91, partner-in-charge at Gibson Dunn's Dallas office. "I think that whatever it was that appealed to me about Duke when I first visited also appealed to me when I clerked at Gibson."

Nelson's colleagues across the firm agree: Cultural similarities between the firm and the Law School, along with leadership of alumni who loyally recruit at Duke, have attracted Duke Law alumni to the firm and created opportunities for leadership and professional success. According to the Gibson, Dunn & Crutcher website, 32 Duke Law alumni work for the firm.

"The culture at Gibson Dunn is like nothing I've seen before," says Karen Manos '86. A co-partner-in-charge at its Washington, D.C., office, she joined the firm after a distinguished career as a U.S. Air Force JAG. "It's the most congenial, friendly place I've been. It was like that at Duke as well."

"I hear it even from recruits from Duke, the younger folks we're interviewing, who talk about what they like about the Law School, and it is in fact very similar to Gibson Dunn," agrees Steven Shoemate '88, co-partner-in-charge at the New York office. "It is a supportive rather than a competitive atmosphere."

Duke Law's connection to Gibson Dunn traces back to Bob Montgomery '64, a recently-retired partner and executive committee member at the firm who may well hold a record for the longest recruiting streak at Duke Law — 40 years. Montgomery joined the Los Angeles-based firm immediately after graduating from law school and was the first Duke Law graduate hired there.

"I had heard Los Angeles firms were different, and I found that to be true," Montgomery says. "I chose Gibson Dunn over other law firms for the same reason I chose Duke over Harvard: it was collegial and friendly, and the people seemed to care about you as a whole person."

Montgomery clearly conveyed those attributes in his own recruiting at Duke.

"The significance of someone at [Montgomery's] level coming to the school to recruit, showing such loyalty to Duke and to the firm, that wasn't lost on me [as a student]," recalls Christopher Dusseault '94, co-partner-in-charge of Gibson Dunn's Los Angeles-area offices. "He's a role model of loyalty to Duke and a great spokesman for the firm."

Fred Brown '75, partner-in-charge at the firm's San Francisco office, denies a hiring conspiracy between the Law School and the law firm — "There is no Duke mafia at Gibson Dunn," he says with a laugh — but he says Duke does a good job of preparing students for success at a firm like Gibson. "You get a superior education. You have smart people, and you are educating them in a superior way."

MEET THE GIBSON DUNN DUKIES

Of the 32 Duke Law alumni working at Gibson Dunn, these are some who serve in senior roles:

Robert K. Montgomery '64

(joined Gibson Dunn in 1964)

- Proprietor of Montgomery Vineyard in Napa Valley, Calif.
- Partner, 1971–2008
- Member of Executive Committee
- Chairman of Finance Committee
- Lifetime member and former chairman of Duke Law Board of Visitors
- Former chairman and CEO of Elixir Industries, then a NYSE-listed company, 1979–81
- Senior Vice President, Los Angeles Olympic Organizing Committee, 1983–84

Practice areas: Transactional matters such as corporate finance, mergers and acquisitions, divestitures, roll-ups, private placements, and venture capital financings

Frederick Brown '75

(joined Gibson Dunn in 2004)

- Partner-in-charge, San Francisco office
- Teaches trial skills for the National Institute of Trial Advocacy and the Intensive Advocacy Program at the University of San Francisco School of Law
- Took a public-service leave of absence to work as a federal criminal investigator and as a prosecutor with the San Francisco District Attorney's Office

Practice areas: Patent, trademark and trade secret, antitrust, complex commercial and class action litigation; often coordinates the work of counsel in multiple jurisdictions

Karen L. Manos '86

(joined Gibson Dunn in 2006)

- Co-partner-in-charge, Washington, D.C., office
- Co-chair of Government and Commercial Contracts Practice Group

Practice areas: Government contracts issues, including civil and criminal fraud investigations and litigation, complex claims preparation and litigation, bid protests, *qui tam* suits under the False Claims Act, defective pricing, cost allowability, the Cost Accounting Standards, and corporate compliance programs

On Duke: "I chose Duke because of Judge [Robinson O.] Everett — he was a good friend of one of my professors at the Air Force Academy. He was a strong advocate for my application, and he later told me it was a good investment on his part because I wound up graduating first in my class. I arrived at Duke with a 14-month-old daughter; I found it easier to be a mother in law school than while working in the Air Force. Law school was much more relaxed and informal than the Academy. I was surprised that law students thought it was OK to miss class!"

Steven Shoemate '88

(joined Gibson Dunn in 1988)

- Co-partner-in-charge, New York office
- Has served on firm's Executive and Management Committees

Practice areas: Corporate transactions including private equity representations, venture capital investments, public and private securities offerings, mergers and acquisitions, and general corporate counseling

On Duke: "It's nice to continue an affiliation with both the Law School in various ways as well as the Duke community more broadly, which would include the Duke Children's Hospital, where I've been a contributor and a participant in various fund raising events. I'm happy to say that I've been back to Duke to do recruiting, which is another great way to stay in touch with the Law School. It's wonderful to see the changes in the Law School over the years."

Karl Nelson '91

(joined Gibson Dunn in 1991)

- Partner-in-charge, Dallas office
- Member of Labor and Employment, Employee Benefits, and Executive Compensation Practice Groups
- Co-founder of the firm's Privacy and Data Security practice

Practice areas: Federal and state employment regulation, labor relations, and compensation and benefits law, including class and collective actions under Title VII, the Employee Retirement Income Security Act, the Worker Adjustment and Retraining Notification Act, and the Age Discrimination in Employment Act

On Duke: "Duke does a really good job of attracting and developing lawyers who are very bright and capable but also well-rounded, pleasant to be around."

Christopher Dusseault '94

(joined Gibson Dunn in 1994)

- Co-partner-in-charge, Los Angeles and Century City offices
- Member of Litigation Department, Antitrust and Trade Regulation, and Media and Entertainment Practice Groups
- Member of Hiring Committee; chair of the Summer Subcommittee
- Named one of California's "Top 20 Under 40" by the *Daily Journal* for work as trial counsel in *Perry v. Schwarzenegger,* the federal constitutional challenge to California's Proposition 8, a ballot initiative prohibiting marriage for same-sex couples
- Member of Duke Law Board of Visitors

Practice areas: Antitrust and competition law litigation and counseling, general complex commercial litigation, and trial-oriented constitutional litigation

On Duke: "When I applied to college, my father took me on a college tour. I loved Duke — it was the quintessential gorgeous college — but I wound up going to Yale. When it came time to pick a law school I remembered how much I loved Duke, and everything that I read and heard about the Law School told me that it would be a great fit. I loved every minute of the entire experience and I continue to feel a strong connection to the school today."

His firsthand knowledge of the quality of a Duke education is one reason Montgomery has been so committed to recruiting Duke students over the years. With decades of interviewing behind him, Montgomery says his advice to students has remained the same: "If you work hard, prepare yourself, and are flexible and open to opportunities, you will succeed as an attorney. Take courses to ready yourself in a range of ways and be open to trying new things."

— Melinda Myers Vaughn

"I'm very interested in collegiality between prosecutors and defense lawyers. You treat each other as professionals. That allows justice to be done." — Peter Gilchrist '65

Peter S. Gilchrist III '65

Career in prosecution offered "psychic satisfaction"

SPEAKING TWO WEEKS before the election to choose his successor as district attorney of Mecklenburg County, N.C., Peter Gilchrist offers this advice for aspiring politicians: "If you can choose to run with or without opposition, do it without."

Gilchrist, who retired Dec. 31, never faced an opponent after winning the position in a three-way Democratic primary in 1974. He won with the help of a Duke Law classmate and friend, Joe Warren, a Republican, who served as his campaign manager. While he says he decided to run after serving as an assistant solicitor for four years simply to "keep my job" during a time of transition, the Charlotte native demurs from speculating about why he remained unopposed for so long.

"Maybe all the smart lawyers think there's got to be a better way to earn a living," he says, laughing. Why did he choose to remain D.A. of North Carolina's most populous county for 35 years, ignoring all other offers that came his way? "There is a psychic satisfaction that comes with it — a feeling of satisfaction that I think sustains a lot of people. And for some of us, it's more important than the money. I really think we are doing very, very important work."

An unexpected career path

It is work that "I sort of backed into," Gilchrist admits, noting that he entered law school assuming he was bound for a business career, possibly in his family's chemical business, which was later sold. "I never really thought I would practice law and certainly had no idea that I would end up in criminal law, much less as a prosecutor. I never even took Evidence."

Having enjoyed his corporate and tax law classes at Duke, he returned to Charlotte and joined accounting giant Arthur Andersen as a tax specialist, eventually becoming a certified public accountant. But in the late 1960s, he found his curiosity piqued by an article about a county recorder's court in Mecklenburg County, newly established to deal with juvenile, domestic violence, and "criminal non-support" cases.

"I wasn't looking for a job," he says. "I just decided to talk to the judge about what the court did." At the end of their meeting, the judge offered him the job of court solicitor — its only attorney. Gilchrist surprised himself by accepting it, even though it meant taking a deep pay cut.

"It was a whole lot more interesting hearing the problems folks could get entangled with in personal relationships

Pictured above: Peter Gilchrist at his retirement party, Nov. 10, 2010, center, with two of his assistant district attorneys, **Matthew Rupp '01** and **Leslie Cooley '05**. Cooley offered this tribute:

"LIKE SO MANY OTHERS, Peter gave me my start out of law school. He believed in me when I was afraid that no one would and he has taught me and encouraged me throughout the course of my career here in the Mecklenburg County D.A.'s Office.

"Peter has always had an open-door policy for his assistant D.A.s. I remember one Friday I was in trial, and I was supposed to have caught a flight home to visit my parents but my jury was still out and so I missed my flight. Peter came over to the courthouse after work and sat with me until almost 8 p.m. that Friday night waiting for my jury. It's little things like that that I'll remember about him, not just the big things.

"Another time I was in Peter's office after he had moved me to a new team where I would be trying misdemeanors in superior court. Peter explained to me that the position was unique in that it offered a great way to find your personal style in front of a jury. He said 'Leslie, this position is a lot like trying on dresses. If you don't like one, just throw it out and try another!' Peter is always good for a funny line or two.

"I will never forget the lessons in integrity and passion that Peter has taught me — and all that he has done for this community over the years. I only hope that I can endeavor to work as long and as hard in my career as he has."

than trying to save somebody from paying income taxes," he says, adding that the learning curve was steep.

Still, Gilchrist moved on when the North Carolina government took oversight of all courts in 1969. He spent that year's legislative session lobbying the N.C. General Assembly on behalf of the Charlotte Chamber of Commerce to allow mixed drinks in restaurants, then worked briefly as the chief financial officer for a Winston-Salem-based developer. Returning to Charlotte in the early 1970s, he became a prosecutor, starting as an assistant solicitor in the district courts, and quickly moving to the superior courts where he tried felony jury trials.

The Office of the District Attorney was a bare-bones operation when Gilchrist took over on Jan. 1, 1975, with about a dozen prosecutors, a few secretaries, minimal equipment, and "little help" from the police department. "Even as an assistant trying felony cases in superior court, I knew there had to be a better way to do what we were doing," he says. He often paid his own way to travel to other jurisdictions to observe their management practices.

"I've spent a career trying to modernize the office and trying to compensate with good management practices for the lack of funding and understaffing the office has always dealt with," he says. His CPA training helped, and over the years he has advised many prosecutors' offices and court systems around the country on management practices and other aspects of criminal justice administration.

His office expanded exponentially in size and volume of filings over the years, as Charlotte and its surrounding communities underwent explosive growth; by the time he retired, Gilchrist oversaw almost 80 assistant district attorneys and 60 support staff, who handled more than 230,000 filings per year, including more than 10,000 felonies. Establishing specialized teams to prosecute different classes of offenses and offenders — such as drug and white-collar criminal offenses, for instance — was just one of Gilchrist's innovations to ensure efficiency in his office.

Collegiality as a hallmark of professionalism

Although he stopped trying cases after several terms in office, Gilchrist remained closely involved with decision making and legal strategy in individual cases and more broadly, when there was the potential to set useful precedent on appeal. He is proud of his record in working with the Attorney General's Office and with members of the defense bar in his county, calling this collegiality one of the hallmarks of his administration. In 2008, the Criminal Law Section of the North Carolina Bar Association honored Gilchrist with its inaugural award for prosecutorial professionalism, which also bears his name.

"It has always been very important to me to recognize the role of the district attorney," he says. "I represent the people. And the people certainly don't want innocent folks convicted of crimes. And I'm very interested in collegiality between prosecutors and defense lawyers. You treat each other as professionals. That allows justice to be done.

"We don't cut corners in our prosecutions, either," he adds. "We did open-file discovery before it was mandated by statute."

Satisfied with his career choice through his last day in office, Gilchrist declares himself retired from criminal law. "I don't intend to keep my hand in. I've had a wonderful career. I've enjoyed it and now I want to try to stretch my horizons." He intends to take time to "decompress" and enjoy the outdoors before he decides on a new direction. One thing is certain: his future travels will take him back to Duke to reunite regularly with his law school classmates.

"We were right at about 100 when we were there, and I got to know many of my classmates," he says. "I've enjoyed coming back to reunions. We seem to pick up almost where we left off in law school. That's really been a pleasure for me."

— Frances Presma

Rawn James Jr. '01
Finding the narrative

RAWN JAMES JR. spent four years researching and writing *Root and Branch: Charles Hamilton Houston, Thurgood Marshall, and the Struggle to End Segregation*, during which time the attorneys at the center of the story became so deeply embedded in his mind that he sometimes dreamed about them. The experience, while exhausting, helped him develop an appreciation for Houston and Marshall's considerable dedication and sacrifice.

"What I really came away with was how all-consuming the struggle was for each man. I look now as an attorney with some experience and as a husband and a father, and I can fully appreciate the enormous sacrifice that each man made in fighting these battles across the country," James says. "They were on the road tens of thousands of miles every single year litigating these cases. It wasn't a matter of just going out to Topeka, Kan. They were all over, at great personal risk to themselves. That really impressed me."

Published in 2010 by Bloomsbury Press to rave reviews, *Root and Branch* tells the story of Houston and Marshall's protracted legal battle to end segregation in public education that culminated in the 1954 Supreme Court decision in *Brown v. Board of Education of Topeka*.

James explains that the duo's decades-long effort began with a 1936 case challenging segregation at the University of Maryland Law School.

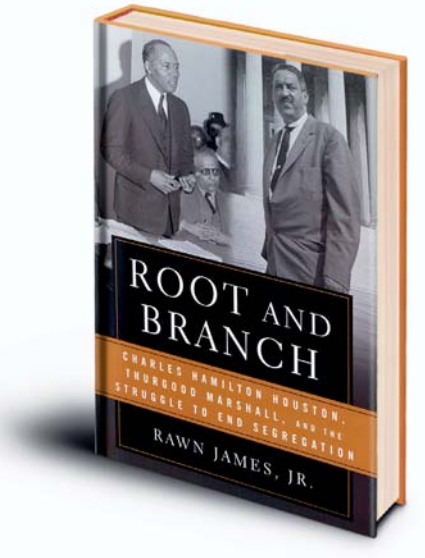
"They started with law schools for a number of reasons, the first of which is that the triers of fact at the trial level, the judges, had all been to law school," James says. "The attorneys for the NAACP did not have to tell the judges or rely on an expert witness to tell a judge what separates a good law school from a bad law school.

"Even many attorneys have the false idea that *Brown v. Board of Education* was a decision that came out of nowhere and shocked America, when in fact many of the observers at the time saw that the Court was marching directly toward holding that segregation was unconstitutional in a public education setting," James says. "The Texas attorney general at the time saw it, the governor of Texas saw it, and they said, 'This is what is coming. This is what Thurgood Marshall and the NAACP and its lawyers are trying to do.' Marshall and Houston set out, beginning in the 1930s, to desegregate the country."

Hoping to reach legal and general audiences alike, James identifies a twofold intent for writing *Root and Branch*: to bring attention to Houston's often overlooked contributions to the ongoing legal battle; and to examine how the relationship between the two attorneys "moved from professor and student to mentor and mentee to being very close friends."

He conducted his research at the Library of Congress and Howard University, where Houston was dean of the Law School and Marshall a student. He used no research assistants. That meant long hours of work outside of his full-time job with the Office of General Counsel for the Department of the Navy, where he is a senior trial counsel, representing the Navy and the Marine Corps in civilian matters and contract disputes.

"It was a killer," says James, who is married to **Maureen James '02** and has two young sons. "I set the alarm for 3 or 4 in the morning before work. I would stay up late at night, work on it on weekends."



Although he signed with a literary agent at age 19, James says he spent more than a decade "shouting into the abyss," with a handful of unpublished, full-length manuscripts and assorted magazine clippings serving as the primary evidence of his authorship.

"I wrote all through law school as well as all through college — just constantly writing. But then even when it happens, it's still that overnight feeling to you," he says of landing his contract with Bloomsbury. "One day you're hoping to get an agent and the next day you're sitting in an editor's office in New York City and he's trying to convince you to let him publish your book."

Originally a fiction writer, James switched to nonfiction in 2005 when his freelance magazine work helped him discover that he enjoyed interviewing people, uncovering facts, and "finding the narrative." He says his legal background helped him locate the most important elements of cases and identify strategies being utilized. It also made him a better writer.

"A lawyer, particularly a litigator, needs to know how to write well and clearly and to express a complex idea as simply as possible. That's what a good writer should do," James says. "The practice of law for me is very much the practice of writing and rewriting. I got much better at it in law school and over the years of practicing. Law is the study of words. At the end of the day that's really what you do as a lawyer, and it's what you do as a writer."

James plans to continue writing about history and the law and will choose his next work from a short list of ideas he currently has in mind. The process is partly, he says, a matter of choosing which idea he can live with for years at a time. — *Matthew Taylor*

Lauren Bonds '13

Embracing new challenges with familiar sense of discipline

BY THE TIME she reaches class in the morning Lauren Bonds already has run 10 miles. She runs an additional four miles in the afternoon and mixes in work lifting weights. The former cross-country collegiate standout is competing locally and training for the USA Track & Field Championships. She hopes to compete in the 2012 Olympic trials.

In addition to her 1L classes, Bonds participates in mock trial with the Public Interest Program's Street Law project and plans to get involved with other student organizations.

Her current routine is a more intense version of the one she maintained as an undergraduate student and scholarship athlete at the University of Kansas.

"I'm studying much more and training much more," Bonds says. "You can't actually be 100 percent prepared for the time demands you're going to have in law school or the time demands you're going to have trying to run post-collegiately, but I think I had good practice."

Bonds was among 30 national finalists for the 2010 NCAA Woman of the Year award after a distinguished running career at Kansas. Since 1991, award has honored graduating student athletes who excel in academics, athletics, community service, and leadership. There were a record 452 nominations in 2010.

Bonds was an All-American in indoor and outdoor track her senior year at Kansas, following a college career where she earned All-Big 12 honors 11 times and established five school records. She was a four-time Academic All-American majoring in political science and history.

She believes the experience of being a Division I athlete helped put her in a position to be successful after college; her scholarship enabled her to graduate without the burden of student loan debt, and the sport taught her the discipline necessary to manage multiple demanding tasks concurrently.

"As a student athlete, I think you become an expert in time management. If you want to do well in school you find a way to make it work. You get used to making sacrifices for what's most important," she says.

Bonds grew up in Hutchinson, Kan. She says having friends whose parents were immigrants or who were immigrants themselves helped spark her interest in immigration issues. She has held internships with the Workers Defense Project, an immigrant rights organization in Austin, Texas, as well as the public policy office of the Church World Service Immigration and Refugee Program in Washington, D.C.

"I knew I wanted to go to either law school or grad school," Bonds says. "The more exposure I had to different issues, both internationally and domestically, I started thinking that legal skills would have more real-life application."

In college, she volunteered for Project Bridge: Translation Service, the Douglas County AIDS Project, the Coalition for Immokalee Workers, and the Lawrence Community Shelter. The last experience enabled her to learn the stories of some of the homeless people she saw while running in Lawrence.

"When you're running you're thinking about things, and I would wonder how these people ended up where they were," Bonds says. "It was really enlightening to be able to talk to them, to have a conversation and figure out people's stories and their struggles. That was a really positive experience."

Bonds credits much of her determination to her family. Her mother introduced her to track and field and served as her coach at Hutchinson High School, making sure not to push her too hard so she could peak in college. Her older sister, Morgan, who also competed in track and field, modeled athletic and academic success as a student athlete at Kansas State University and more recently as a medical student at Johns Hopkins University.

"I always looked up to Morgan and tried to match what she was doing," Bonds says. "She was a really great athlete, a two-time Big 12 champion, and she had a perfect 4.0 in college. I knew I probably couldn't be up there with Morgan in everything, but I always tried to do my best and tried to do something that would make her proud of me." — *M.T.*

John Adams '62, H '05 and Patricia Adams
Forces for Nature

PRESIDENT BARACK OBAMA ANNOUNCED Nov. 17 that John Adams '62, the co-founder of the Natural Resources Defense Council, would receive the 2010 Presidential Medal of Freedom, the country's highest civilian honor. "His tenure is unparalleled by the leader of any other environmental organization," the president said in making the announcement. He also quoted *Rolling Stone* magazine's assessment of Adams' work: "If the planet has a lawyer, it's John Adams."

A day earlier, John and Patricia Adams were at Duke Law School to talk about the evolution of the NRDC from a homegrown environmental advocacy group, which they founded in 1970 in the earliest days of American environmental law, to an organization with 1.3 million members, 300 employees, and international reach. John Adams served as NRDC's executive director and, later, its president until 2006.

John Adams is a life member of the Duke Law Board of Visitors and a member of the Board of Visitors at Duke's Nicholas School of the Environment. Patricia Adams is a teacher, author, and steering committee member of NRDC's Partnership for the Earth campaign. The couple co-authored the memoir *A Force for Nature: The Story of the NRDC and the Fight to Save Our Planet*. Excerpts from their conversation with Professor James Salzman and Duke students follow.

"We have had 40 years of incredible laws that have protected us. … And we're now ready … to work at protecting these laws when we're faced with the next challenge. It's time for another lesson in the importance of the Clean Air Act and the Clean Water Act, and that's what we're up for." — John Adams '62

WHEN A SENIOR PARTNER at Simpson Thacher & Bartlett proposed creating a public interest law firm for the environment, John and Patricia welcomed the often daunting challenge, in which they were joined by a group of Yale-trained lawyers. By that time, John had been an assistant U.S. attorney for more than four years, having earlier worked on Wall Street.

John: We were thinking about what we would do next. ... We looked at buying a farm, and both of us said, 'No, we're not ready for cows or farm life.' And along came this opportunity. ... All of the people who surrounded us were people who had been cause-oriented. They were people who had been involved in the [American] Civil Liberties Union. They were Quakers. They were people who were working to preserve Central Park. ... And they made this offer, and it sounded like a great thing.

Patricia: It was a time when people were talking about equality and equal rights. And there was the question: Do we have an equal right to clean air and clean water? Because during the '50s, in particular, if a highway had to come through or a [manufacturing] plant needed to be built, that was for the good of the whole and the individuals just had to move over.

John: We knew that we both cared about the things we were talking about and what we saw that it might lead to — our version of working [and] living in nature, and being a part of the protection of nature, which has been sort of paramount to my view of all of the things that we have worked on.

FUNDED FROM THE START by the Ford Foundation and always focused on building its membership, the NRDC spent its early years shaping the Clean Air Act, the Clean Water Act, and statutes "that were just written as we arrived on the scene," said John.

John: The first decade was basically all about building laws, rules, and regulations. [We] quickly realized that we had a niche that was really valuable. And funders saw it, too. They were supporting our efforts to make the systems with public lands, clean air, and clean water work better by getting really good rules and really good regulations. Of course, they would be challenged — and we would challenge back. We brought lawsuits if we didn't think the regulations were good. I think if you read NEPA [the National Environmental Policy Act], during its first five or 10 years, every case is NRDC versus whoever the administrator was at the time. And that became a very, very important part of the strength of NRDC — we "owned" those statutes, [until we] didn't need to litigate as much.

Patricia: The phrase was, "NRDC is a shadow of EPA." ... The laws were new, NRDC was new and everybody at that point was somewhat working together. And EPA also agreed that sometimes the lawsuits helped them enforce the laws.

John: With the Clean Water Act, we sent out a group of scientists to look at the permits. We found out that the permits were just baloney — nobody honestly filled out permits. So we started surreptitiously testing waters up and down rivers through the East and the West and the Midwest, and then we brought hundreds of lawsuits against the companies for violations of the permits. We brought more lawsuits on water permits than EPA and the Department of Justice combined. And that changed the permitting system. And we were soon able to give that up, because we couldn't find as many violators. It wasn't worth fishing in those waters.

» See the full interview at **www.law.duke.edu/magazine/**

A "DEFINING MOMENT" for the NRDC came in 1989, with the publicity surrounding its report on pesticides in food titled "Intolerable Risk." The report sparked intense public interest and controversy in its finding that dangerous — even illegal — pesticides were prevalent on produce, and that children were exposed to substantially more pesticides per pound in body weight than the tests showed. Alar, a chemical commonly used on apples, was of particular concern and gained considerable media coverage.

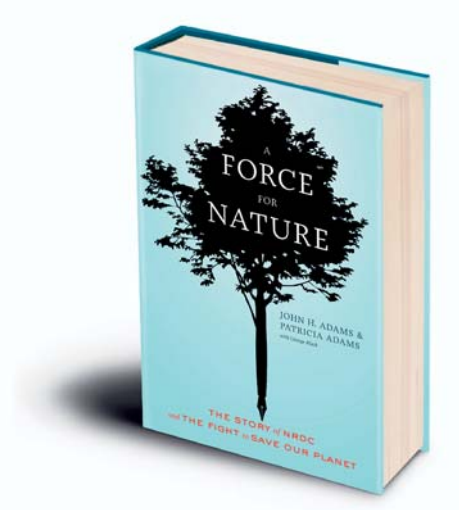
John: The next thing we knew, we had 35,000 people clamoring to find out whether their food was safe. We got sued for millions of dollars [by] the apple growers. It was a huge case ... it was actually one of the few times I was worried about a lawsuit. ...

The case was finally dismissed, Alar was pulled from the market by the manufacturer, and two studies by the FDA and EPA found that Alar continued to be a risk and recommended that it be pulled for use on food. So it all worked out very nicely. We got a lot of members.

[W]e are the study in business schools on how to make a big mistake in public relations. ... But guess what happened? We now have organic food everywhere. It was literally recognized as the starting point of a major move to healthy foods. So I'm very proud of the Alar case, even though I wish we had handled it a little bit better.

RECALLING THE SUCCESSFUL CAMPAIGN by NRDC and allies to stop a 1995 rollback of environmental laws threatened during the 104th Congress, a victory they call "the single most important environmental victory in United States history" in their book, the Adamses offered counsel for the present.

John: People have very short memories. They don't understand why it's important to have clean air and clean water and all of these things. They say it's too expensive and things like that. It's not expensive. America is so lucky that we have clean air and clean water, and that we have a Clean Air Act that is now going to help us fight the carbon fight. You can't imagine what strength it gives us. And I know a lot of people are worried about America's environmental laws right now. ...



We have had 40 years of incredible laws that have protected us. That's a lot to build off. But our job is not to let those laws be damaged. And we're now ready ... to work at protecting these laws when we're faced with the next challenge. It's time for another lesson in the importance of the Clean Air Act and the Clean Water Act, and that's what we're up for.

JOHN ADAMS NOTED HIS PRIDE in and affection for Duke, saying it's made "a huge difference in the environmental world" through the work of many of its graduates, including his friend and classmate Jim Moorman '62, the first president of the Sierra Club Legal Defense Fund. He urged the young lawyers in his audience to get involved in environmental issues, highlighting the great need for effective advocacy.

John: Every single community [needs] volunteers who can really do things. ... And that's something we've been able to enhance, in all the communities that we have lived in, and that's been very, very rewarding. And, of course, that's where our friends are now. They are people who have been out doing the same things — trying to make the place a little better.

I think Duke is a place that tells people they can go out and have a big impact if they want to. I certainly feel that it helped me a lot in getting my first job (even though I didn't like it). ... And then going to the U.S. Attorney's Office and getting that litigation experience and working with really smart people who were really smarter than I was, and taking advantage of their skills and then taking that to NRDC — it was a very powerful way to build a life and a career.

Alumni Notes

1949

Charles Blanchard received the President's Award from the Arc of Wake County on May 8, 2010. The award recognizes "a lifetime of dedication and service to people with developmental disabilities." Charlie is president emeritus of the North Carolina Advocates for Justice and a former president of the International Society of Barristers.

1956

David Allard's book, *Uncle Clayton: A Soldier's Life in Letters, 1898-1901* (Rose Day Books, 2006), received a favorable review in the spring/summer 2010 issue of *The Journal of America's Military Past*.

1961

Llewelyn Pritchard received the 2010 Allies for Justice Award from the National LGBT Bar Association at an August ceremony in San Francisco. The award honors legal professionals who, in their positions of leadership, have allied with the LGBT community and made noteworthy contributions to the struggle for civil rights and equality before the law. Llew is a partner at Helsell Fetterman in Seattle.

Carl J. Stewart Jr. has been appointed to a second six-year term as chairman of the N.C. Ports Authority. Carl practices law in Gastonia and is a former speaker of the N.C. House of Representatives. He was inducted into the N.C. Transportation Hall of Fame in October.

1963

Julian Juergensmeyer was honored in March 2010 with a *Festschrift* symposium titled "A 2020 View of Urban Infrastructure" in his honor. The event featured speakers with whom Julian has worked, studied, taught, or co-authored publications and books during his career in academia. Papers presented will be published in a special edition of the American Bar Association's *The Urban Lawyer*. An authority in land use and infrastructure and a pioneer in the development of impact fees, Julian is the Ben F. Johnson Jr. Chair in Law and director of the Center for the Study of Metropolitan Growth at the Georgia State University College of Law in Atlanta.

1967

Bill Constangy has been elected to an eight-year term as a North Carolina Superior Court judge in Mecklenburg County. Bill previously served six terms as a district court judge.

1968

Robert S. Marquis has been named to the 2011 edition of *Best Lawyers in America* and the 2010 Mid-South Super Lawyers list. Robert is a member at Woolf, McClane, Bright, Allen & Carpenter in Knoxville, Tenn. He has been named in consecutive editions of *Best Lawyers* for more than 20 years.

Marlin M. Volz Jr. has been appointed chair of the Iowa Bar Association's probate and trust law section. He also has been chosen to chair the board of the recently formed Davenport Community Foundation, which raises funds to support activities in Davenport, Iowa. Marlin retired in August 2009 after serving for more than 40 years as a trust officer with Wells Fargo Bank.

1971

James R. Fox has been named to the 2011 edition of *Best Lawyers in America* in the area of commercial litigation. James is general counsel, corporate secretary, and vice president for risk management at Pike Energy Solutions in Mount Airy, N.C.

1972

Cym Lowell has been named a 2010 "Texas Super Lawyer" by *Texas Monthly* magazine. Cym is a partner in the Dallas office of Gardere Wynne Sewell where he practices international tax law.

Walter Manley II has published *The Supreme Court of Florida, 1917-1972*, with co-author Canter Brown. Walter is a professor of business administration at the Florida State University School of Business.

1974

Roger K. Ferland has been named to the 2011 edition of *Best Lawyers in America* and the 2010 editions of *Chambers USA* and *Southwest Super Lawyers* in the area of environmental law. Robert is a partner in the Phoenix office of Quarles & Brady where he practices in the areas of environmental and natural resources law in both the public and private sectors.

Lawrence O. Gostin served as the editor of the revised second edition of *Public Health Law & Ethics* (University of California Press, 2010). The book probes legal and ethical issues related to public health and includes government reports, scholarly articles, and relevant court cases. Larry is associate dean at Georgetown University Law Center, as well as a professor of public health at Johns Hopkins University and director of its Center for Law and the Public's Health.

Donna Coleman Gregg has been appointed director of the Columbus School of Law's Institute for Communications Law Studies at Catholic University. Donna served as senior policy adviser in the White House Office of Science and Technology Policy and as former chief of the Federal Communications Commission's Media Bureau.

Rory R. Olsen's article "Who Woke the Sleeping Firefighter?" was published in the *Texas Tech Estate Planning & Community Property Law Journal*. The article deals with the legal, ethical, and philosophical underpinnings of end-of-life decisions in the context of guardianships. Rory is a judge of Probate Court No. 3 in Harris County, Texas.

Ira Sandron was elected vice chair of the American Bar Association's National Conference of the Administrative Law Judiciary at the ABA's annual meeting in San Francisco in August. He also served as a panelist on a program on judicial ethics. Ira is an administrative law judge with the National Labor Relations Board in Miami.

1975

Bruce A. Christensen has been named to the 2011 edition of *Best Lawyers in America* as well as the 2010 edition of *Florida Super Lawyers*. Bruce is a shareholder with the Miami office of Richman Greer where he specializes in marital and family law and practices commercial litigation and construction litigation.

What are you doing? Tell us at:

www.law.duke.edu/alumni

1976

Jack D. Griffeth has been elected secretary/treasurer of the South Carolina Bar Foundation. He also has been named to the 2010 list of *South Carolina Super Lawyers* for alternative dispute resolution. Jack is of counsel with Collins & Lacy in Greenville. He has been certified as a mediator by the South Carolina Bar and speaks frequently on the subject of mediation.

James Kizziar has been named to the 2010 edition of *Best Lawyers in America* for labor and employment. He also was named a "Texas Super Lawyer" in 2010. James is a partner at Bracewell & Giuliani in San Antonio.

Michael Perley has been appointed to the Eighth Judicial District Committee on Character and Fitness for admission of applicants to the New York State Bar Association. He also has been named one of the Top 50 lawyers in New York State outside New York City by *New York Super Lawyers*. Michael is an attorney with Hurwitz & Fine in Buffalo.

1977

Lauren E. Jones has been honored with the Rhode Island Bar Association's 2010 Ralph P. Semonoff Award for Professionalism. Lauren is a partner at Jones Associates where he specializes in appellate practice and research and writing.

Alan Steinbrecher was installed as president of the Los Angeles County Bar Association in June. Alan is a former chair of its litigation section and has served on its board of trustees since 2004. Alan formed his own litigation boutique, Steinbrecher & Span, in 2005. He lives in San Marino, Calif., with his wife, Millie, and three children.

Mary Ellen Coster Williams has joined the American Bar Association's board of governors. Mary Ellen is a United States Court of Federal Claims judge in Washington, D.C.

1978

James T.R. Jones has joined the board of the Saks Institute for Mental Health Law, Policy, and Ethics, a new national mental health institute. Jim is a professor of law at the University of Louisville's Louis D. Brandeis School of Law.

1979

Mark R. High has been awarded a 2010 Client Choice Award in U.S. mergers and acquisitions following a survey of senior corporate counsel by the International Law Office. He was one of 22 individual winners in the United States and one of 201 winners from 48 jurisdictions around the world. Mark is a member in the Detroit office of Dickinson Wright.

1980

Jim Brown has joined Muckman MacDonald & Bauer in Holland, Mich., where he practices business and real estate law.

Barry George's book of poetry, *Wrecking Ball and Other Urban Haiku*, has been published by Accents Publishing. Barry earned an MFA in creative writing in November 2009 from the brief-residency MFA Program at Spalding University.

Justin G. Klimko has been elected to a two-year term on the Butzel Long board of directors. Justin is a vice president and shareholder in the firm's Detroit office.

1981

David S. Addington has joined The Heritage Foundation as vice president for domestic and economic policy. He previously served as chief of staff and counsel to Vice President Richard B. Cheney. David also has served in senior positions at the CIA, the Department of Defense, and the White House.

Glenn E. Cravez continues to maintain his law and mediation practice in Anchorage, Alaska. Glenn also chairs the Alaska Bar Association's Alternative Dispute Resolution section and serves as national board president for Camp Fire USA.

L. Cecily Hines has joined the board of directors of Biothera, a biotechnology company located in Eagan, Minn., dedicated to improving immune health. She has held senior positions at several Minnesota medical technology companies. Cecily is president and chief executive officer of the Minneapolis Parks Foundation.

1982

Dan Jacobs has been appointed as an executive in residence at the Kogod School of Business at American University in Washington, D.C.

Joel B. Toomey was sworn in as a U.S. Magistrate Judge for the Middle District of Florida (MDFL) by U.S. District Judge Timothy J. Corrigan (MDFL) '81. U.S. Court of Appeals Judge Gerald Tjoflat '57, for whom both Joel and Tim once clerked, presided over Joel's formal investiture ceremony.

Mike Krimminger has been appointed deputy to the chairman for policy at the Federal Deposit Insurance Corporation. Mike previously was a special adviser to the chairman for policy, providing assistance in the development of policy initiatives that cut across critical program areas and business lines.

Mark D. Shepard has been named to the 2011 edition of *Best Lawyers in America* in the area of commercial litigation. He also has been named one of the state's top litigation lawyers for 2010 by *Pennsylvania Super Lawyers* magazine. Mark is a shareholder in the litigation services group of Babst, Calland, Clements and Zomnir in Pittsburgh.

1983

Wendy Hagenau was sworn in as a U.S. Bankruptcy Judge for the Northern District of Georgia in May 2010.

Toshio Nakao has been named a 2010 Leading Lawyer for international law by *CincyBusiness* magazine. Toshio is a partner at Taft Stettinius & Hollister in Cincinnati where his practice centers around Japanese companies doing business in the United States and American companies doing or planning to do business in Japan.

Bruce Ruzinsky has been named a 2010 "Texas Super Lawyer" by *Texas Monthly* magazine. 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.

Alumni Notes

1984

C. Mark Baker has been recognized as one of the decade's most influential lawyers by *The National Law Journal*. The publication recognized many of Baker's important cases, including his representation of Russia's largest oil company, Yukos Oil, in a $16.5 billion arbitration regarding a merger with Siberia's Sibneft, and his representation of El Salvador's Nejapa Power Co. in arbitration and litigation against the Comisión Hidroeléctrica Ejecutiva del Río Lempa. Mark is a partner at Fulbright & Jaworski in Houston, where he practices in the areas of complex commercial arbitrations, business litigation, and alternative dispute resolution.

Jeffrey Butt has been named managing partner of the Tampa office of Squire, Sanders & Dempsey.

Wilson Adam Schooley appeared as Atticus Finch in an acclaimed 50th anniversary theatrical production of "To Kill a Mockingbird," from June 1 to July 4, 2010 at On Stage Playhouse in Chula Vista, Calif. Wilson acts in theater, film, and television in addition to practicing at Wilson Schooley Law Firm in La Mesa, Calif. He also teaches law, editing, and writing.

1985

Tia Cottey has joined the Phoenix office of Bryan Cave. She is a partner and a member of the real estate, banking and public finance, and bankruptcy, restructuring and creditors rights groups, as well as the real estate capital markets industry practice team. Tia previously worked in the firm's Atlanta office.

Arthur Howe has been elected a fellow of the American Bar Foundation, an honorary association of lawyers, judges, law faculty, and legal scholars whose careers have demonstrated outstanding dedication to the welfare of their communities and to the highest principles of the legal profession. Art is a partner and general counsel at Schopf & Weiss in Chicago.

Sonja Steptoe is working as director of global communications for O'Melveny & Myers in Los Angeles. Prior to joining O'Melveny in 2007, Sonja received numerous awards for her work as a journalist for *Time*, *People*, CNN/SI, HBO's "Real Sports with Bryant Gumbel," and *Sports Illustrated*.

1986

George W. Finkbohner III has been named to the 2011 edition of *Best Lawyers in America* for personal injury litigation as well as the 2010 edition of *Super Lawyers*. Skip is a partner at Cunningham Bounds in Mobile, Ala.

T. Richard Kane has been honored by *Chambers USA* with a Tier 3 ranking in environmental law. Rick is a partner working in Poyner Spruill's Charlotte and Raleigh offices.

Alexandra D. Korry was a special honoree at the Harlem Educational Activities Fund's benefit dinner on Sept. 27, 2010. Alexandra is a partner in the New York office of Sullivan & Cromwell and a member of HEAF's Board of Directors.

Stephen Labaton is a full-time consultant on regulatory and legal issues at Goldman Sachs in New York. Stephen had worked for the *New York Times* since 1986, primarily covering regulators, including the Securities and Exchange Commission, in the newspaper's Washington bureau.

Chauncey Parker has been named executive assistant district attorney for crime prevention strategies in the office of the Manhattan district attorney. Chauncey previously was the director of the New York/New Jersey High Intensity Drug Trafficking Area (HIDTA), a federally funded program that invests in federal, state, and local law enforcement partnerships designed to disrupt the market for illegal drugs.

1987

James Felman has been awarded the Hillsborough County Bar Association Criminal Law Section's first annual Marcelino "Bubba" Huerta Award for pro bono service and the pursuit of equal justice. Jim is a partner at Kynes, Markman & Felman in Tampa.

Jonathan Shapiro was a featured speaker at the 2010 Accelerate Maine Conference in October. He addressed the importance of protecting trade secrets and intellectual property. He has been included in the 2010 edition of *Chambers USA* for labor and employment law and benefits and compensation. He also was named to the 2011 edition of *Best Lawyers in America*. Jonathan is a regional managing partner in the Portland, Maine, office of Fisher & Phillips.

Yan Xuan has been appointed vice president of Qualcomm Inc., where he is responsible for the company's legal, government affairs, finance, IT, and administrative operations in China.

1988

Lori E.H. Killinger chaired the Speaker's Bureau for Leon County's "Vote No on 4" group. Amendment 4 was a proposed amendment to the Florida Constitution that would impose a referendum requirement on all local comprehensive plan changes. The amendment was defeated. Lori is a senior attorney at Lewis, Longman & Walker in West Palm Beach, where her practice focuses on legislative, administrative, and governmental representation.

John Minier has been recognized as a 2010 Mover & Shaker by *Business Leader* magazine. John is a partner at Yates, McLamb & Weyher in Raleigh.

1989

Lindsey Stravitz was an invited speaker at the annual meeting of the Virginia Railroad Association in August 2010. Lindsey is an attorney at Setliff Turner & Holland in Glen Allen, Va.

1990

Bernard Chao joined the University of Denver Strum College of Law as an assistant professor in the fall of 2010. He teaches intellectual property. Bernard also is of counsel at Chao Hadidi Stark & Barker in Menlo Park, Calif.

Kimberly Dunn is a University of Chicago divinity student. She focuses her studies on church and state relationships as well as liberty of conscience.

James Wheeler has joined Morris, Manning & Martin in Atlanta as a partner in the financial institutions, corporate, mergers and acquisitions, and securities practices. Jim previously was a partner at Bryan Cave.

1991

Gary Brock has retired from the U.S. Army after 24 years of active duty and 19 years of service as an Army judge advocate. Gary is now working as an attorney-adviser with the Office of the Staff Judge Advocate, 81st Regional Support Command, at Fort Jackson, S.C.

Rebecca Falco has published the book *Everything In Its Own Time — A mother's memoir about adopting five children and the ones that got away* (Honey Locust Press). Rebecca lives in Atlanta.

Melissa Engelberth McIlwain and John McIlwain announce the birth of their son, Charles Stone, on Nov. 2, 2009. Melissa left her post as senior counsel at Wells Fargo to spend time raising her children.

Helle R. Weeke has been named associate general counsel at Develoment Alternatives Inc., in Bethesda, Md.

1992

John Hoffman has been named director of the New Jersey State Comptroller's Investigations Division. John has served in the U.S. Department of Justice's Trenton office since 2004.

Brendan Francis Macaulay and his wife, Elissa, welcomed their second daughter, Lauren Virginia, on April 1, 2010. Brendan is a commercial/real estate litigation partner at Nossaman in San Francisco, Calif.

Shaolong Zhu is working in Beijing as one of the legal heads of Shell China.

1993

Jeffrey Benson has been included in the 2010 edition of *Chambers USA*. Jeffrey is a partner in the Raleigh office of Kilpatrick Stockton where he concentrates his practice on commercial real estate, including development, zoning and land use, leasing, and real estate finance.

Julio Pereira Gandarillas has been appointed Chilean national tax commissioner by President Sebastián Piñera. Julio spent 20 years with PricewaterhouseCoopers Chile, 10 of them as a partner.

Leslie Leatherwood Nelson announces the birth of her son, William Chance, on March 10. William joins siblings Emma and Nico.

1994

Douglas Neu has been named group vice president, law, at Travelport, a broad-based business services company and provider of critical transaction processing solutions to companies operating in the global travel industry. He is responsible for employment, executive compensation, and benefits matters. Doug and his wife, Julie, live in Arlington, Mass.

Christopher Vaughn has been named to the 2011 edition of *Best Lawyers* for real estate law. Christopher is a director at Carruthers & Roth in Greensboro, N.C., where his practice focuses on commercial real estate, including real estate development, finance, and title claims.

Martha Wach and her husband, Jon Dunfee, announce the adoption of their daughter, Ciara HaYeong Dunfee, on March 19, 2010. Martha is counsel at Jones Day in Dallas.

1995

Kenneth Bullock has retired from the U.S. Air Force and is working as assistant general counsel for the Social Security Administration in Kansas City, Mo.

Doug Chalmers has been recognized in the 2010 edition of *Chambers USA* as one of the nation's leading attorneys in political law. Doug is a partner with FSB FisherBroyles in Atlanta.

Paul W. Hespel has joined Pepper Hamilton as a member of the financial services practice group in the firm's New York office. Paul specializes in finance and restructuring transactions, with a particular focus on transactional finance matters, mezzanine financings, out-of-court restructurings, and liability management transactions.

Erika Lietzan taught food and drug law during the spring 2010 semester as an adjunct professor at Georgetown Law School. Erika is a partner in the food and drug group at Covington & Burling and is a member of the board of the Food & Drug Law Institute.

Mark I. Schwartz is teaching at Howard University School of Law in Washington, D.C., as an adjunct professor of food and drug law. Mark is associate chief counsel for drugs and biologics at the Food and Drug Administration.

1996

Claire Fried has been appointed special counsel to the Ohio attorney general for collections enforcement. Claire is a sole practitioner in Chillicothe, Ohio, working primarily on Chapter 7 and 13 bankruptcy representation for debtors. She has two children, Will and Phyllis.

Steven Moore has been included in the 2010 edition of *Chambers USA* for intellectual property. Steven is a partner practicing in the Atlanta and Winston-Salem offices of Kilpatrick Stockton, where he focuses on patent infringement litigation.

Naoki Watanabe is teaching an advanced commercial and corporate law course at Keio University Law School and is a partner at Clifford Chance Law in Tokyo.

1997

Teri (Dobbins) Baxter and Darrel Baxter announce the birth of their daughter, Alexis Jeannine, on March 23, 2010. Teri is on the faculty at the Saint Louis University School of Law.

Matthew Gaudet has been included in the 2010 edition of *Chambers USA*. Matt is a partner in the Atlanta office of Duane Morris where he practices in the areas of intellectual property litigation with a focus on patent litigation as well as related complex commercial litigation and technology litigation.

Giovanni Graziano married Cristina Suarez in August 2009. Giovanni is a master's student in the real estate program at Cornell and will graduate in May 2011.

Jeffrey C. Hart has been named to the *Triangle Business Journal*'s annual list of "40 Under 40," which recognizes promising young professionals for their notable career achievements as well as their positive impact on the community. Jeffrey chairs Robinson, Bradshaw & Hinson's venture capital practice group, and his practice areas include private equity and venture capital transactions, mergers and acquisitions, joint ventures, and other business transactions.

1998

Derek Apanovitch and his wife, Rebecca, announce the birth of their daughter, Aubrey Anna, on May 25, 2010. Derek is senior vice president and general manager at Conversion Partners, a Tampa investment firm active in the post-secondary education sector.

Melissa Igdaloff Attar and her husband, Ron, announce the birth of their fourth child and second son, Adam, on Nov. 5, 2009.

Caryn Becker is serving as chair of the Consumer Financial Services Committee of the California State Bar for the 2010-2011 year. Caryn is policy counsel at the Center for Responsible Lending in Oakland, Calif.

Alexander Bruns has been named dean of the law faculty at Albert Ludwigs Universitat Freidburg in Germany.

Rebecca Gerskin Donnini has been elected to the board of directors of HAVEN, an Oakland County, Mich., center for the prevention and treatment of domestic violence and assault. Rebecca is a partner at Honigman Miller Schwartz and Cohn in Detroit where her practice focuses on counseling and advising high net-worth individuals in their personal legal matters, including tax and estate planning, charitable giving, real estate, and business succession issues.

G. Courtney Holohan and her husband, Wesley Mueller, announce the birth of their son, Evan Grant, on March 12, 2010. Courtney is a partner at Kirkland & Ellis in Chicago where her practice areas include intellectual property, patent infringement litigation, copyright, trademark, Internet, and advertising litigation, advertising marketing and promotions, and patent licensing.

Bobby Sharma has joined IMG, a global sports and media company, as senior vice president, global business development, basketball. Based in Mumbai, India, he is overseeing the global growth of IMG's basketball business with a specific focus on India and Brazil. Bobby previously was vice president and general counsel of the National Basketball Association Development League. He was named 2010 Sports Counsel of the Year by the Association of Media & Entertainment Counsel and received the 2010 Corporate Counsel Award from the South Asian Bar Association of New York.

Cameron Williams has joined the corporate group of Clark Hill in Phoenix.

1999

Howard Cohen has been promoted to partner at Drinker Biddle & Reath in Wilmington, Del. Howard is a member of the firm's corporate restructuring practice group.

David Dummer has been named a 2010 "Texas Rising Star" by *Super Lawyers* magazine. David is an associate in the litigation department at Weil, Gotshal & Manges in Dallas.

Kathleen Gutman has been awarded a PhD in law from the Katholieke Universiteit Leuven in Belgium and is serving as a post-doctoral research fellow at the Institute for European Law in Belgium. Her dissertation was titled "The Constitutionality of European Contract Law — Comparative Reflections with the United States."

Jennifer Kinsley has been elected president of the First Amendment Lawyers Association, a national organization whose members devote their practices to the defense of the First Amendment's free speech guarantee. She is the youngest member and the second female in the organization's 40-year history to hold the office. Jenni is a founding member of Sirkin Kinsley & Nazzarine in Cincinnati.

Craig Kornreich has joined Latham & Watkins in Houston as a partner in the firm's finance department. He previously worked at Vinson & Elkins.

Kirk Rasmussen has been recognized as a "Texas Rising Star" in the April 2010 edition of *Texas Monthly* magazine. Kirk is a shareholder in Winstead's Dallas office where he is a member of the public and regulatory practice group.

Lisa Reichmann earned a spot on Team USA and qualified for the 2010 Duathlon World Championships at the National Championships in Richmond, Va., in April 2010. She competed in the World Championships in Edinburgh, Scotland, in September, placing eighth in her age group. She also set a personal record at the 2010 Boston Marathon with a time of 3:06:34. Lisa is a full-time mother of three and an RRCA-certified running coach.

Susan (Chasnov) Wong married Mark Wong on June 5, 2010, in Los Olivos, Calif. Susan is senior counsel at Stubbs Alderton & Markiles; she telecommutes to her Los Angeles office from San Diego.

Anne Wynne has been named general counsel at Prisma Capital Partners in New York, where she coordinates all legal activities on behalf of the firm. Anne previously worked as senior counsel and vice president at Ivy Asset Management where she was involved in a variety of legal activities.

2000

Till Hafner has earned a master's of business administration from Kellogg/WHU. The degree is jointly offered by the Kellogg School of Management at Northwestern University and the WHU-Otto Beisheim School of Management in Germany. Till is an attorney at Wellensiek Rechtsanwalte in Frankfurt, where he focuses on cross-border transactions and bankruptcy/insolvency law.

Margaret Hu is teaching Intersection of Immigration Policy & Civil Rights Law at Duke Law School, where she is a senior lecturing fellow. She previously worked as the senior policy adviser and liaison to the President's Advisory Commission in the White House Initiative on Asian Americans and Pacific Islanders while on detail from the U.S. Department of Justice (DOJ). At the DOJ she served as special policy counsel in the Office of Special Counsel for Immigration Related Unfair Employment Practices in the Civil Rights Division.

Dustin Rawlin and **Meggan Rawlin '01** announce the birth of their son, Lincoln Hunter, on Sept. 10, 2010. Dustin is a partner and Meggan is a senior associate in the trial practice group of Jones Day's Cleveland office.

Pammela (Quinn) Saunders has joined the faculty of The Earle Mack School of Law at Drexel University as a visiting assistant professor for a two-year term. She teaches Property, Public International Law, and International Business Transactions. Pamm previously worked at the U.S. State Department.

2001

Kamla Alexander has been promoted to senior corporate counsel and South business unit general counsel at Coca-Cola Enterprises. She previously served as corporate counsel.

Michael Holly will be deployed to Iraq throughout 2011 with the 40th Combat Aviation Brigade. Michael is a judge advocate with the California Army National Guard.

Kelly Black-Holmes and her husband, Thomas, announce the birth of their son, Thomas James, "TJ," on Feb. 6, 2010. TJ joins sister Leah. Kelly is an in-house litigation counsel at Turner Broadcasting System in Atlanta.

Randy Katz was awarded the Timothy Evans Award for Outstanding Performance as a Federal Prosecutor in September 2010 by the United States Attorney for the Southern District of Florida. Randy is an assistant U.S. attorney in the Southern District of Florida's Fort Lauderdale office.

Pamela Hoefer Lialias is the owner, manager, and founder of her own sewing pattern company, Johnny Mango Seed, in Portland, Ore.

Gideon Moore has joined FSB FisherBroyles as a partner in the Charlotte office. Gideon previously was a member of the commercial practice group at Wishart Norris Henninger & Pittman in Charlotte.

Meggan Rawlin and **Dustin Rawlin '00** and announce the birth of their son, Lincoln Hunter, on Sept. 10, 2010. Dustin is a partner and Meggan is a senior associate in the trial practice group of Jones Day's Cleveland office.

Peter A. Tomasi has been named to the 2011 edition of *Best Lawyers* for environmental law. Peter is a partner in the Milwaukee office of Quarles & Brady.

Travis Wheeler taught a course on antitrust law as an adjunct professor at the University of South Carolina School of Law during the fall 2010 semester. Travis is an associate on the antitrust practice team at Nexsen Pruet in Columbia, S.C.

2002

Lauren Sue Altman married Jeffrey Blake Whiting on May 15, 2010. The couple resides in Irvine, Calif.

Keith Gibson and his wife, Nicola, announce the birth of their son, Brody Christopher, on March 30, 2010. Keith is a litigation associate in Weil Gotshal's New York office.

Marcella Harshbarger was selected as one of 50 Latina attorneys for an executive leadership training program sponsored by the Hispanic National Bar Association and the Association of Corporate Counsel. Marcella is corporate counsel at France Telecom North America in Washington, D.C.

Anne Marie Verschuur has been appointed counsel in the IP department of NautaDutilh in Amsterdam.

2003

Suzy Alford and her husband, Darrick, announce the birth of their daughter, Evelyn Marie, on Dec. 8, 2009. Evelyn joins her sister Lily. Suzy is senior director and corporate counsel at Equifax in Atlanta.

Nicole Crawford has been elected to a three-year term as a director of the North Carolina Zoological Society, a private, nonprofit organization that supports the North Carolina Zoo. Nicole is a partner in the Greensboro office of Brooks, Pierce, McLendon, Humphrey & Leonard, where she focuses on labor and employment and litigation.

Isabella Hoedl and her husband announce the birth of their daughter, Katrina, on July 26, 2010.

Charles Nightingale and his wife, Alison, announce the birth of their son, Nathan Elliot, on Oct. 13, 2009. Charles is legal and regulatory counsel at Pacific Alternative Asset Management Company in Irvine, Calif.

2004

Jenny Anderson married Wilhelm Schultz on March 27, 2010, on a small wine farm in Elgin, South Africa. The couple resides in Johannesburg, where Jenny works for White & Case.

Krista (Brookhart) Barnes and her husband, Jeff, announce the birth of their daughter, Annabel Brookhart Barnes, on March 30, 2010. Krista is an associate at Baker & Hostetler in Houston.

Caroline Belk has been named chair of the board of directors for Ten Thousand Villages of Raleigh. Caroline is an associate in the

commercial litigation and environmental health and safety groups at Smith Anderson in Raleigh.

Walter Buzzetta and his wife, Monica, announce the birth of their first child, Alexis Riley, on May 16, 2010. Walter is an associate at Baach, Robinson and Lewis in Washington, D.C., where he practices in the areas of insurance, litigation, reinsurance, and investigations and white collar defense.

Sohini Chatterjee has been appointed senior adviser in the Office of Donor Engagement in the U.S. Agency for International Development's newly created Policy Planning Bureau.

Campbell Chiang joined Qualcomm in San Diego as associate patent counsel in May 2010.

Nita Farahany has been appointed to the Presidential Commission for the Study of Bioethical Issues. Nita is an associate professor of law and philosophy at Vanderbilt University, where she focuses on law and behavioral genetics, law and neuroscience, criminal law, and jurisprudence.

Darcy and **Jonathan Krause** announce the birth of their daughter, Anderson DeLayne, on June 14, 2010. Darcy is studying for a master's degree in social work in Philadelphia. She previously was an associate at Littler Mendelson. Jonathan is an associate in the Philadelphia office of Morgan Lewis, where he focuses on labor and employment law.

Andres Onetto designed Washington Gas company's acquisitions strategy during the summer of 2010. Andres is an MBA student at Northwestern's Kellogg School of Management.

Minodora Vancea joined the appellate litigation unit of the Federal Deposit Insurance Corporation in January 2010. Minodora previously worked in the appellate group of Gibson Dunn & Crutcher's Washington, D.C., office.

Florian Willi and his wife, Aline, announce the birth of their daughter, Ariane Monique, on July 22, 2010, in Lucerne, Switzerland. Florian is an attorney with Dietrich, Baumgartner & Partners in Zurich.

2005

Kyung-Hoon Chun has joined the faculty of Seoul National University School of Law as an assistant professor teaching corporate and commercial law. Kyung-Hoon previously was a partner at Kim & Chang in Seoul.

Matthew Droz has joined Exxon Mobil Corp. as counsel in its Fairfax, Va., offices. Matthew previously was an associate at Baker Botts in Washington, D.C.

Scott Edson and Raven Merlau announce the birth of Rhys Edson-Merlau on Feb. 17, 2010. Scott is an associate in O'Melveny's Washington, D.C., office, where he is a member of the class actions, mass torts and insurance litigation, and appellate practices.

Zachary Klughaupt has joined Schwartz LLC, a New York-based boutique specializing in corporate finance and transactions in emerging markets, as counsel. Zach divides his time between New York and São Paulo.

Carol Chih-Chieh Lin was one of 13 professors at National Chiao Tung University in Taiwan to receive the best teaching award. Carol teaches Criminal Law, Criminal Procedure Law, and Feminist Jurisprudence at the Institute of Technology Law.

Kara Moorcroft married Geoff Kapke on Oct. 11, 2009. She uses the name Kara Moorcroft Kapke. She is an associate with Barnes & Thornburg in Indianapolis where she specializes in litigation.

Jim Stevens has joined BG Americas & Global LNG in Houston as counsel. He previously was an associate with Vinson & Elkins.

2006

Marla Zimmerman Axelrod married David Axelrod on May 25, 2008. Marla focuses on labor and employment counseling and litigation at Akin Gump Strauss Hauer & Feld in Philadelphia.

Adedayo Banwo has joined the Commodity Futures Trading Commission in Washington, D.C., as a rulemaking attorney in the regulatory division.

Jose Angel Rodriguez Canales is working in the legislative affairs office of the Coahuila local government in Mexico. Jose does research and advises ministers, congressmen, and judges about the intent of new legislation.

Lauren DeSantis-Then has published *The Capital Cooking Cookbook* (CreateSpace, 2010). The cookbook serves as a companion to her television show, "Capital Cooking with Lauren DeSantis." She is an associate in the business litigation, health care, and government investigation groups at Polsinelli Shughart in Washington, D.C.

Jeff Goldman announces the birth of his second daughter, Abigail Carmel, on May 25, 2010. Jeff is an associate at Gunderson Dettmer in Redwood City, Calif.

Hanna M. Kotrschal has joined the international team of the legal department at Raiffeisenlandesbank Upper Austria in Linz, Austria.

Ana Navia has joined Goldman Sachs & Co.'s Investment Bank Division as a vice president in the New York office. Ana previously was an associate with Simpson Thacher & Bartlett in New York.

Elisabeth and **Orion Mountainspring** announce the birth of their son, Wyatt, on March 16, 2010.

Luciano Cruz Morande is a professor of civil law at Pontificia Universidad Catolica de Chile where he has taught Civil Law and Theory of the Law since 2001. Luciano is a member of the corporate practice at Arteaga Gorziglia & Compañía in Santiago.

2007

Vincent Asaro has joined K2M, Inc. in Leesburg, Va., as associate counsel.

Felipe Benavides has been named an "Associate to Watch" in banking and finance by *Chambers and Partners Latin America 2010.* Felipe is a senior associate at Cariola Diez Perez Cotapos & Cia. Ltda. in Santiago, Chile.

Ian Miller and his wife, Erica, announce the birth of their son, Cade Ming Hu, on Feb. 22, 2010.

S. Mike Murphy and **Kelsey Cameron Murphy** were married on June 19, 2010, in Chelsea, Mich. Mike is an associate with DeWitt, Ross & Stevens. Kelsey is an associate with Global Trade Expertise. The couple resides in Madison, Wisc.

Rita B. Trivedi, a labor and employment attorney at Robinson & Cole in Hartford, Conn., has been appointed to the Literacy Volunteers of Greater Hartford board of directors.

2008

Mauricio and **Kathryn Almar** announce the birth of their son, Nicholas Mauricio, on July 12, 2010. Mauricio is an associate in the international arbitration group at Arnold & Porter. Kathryn is an associate in the health care and torts litigation groups at Crowell & Moring. Both work in Washington, D.C.

Brian Andrews has joined the Dallas office of Thompson & Knight and works in the firm's trial practice group.

Sachin Bansal has joined McKool Smith in New York where he focuses on bankruptcy and white collar matters. Sachin previously was an associate at Davis Polk & Wardwell.

Tadhg Dooley has joined Ellis & Winters in Cary, N.C., where he is a litigator. Tadhg previously was a law clerk to Judge Robert N. Chatigny of the U.S. District Court for the District of Connecticut in Hartford.

Mahmoud Kittana was married on June 25, 2010. Mahmoud is a legal adviser at Birzeit University Institute of Law. He also works at Ittqan Law Firm in Ramallah.

2009

Aaron Harmon has joined Morris, Nichols, Arsht & Tunnell in Wilmington, Del., as an associate in the corporate counseling group.

James McDonald, who served as an observer on the Duke University Board of Trustees in 2009, has been granted voting rights for a one-year term. James is clerking for a judge on the U.S. Court of Appeals for the Ninth Circuit. He previously clerked in the U.S. District Court for the Southern District of New York.

Rachael Muchmore has joined Simpson Thacher & Bartlett in Palo Alto, Calif., as a corporate associate.

Kim Maynard has joined Baker & Hostetler as an associate in the New York office.

Brad Miller has joined Jones Day as an associate in the Cleveland office.

Michele Okoh-Bernis is an associate attorney in the Health and Public Assistance Section of the North Carolina Department of Justice.

Sonja Ralston is clerking for Judge Guido Calabresi of the U.S. Court of Appeals for the Second Circuit in New Haven, Conn.

Emiliano Suárez was commissioned as frigate lieutenant and judge advocate of the Argentine Navy in July 2010.

Suebsiri Taweepon '09 is an attorney in the intellectual property group at Tilleke & Gibbins in Thailand where he handles a wide range of matters relating to intellectual property. He also lectures on IP law at Chulalongkorn University and has been identified by *Asialaw* as one of the leading lawyers in Asia-Pacific in the area of intellectual property in 2008, 2009, and 2010. Suebsiri married Khanita Leerahathron on Oct. 10, 2010, in Bangkok. Classmates **Jacelyn Chan**, **Toshini Itakura**, **Kengo Kawai**, and **Dian Abdul Hamed Shah** attended.

Jonathan Williams is clerking for Judge Lee H. Rosenthal in the U.S. District Court for the Southern District of Texas, in Houston.

2010

Michael Gilles has joined the U.S. Department of State's Office of the Legal Adviser as an attorney-adviser.

In Memoriam

This list reflects information received by the Duke Law Alumni and Development Office by Oct. 15, 2010. View obituaries at **http://www.law.duke.edu/magazine.**

Class of '35
Lee Smith McKeithen
June 21, 2010

Class of '41
James R. Mattocks
Sept. 10, 2010

Class of '42
James F. Latham
Aug. 26, 2010

Class of '47
Jack LeRoy Bloom
May 8, 2010

Class of '48
George Newsome
Sept. 1, 2010

Class of '62
William H. Bradford Jr.
July 20, 2010

William A. Chesnutt
April 13, 2010

Class of '64
Jay E. Beal
April 11, 2010

Class of '65
Joe Brigati
Aug. 4, 2010

Class of '66
Michael Ward Field
Oct. 6, 2010

Class of '68
Andrew Harkness
Aug. 25, 2010

Class of '74
Stephen Parr
March 27, 2010

William G. Powell
Aug. 19, 2010

Class of '77
Rachel L. Steele
Aug. 7, 2010

Class of '79
Alexander Copeland III
June 10, 2010

Class of '81
Robert Goodale
Aug. 11, 2010

Class of '98
Nicholas A. Marsh
Sept. 26, 2010

Sua Sponte

"COACH JAMES is nice to everybody but still makes us work really hard."

"James is the best coach because he makes sure everyone who practices gets to play, and he showed us how rugby can be really fun. I never played it before, but it's kind of exciting."

Those assessments of their rugby coach, **James Gillenwater '12**, came, respectively, from Dominick and Xzavier, both 10 and players with the Durham Titans. They spoke following a match at Durham's John Avery Boys & Girls Club on Nov. 5. A former USA Rugby team captain and All American player at Vanderbilt University, Gillenwater is running a yearlong rugby program for youngsters at the Boys & Girls Club. He is gratified to see his charges connecting with the game he loves.

"Rugby is a very inclusive sport," he says. "Everyone gets to run, pass, tackle, and play defense. Everyone has roles on the team. Other sports have roles, but they're more circumscribed. If you're a big kid, you're going to play on the line in football. But in rugby, every one of the kids — boys, girls, whatever age, whatever size — they all get to run, they all get to pass."

Funded by the Albert Schweitzer Fellowship Program, which supports health-based service projects for underserved communities, Gillenwater's program includes academic mentoring by Duke University undergraduate and graduate student volunteers, many of whom are rugby players who participated in a Nov. 5 match for the children.

Duke Law Scholarship Donors:
Investing in the Future of the Profession



Scholarship donors and student recipients gathered at the Washington Duke Inn, Oct. 30, 2010, for Duke Law School's 2010 Scholarship Luncheon.

"To our donors, I say that your support for student scholarships is evidence of both the extraordinary generosity that characterizes our alumni community and your abiding faith and hope in the future of our profession. Thank you for your vision and your generosity."

— Dean David F. Levi, 2010 Scholarship Luncheon Remarks

TO MAKE A GIFT, visit **https://www.gifts.duke.edu/law** or contact the Duke Law School Alumni and Development Office at 1-888-LAW-ALUM or 919-613-7017.

DUKE LAW

DUKE LAW

Duke Law Magazine
Duke University School of Law
210 Science Drive
Box 90389
Durham, NC 27708-0389

CHANGE SERVICE REQUESTED

Selected Spring Conferences, Symposia, Lectures, and Events

1/28 **Dancing on the Glass Ceiling: Tools and Creative Solutions for Professional and Personal Success**
Women Law Students Association

2/4 **Judicial Takings and the Fifth Amendment**
Duke Journal of Constitutional Law and Public Policy Symposium

2/4–5 **ESQ**
Business Law Society Career Symposium

2/08–10 **The Changing Face of Families**
Duke Journal of Gender Law and Policy Symposium

2/11 **10th Annual Hot Topics in Intellectual Property Law Symposium**
Intellectual Property and Cyberlaw Society

2/18 **Our Youth at a Crossroad: The Collateral Consequences of Juvenile Adjudication**
Duke Forum on Law & Social Change Symposium

2/19–20 **Sixth Annual Family Weekend and PILF Auction**

2/23 **Lives in the Law: Alumni Ambassadors**
Jaime Alemán '78 and Tony Harrington '66

2/25–26 **The FCC and the [Non]Regulation of the Internet**
Duke Law Journal Administrative Law Symposium

3/18 **GPS (Government and Public Service): Finding Your Way**
Office of Public Interest and Pro Bono
Career & Professional Development Center

3/24 **Prof. Arti Rai, Duke Law School**
Meredith and Kip Frey Lecture in Intellectual Property

4/05 **Prof. Bernhard Schlink, Proportionality in German and American Constitutional Law**
Herbert Bernstein Memorial Lecture in International and Comparative Law

4/08 **Prof. Daniel Meltzer, Harvard University**
Brainerd Currie Memorial Lecture

4/08–10 **Alumni Reunion**

4/11 **Prof. Evelyn Higginbotham, Harvard University**
Visiting John Hope Franklin Chair in American Legal History, Duke Law School

4/14–15 **National Security Since 9/11: New Norms for a New Decade**
Center on Law, Ethics and National Security
Center for International and Comparative Law
Program in Public Law

June 16–19 2011

SAVE THE DATE
Duke Law Alumni Retreat
Villagio Inn & Spa, Yountville, Calif.
Details to come