

# DUKE LAW MAGAZINE

Winter 2013 | Volume 32 Number 1

a sampler of

## FACULTY BOOKS





## From the Dean



Dean David F. Levi

### Dear Friends,

**G**REETINGS FROM DUKE LAW SCHOOL. There is much to report as we begin 2013.

We live in challenging times, certainly for the legal profession, law students, and the legal academy. But times of change provide opportunities for growth, renewal, and leadership. For Duke Law, these challenges provide the opportunity and the incentive to become an even better place for teaching, research, and learning.

If you have been following law school admissions, you know that overall applications to U.S. law schools are down sharply. As of the beginning of January 2013, the national applicant pool to ABA accredited law schools was down 22 percent over last year. The majority of schools have experienced application declines well over 10 percent. Only a handful of schools can expect to end up even or better than last year, and Duke is one of them. Let us hope that this augurs well for our recruitment. We know that the competition will be more intense than ever.

The employment picture for graduates is still difficult but stable and improving by most measures. The top group of law schools — and it is a small group — have much better employment outcomes than others. Duke Law is fortunate to be in that top group. Using traditional law jobs as our measure — for example, judicial clerkships, private practice, and legal positions in government and nonprofits that are classified as “bar required, long-term, full time” by the ABA — 82 percent of Duke Law 2011 graduates had such employment by February of 2012. For the Class of 2012, the figure will rise a few percentage points to the mid-80s by February 2013. Other students have found short-term or part-time positions. Still others have chosen long-term positions in business or consulting that do not require the bar. Taking everything together, roughly 95 percent of the Classes of 2011 and 2012 were employed by February of the following year, even when we include those who are not looking for work because they are studying for the bar exam or for other reasons.

The high cost of law school and of higher education more generally continues to be an important topic of concern. Our education is expensive. Our classes are small, our faculty includes many of the leading scholars in the world, and we cover the broad spectrum of skills and topics needed in a dynamic legal environment. We offer the powerful core curriculum that makes law school a transformative experience. We offer courses on the multitude of topics in which our students seek the kind of expertise that may launch or define their careers. We offer an array of professional skills courses and one

of the strongest legal writing programs in the country. We offer externship opportunities, eight clinics, a JD/LLM in International and Comparative Law and a new JD/LLMLE in Law and Entrepreneurship. We have a rich international program that brings more than 90 lawyers from around the world to sit alongside our JD students in a shared study and exploration of the law. We have a lot going on because our students and faculty have a huge range of interests. None of this is or should be done on the cheap.

Our tuition does not cover the cost of a Duke Law education and the supporting services that students receive. Even the full tuition covers only about two-thirds of the cost of an education at Duke Law. The difference is made up by our community of alumni and friends who have given to the school over the years and who have stepped up now to help our students and young graduates. Because of this support, scholarship funding has doubled from \$5 million to over \$10 million in the last five years, and, as a result, the net average tuition at Duke Law, taking account of scholarship grants, has stayed fairly stable during that period at about \$33,000 per year. This is also why Duke Law is able to provide scholarships and grants to a larger percentage of its students than any other top law school in the country. Elizabeth and Stanley Star '61 recently pledged \$5 million for financial aid initiatives, including a \$2 million matching fund for new scholarships. This pledge, plus some additional matching funds from the Provost for this purpose, already has generated 11 new scholarships for the Law School just in the past eight months. Our governing faculty has demonstrated its full support of our students by creating a faculty scholarship from personal donations. My wife Nancy and I have established another scholarship. All of us have seen and been inspired by the power of philanthropy to keep our doors open for all the many deserving students who wish to come to our school.

We know that we must continually earn the confidence of students, employers, and donors, and that this requires us to excel in everything that we do and to be at once nimble and innovative without losing our focus on those things that we do best, such as teaching students to write well, calling upon them to think through the most difficult legal problems, and inviting them into the exciting intellectual world of the most thoughtful and insightful legal scholars. You will see throughout this magazine examples of the depth, intensity, and excitement of life at Duke Law. Our students are engaged with real-world ideas and problem solving, here and throughout the world. Our faculty are producing important scholarship and contributing to research and law reform projects. Our centers and programs bring the profession, the academy, and the bench together to increase our knowledge of the law and legal systems and to study how they can be improved.

This is a time of change and challenge that we can embrace with optimism. With the help of our many friends, our graduates, our Board of Visitors under the inspirational guidance of Board Chair David W. Ichel '78, and with the leadership of our stellar staff and faculty, we look to a bright future. I hope you feel the same way in your own endeavors, and I look forward to seeing you here at Duke Law in 2013. Thank you for your support.

Sincerely,

David F. Levi  
Dean and Professor of Law

# DUKE LAW MAGAZINE

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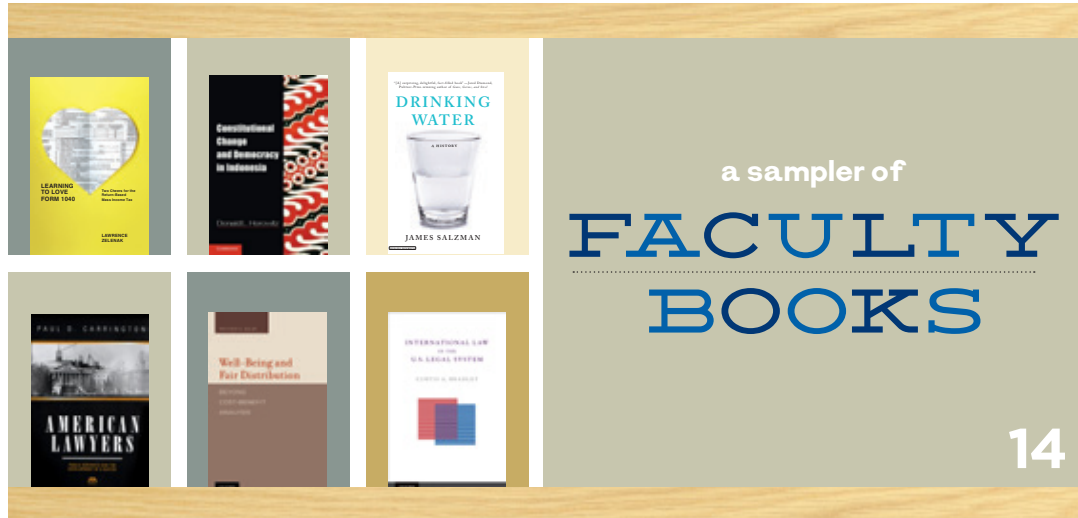
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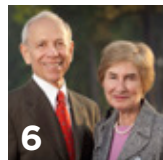
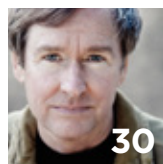
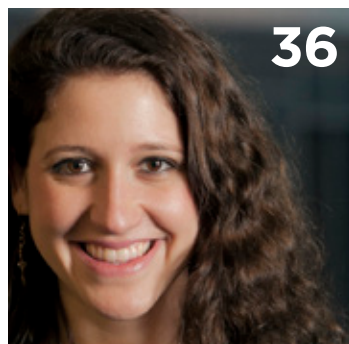
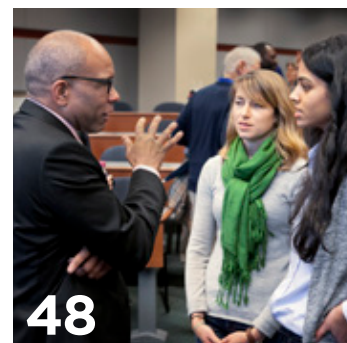
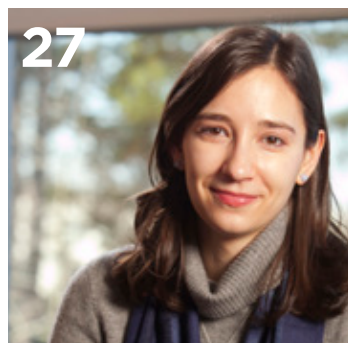
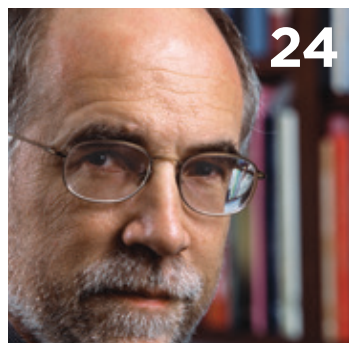
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## Duke Law launches \$85 million campaign



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*LaMonte Armstrong with his lawyers, who he calls “some of the best friends I’ve ever had.”*

L-R: Jamie Rietema Horowitz '09, Sachin Bansal '08, David Pishko '77, Theresa Newman '88, LaMonte Armstrong, Matthew McGee '10, John Hibbard '13, Natasha Alladina '11, James Coleman, and Michael Horowitz '09

## Wrongful Convictions Clinic secures release of two clients

**T**WO CLIENTS OF Duke’s Wrongful Convictions Clinic, headed by Professors James Coleman Jr. and Theresa Newman ’88, gained their freedom last summer after serving long sentences for crimes they did not commit. LaMonte Armstrong was released from prison on June 29, after serving 17 years of a life sentence for murder. On Aug. 31, a judge overturned the conviction of Noe Moreno, after Moreno had served almost six years of an 18 to 22-year sentence for charges stemming from a fatal collision. Students, faculty, and alumni had reinvestigated each case over several years, eventually engaging the cooperation of prosecutors who joined the defense teams in recommending release for the two men.

### LaMonte Armstrong: “Pretty much I owe Duke my life”

Armstrong, convicted in 1995 of the 1988 murder of Ernestine Compton in Greensboro, N.C., was released by Judge Joseph Turner, who praised the work of the Duke Law students, faculty, and alumni who worked on his case for more than six years. Many former clinic students worked on the case as a pro bono matter supported by their law firms following graduation, and corresponded and visited regularly with Armstrong; while Newman calls them “the A-Team,” Armstrong calls them “some of the best friends I’ve ever had.”

The team came together in Greensboro on June 29 to witness Armstrong’s release at a hearing that had been fast-tracked after police uncovered new evidence. Natasha

Alladina ’11, Matthew McGee ’10, Michael Horowitz ’09, Jamie Rietema Horowitz ’09, Sachin Bansal ’08, and John Hibbard ’13 all attended the hearing, while Abby Dennis ’08 was represented by her father, a Greensboro lawyer. All were transformed by the passion they felt for the case, said Alladina, now at Alston & Bird in Atlanta.

The A-Team’s dogged work and the open minds of Guilford County prosecutors and Greensboro police resulted in a just outcome, said Coleman, the John S. Bradway Professor of Law.

“The willingness of the Greensboro Police Department and the District Attorney’s Office to listen to our concerns and act as amenable, if skeptical, allies in pursuing the truth is a blueprint for how innocence investigations should proceed,” he said.

### A blueprint for collaboration

As students investigated the case, the District Attorney’s office and the Greensboro Police Department gradually opened their files and eventually took an interest. Clinic teammates Alladina and McGee worked with Greensboro Detective Michael Matthews, “without whom,” Alladina said, “this release would not have happened.”

The detective reviewed the case file with the students, finding recordings and witness statements that strongly pointed to Armstrong’s innocence. That evidence had never been turned over to his trial attorney.

Newman, who primarily supervised the clinic’s investigation, began drafting a motion requesting a new trial for Armstrong, enlisting the assistance of David Pishko ’77, a partner at Elliot Pishko Morgan in Winston-Salem who has worked with the clinic on other cases. (Read more, Page 4.) Much of the motion rested on the lack of evidence against Armstrong, the impeachability of the police informant, and the evidence never given his original attorneys. It did not rest on physical evidence.

“I had personally given up hope of the physical evidence being helpful,” said McGee, now a litigation associate at Haynes & Boone in Dallas. “None of it ever implicated LaMonte, but none of it ever helped prove he was innocent, either.”

But in early June, Assistant District Attorney Howard Neumann told Newman that they had retested physical evidence from the crime scene and gotten a hit from a new database; a palm print on the wall above the victim’s body was identified as belonging to an earlier suspect in the case. The prosecutor and the court agreed to hold a prompt hearing on the new evidence.

### A mutual admiration

While in prison, Armstrong participated in educational programs and served as a teaching assistant to inmates seeking their G.E.D., and as a peer counselor in the Drug/Alcohol Recovery Treatment program. Once released, he quickly found work as an emergency crisis counselor and hopes to become a substance abuse counselor, Newman said. “He’s a very smart man, and he has somehow stayed centered and positive through all of this.”

(continued from Page 3)

Armstrong has shared his experience and insights with Duke Law students on several occasions since his release, including their Law School orientation.

“Whatever they ask me to do I will do, because pretty much I owe Duke my life.”

### Noe Moreno: “A testament to hard work, perseverance, and creativity”



Students reinvestigating Noe Moreno’s case proved that he was not the driver of the vehicle that caused a 2006 two-car collision in Mecklenburg County, N.C., that killed one person and injured five. Police mistakenly identified him as the driver because the impact pushed him toward the left of the vehicle and pushed the driver to the right.

Following the advice of his lawyer at the time, Moreno pleaded guilty in 2007 to charges including second-degree murder and driving while impaired. At the time of his guilty plea, he spoke only Spanish and did not fully understand the implications of his plea.

Moreno’s case was reviewed by a team of Duke Law Innocence Project students, including Joshua Mayer ’10, who persuaded Newman and Coleman to transfer it to the Wrongful Convictions Clinic, where Mayer and 2010 classmate Zach Oseland conducted an extensive investigation. More recently, clinic Supervising Attorney Jamie Lau ’09, Barrett Johnson ’13, and visiting Irish barrister Alicia Hayes joined Mayer in helping to prepare it for an October evidentiary hearing. In late August, however, the District Attorney’s Office, persuaded by the findings of an expert who reconstructed the accident, agreed to Moreno’s release at an abbreviated hearing, where he was represented by Newman and Pishko.

“This case is really a testament to hard work, perseverance, and creativity,” Newman said. “Guilty pleas are particularly difficult to overcome, but the facts of this case made it clear that Mr. Moreno should never have been charged.”

Coleman said the Moreno exoneration is particularly important to the work of the clinic and Innocence Project. “We recognize that freeing a person who pleads guilty to murder or one who is an undocumented immigrant may appear to be asking a lot of elected judges and prosecutors. But if the person is innocent, as Noe was, exoneration is what justice demands. We are fortunate in North Carolina that there are prosecutors and judges who put justice before politics in such cases.” ♡

### Center for Criminal Justice and Professional Responsibility

## CONFERENCE SPARKS DIALOGUE, RESEARCH ON DECISION MAKING IN CRIMINAL JUSTICE

DUKE LAW SCHOOL hosted a working conference on decision making in the criminal justice process on Nov. 30 and Dec. 1, an event designed to spark dialogue and research that could reduce wrongful convictions. The conference brought prosecutors, police investigators, defense lawyers, and judges from around North Carolina together with academic researchers from the fields of law, neuroscience, psychology, and organizational behavior to exchange insights on how decisions are made at various pre-trial stages as well as research related to decision making.

The conference, titled “Accuracy & Error,” was a forum for dialogue that could pave the way for eventual practice and policy improvements to reduce — or eliminate — wrongful convictions, such as those of the exonerated clients of Duke’s Wrongful Convictions Clinic. While rare, wrongful convictions are generally traceable to some form of error, such as reliance on faulty eyewitness identification, false confessions, or ‘tunnel vision’ of participants in the investigative process.

“What we have learned from the [innocence] work that we do is that mistakes that result in miscarriages of justice can be avoided with a more systematic and thoughtful approach to decision making during the course of an investigation, by all of the actors — defense lawyers, police, prosecutors, and judges,” said James Coleman Jr., the John S. Bradway Professor of Law and director of the Center for Criminal Justice and Professional Responsibility (CCJPR), which sponsored the conference along with the Duke University Provost and the Duke Center for Interdisciplinary Decision Science (D-CIDES). “We believe we have resources and knowledge at Duke that can help improve decision making in the criminal justice system. This is a first step to creating a process that allows that to happen.”

The conference included presentations from leading national social science and legal scholars on such matters as the psychological contributors to false confessions, racial bias in policing, faulty and suggestive eyewitness identification, how neuroscience evidence is being used in foreign courts, and psychological factors in the prosecutorial process. The group considered case studies that illustrated how errors were made or avoided, and why.

Neil Vidmar, the Russell M. Robinson II Professor of Law and Professor of Psychology, who serves as research director for CCJPR and was the principal organizer of the

## THE GO-TO GUY



Lillie Elliot

David Pishko ’77 focuses primarily on professional malpractice, nursing home neglect, and business litigation at Elliot Pishko Morgan in Winston-Salem. He’s also become the Wrongful Conviction Clinic’s go-to guy for client hearings, having volunteered his time and expertise on numerous clinic cases, including those of LaMonte Armstrong and Noe Moreno.

“David has been an invaluable member of our clinic teams,” said Clinical Professor Theresa Newman, who co-directs the clinic. “We rely on him for his keen intelligence, insight, and practical advice, all rooted in his stellar practice experience. On matters of strategy, I often find myself asking, ‘What would Pishko suggest?’”

A past president of North Carolina Advocates for Justice, Pishko says it’s a privilege to be asked to “pitch in” on the clinic’s cases.

## DUKE LAW STUDENTS OBSERVE GUANTANAMO HEARINGS

**D**uke Law School's Guantanamo Defense Clinic has been granted observer status by the Office of Military Commissions in the U.S. Department of Defense. As a result, some clinic students are getting the chance to see military commissions in action.

Jesse Kobernick '14 and Julie Coleman '14 were the first to do so, spending their October study break observing hearings at Guantanamo Naval Base. In the spring semester, one student traveled to Guantanamo in January, and two spent time there in February. Other trips are being scheduled as hearings are docketed.

"It was very useful to take the research we do in the clinic — delving into legislative history and digging into cases that date back decades — and see how it might actually impact the pre-trial hearings. It brought a lot of our work home to me," said Kobernick, who observed hearings related to presumptive classifica-

tion of information, such as statements of the five alleged 9/11 co-conspirators (including Khalid Shaikh Mohammed) who are being jointly tried; much of Kobernick's research in the clinic was similarly focused. The relative informality of the proceeding surprised him, he added. "I thought processes would be highly structured, but instead there seemed to be an ongoing discussion between the attorneys and the judge as they figured out how they were going to proceed. The judge wanted to give everyone a chance to speak on the motions, [so] it was slow and painstaking."

Coleman observed a hearing on a motion brought on behalf of the accused U.S.S. Cole bomber, Abd al-Rahim al-Nashiri, whose defense team received assistance, in past academic years, from clinic students. She described the atmosphere at the section known as "Camp Justice" as surreal.

"To get into the courtroom there were three security checks and you could bring in paper, but not pens. They provided pens once you were in," said Coleman, who said the opportunity to work in the Guantanamo clinic clinched her decision to attend law school at Duke. "The viewing gallery was behind a triple pane of glass. We could see everything happening live, but the audio was on a delay. If anything classified or close to classified came up, it was muted. And all photos, even of the courthouse exterior, were banned."

"Being on the ground is always different from working on memos or motions here," said Lecturing Fellow Gabriela McQuade '10, who co-teaches the clinic along with Professor Madeline Morris. "It's strategically beneficial for students to see how the hearings are working, what kinds of things the judges are doing and responding to."

Kobernick added that he found it enlightening to interact with other observers, such as officials from NGOs and journalists from across the political spectrum. "They have been steeped in the commissions and have a lot of knowledge about the process. It was useful to watch the hearings with them and talk to them about their observations."

The clinic gained observer status after demonstrating its "actual, traceable, substantive contributions" to the military commission cases and process through a review of a dossier of faculty and student research and writing, said McQuade.

"Gaining observer status represents recognition of the longstanding and extensive relationship the clinic has had with the military commission system and a nod to the fact that what we are contributing is valuable," she said. "Our ability to reach the students and teach them about the law of war, military commissions, international law and U.S. criminal law is important, and our product that is used by the defense attorneys in the military commissions also has worth. So we were excited to have observer status granted as an affirmation of that work." ♡

conference, said it "achieved far more than we expected by beginning a serious dialogue with prosecutors as well as others, such as defense lawyers, who are focused on innocence."

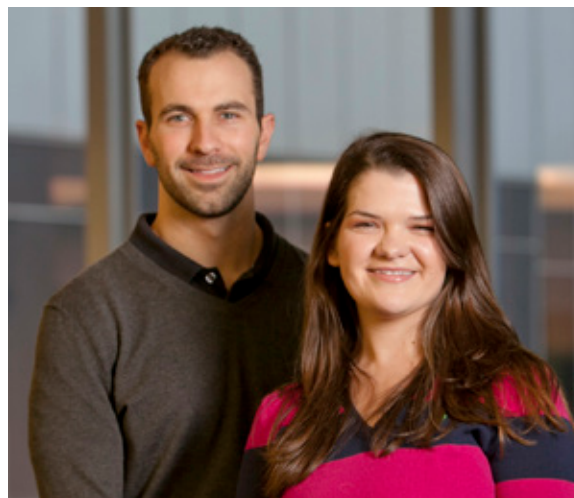
Vidmar, a leading expert on jury behavior, and other conference organizers were particularly gratified to enlist the participation of 15 current and former prosecutors. The conference received enthusiastic support from Ben David, the president of the North Carolina Conference of District Attorneys and the elected D.A. for New Hanover and Pender Counties, who offered a keynote address.

"I've always believed that our client, as prosecutors, is justice," David said. "It's the prosecutor's job to advocate for justice in all cases. [But] we know it's a human system, and any time you have human beings there will be error. We are going to try to do our level best to reduce and hopefully eliminate the errors that lead to wrongful convictions. No one wants innocents to suffer."

David announced that the N.C. Conference of District Attorneys had secured a \$20,000 grant from the Governor's Crime Commission to facilitate a follow-up event. "One of the most important things that can come from this is not just information sharing — and that's critical — but the relationships of trust that can be formed," he said. ♡

"It's as good as it gets as a lawyer," he said on June 29 after a N.C. Superior Court judge ordered Armstrong's release — and praised the clinic's work in open court. "Even when it doesn't work out, the effort to right a wrong and bring justice is what we all went to law school for. And the truth is, once you get into practice, you don't always have many opportunities to be involved in something like this that really has an impact on [LaMonte's] life and, I think, the justice system in general.

"What Jim and Theresa are doing in the clinic is amazing, both in working to get people released and training lawyers to throw all of their talent and passion into a cause like this. So I'll grab these opportunities when I can get them." ♡



**Jesse Kobernick '14 and Julie Coleman '14 observed military commission hearings at Guantanamo Bay in October.**





# Duke Law celebrates the careers of Donald and Judy Horowitz

**L**AUDING the careers and contributions of Professor Donald Horowitz and Associate Dean for International Studies Judy Horowitz on Nov. 11, Dean David F. Levi noted, “There is Don. And there is Judy. And then there is ‘Don and Judy.’”

Levi was the first of several speakers from the law and political science faculties to pay tribute to the couple’s individual and joint achievements at a celebratory dinner at Durham’s Parizade Restaurant. Donald, the James B. Duke Professor of Law and Political Science and a renowned scholar of comparative constitutional design and ethnic conflict in divided societies, is retiring from teaching and will devote full time to research and writing. Judy, who has headed Duke Law’s international programs for 30 years,

retired from Duke University on Jan. 31, but remains closely connected to the Law School. Together they built Duke’s summer institutes in transnational law, maintaining on-site oversight of Duke’s Asia-America Institute in Transnational Law in Hong Kong for almost 20 years.

### **Donald Horowitz: An influential interdisciplinary scholar**

Donald Horowitz, who spent the fall as a Fellow at the National Endowment for Democracy, is currently a Fellow of the American Academy in Berlin. Next fall he will serve as the “Academic Icon” at the University of Malaya in Kuala Lumpur.

“Don, after eight books and such a stellar academic career, you have earned that

title,” said Levi. Horowitz’s works, highly influential in both law and political science, include *The Courts and Social Policy* (1977), which won the Louis Brownlow Award of the National Academy of Public Administration; *Ethnic Groups in Conflict* (1985, 2000); *The Deadly Ethnic Riot* (2001); and *Constitutional Change and Democracy in Indonesia*, newly published by Cambridge University Press. (Read more, Page 20.)

Horowitz, who joined the Duke faculty in 1980, has received multiple awards for his work; he was elected to the American Academy of Arts and Sciences in 1993 and in 2011 was awarded an honorary doctoral degree by the Free University of Brussels.

Ralf Michaels, the Arthur Larson Professor of Law and a scholar of interna-



“They have brought talented young lawyers here from all over the world and maintained connections with so many of them.”

— Dean David F. Levi

tional and comparative law, called Horowitz’s work in that area “stunningly insightful” and responsible for the dissemination of American ideas abroad. He also praised Horowitz’s commitment to building a strong international and comparative law faculty at Duke Law.

Professor Michael Munger, the former chair of Duke’s Political Science Department, noted the particular influence, among political scientists, of Horowitz’s work on divided societies, offering his book, *Ethnic Groups in Conflict*, by way of example; that book alone has generated more than 5,000 scholarly references, Munger pointed out. “When I look at the contributions that Professor Horowitz has made to our discipline, I’m awed and a bit humbled, and I hope that we can make up his loss in our department,” he said.

Representing the international students, SJD candidate Dian Abdul Hamed Shah LLM ’09, a native of Malaysia, praised Horowitz as an academic supervisor and mentor. “You have taught me so much — even about my own country — and not just about academic matters, but also about life.”

Calling Horowitz the consummate guide to other countries and cultures, Jennifer Maher ’83, associate dean for International Studies, singled out his embrace of the intellectually curious students who attend Duke’s summer institute in Hong Kong.

“He will show them Hong Kong and he will show them Asia. And if they’re not American, he will tell them how to be more like Americans — for better or worse,” she joked. “His care for students and his mentorship of young academics is really remarkable.”

### Judy Horowitz: Architect of Duke Law’s international programs

Judy Horowitz joined the Duke Law staff in 1981, recruited by then Dean Paul Carrington to assist the few foreign students that he was beginning to admit to the Law School.

“At that time, the LLM and SJD programs had a small handful of students; no

exchange student relationships, no summer institutes; and no international alumni associations,” said Levi. “Today the Law School has 90-plus LLM students from 37 countries; 12 SJD students in residence; exchange agreements with 21 overseas universities; summer institutes in Geneva and Hong Kong and Durham; and more than 1,000 international alumni.

“All of these programs, under Judy’s direction, have contributed immeasurably to Duke Law’s stature in the world and leadership in international law and legal education,” he said. Her commitment to the internationally trained lawyers in Duke’s LLM program is particularly notable, he added.

“She takes her foreign students under her wing and makes sure that their time at Duke is rewarding academically and socially. Frequently I am told by our foreign alumni that their year at Duke was the ‘best year of their life.’” Their affection and gratitude was evident when he traveled with Horowitz and Maher to visit alumni in Japan last spring, he said. “Quite simply, they revere Judy. They admire her, they are grateful to her, and they love her.” International alumni have contributed enthusiastically to the Judy Horowitz Scholarship Fund in her honor, raising \$500,000 of a \$1 million goal to date; once fully endowed, the fund will provide a full scholarship each year to a deserving international scholar.

SJD candidate Shah praised the kindness Horowitz displays towards the international students. “Judy used to hold me for ‘detention’ in her office every day for a few minutes just to make sure I was doing well and progressing well in my program,” said Shah. “The level of care and attention she gives her students is unrivaled, and I think that really defines the kind of student-faculty-school relationship we have here at Duke Law. And I’m very grateful for that.”

Maher called her friend and colleague of 25 years a superb judge of character with a particularly keen eye for talented applicants to the LLM program. “She has an open mind

about this — she’s non-judgmental,” said Maher. “She is fascinated with who they are and what they are and not what one feels they should be. And as a result, as the dean said, there are thousands of students who have had the best year of their life at Duke Law School and have done such things as name their children ‘Duke’ and ‘Judy.’”

### “An irresistible force”

Of both honorees, Maher said, “Their friendship is something to treasure. People go to their home for fun or when they are having trouble and need some advice.”

Referring to the couple as “an irresistible force,” Levi thanked them for their service to the Law School. “They have brought talented young lawyers here from all over the world and maintained connections with so many of them,” he said. “They created the [international] institutes and together ran the Hong Kong institute for most of its life, establishing deep ties to the University of Hong Kong and scholars from all over the world.

“We miss having them with us here in Durham. But ‘icons’ are like that. They belong to everyone.”

In his remarks, Donald Horowitz thanked all the deans he worked with — Carrington, Pamela Gann ’73, Katharine T. Bartlett, and Levi — for their support and making their success at Duke possible. Acknowledging his colleagues in both law and political science, he called Duke a truly congenial place to do interdisciplinary work. He also expressed pride in the Law School’s internationalization and its high profile around the world. “Duke is the best known U.S. law school all over China,” he said, crediting the accomplishments of its numerous Chinese graduates.

Judy Horowitz recalled her shared commitment, with Maher, to make LLM students’ year of studies at Duke Law “the best year of their life.”

“Thank you all for making my 31 years at Duke the best years of my life,” she said. ♡

## Center for Judicial Studies



### The Storied Third Branch: Essays about judges, by judges

**D**UKE'S CENTER FOR JUDICIAL STUDIES has launched a monthly online publication, *The Storied Third Branch*, containing essays about judges, by judges — for the masses.

"The general public knows very little about the day-to-day work of the judiciary," said John Rabiej, director of the Center for Judicial Studies. "*The Storied Third Branch* aims to help people develop a better sense of what judges do and who they are — to dispel some of the mystique surrounding the judiciary, perhaps, and to also create a deeper sense of appreciation for the difficult work and important service to democracy that judges provide every day."

Among other essays, the December issue included a moving tribute to the late Chief Judge John M. Roll of the U.S. District Court, District of Arizona, by his friend and court colleague Judge James A. Teilborg; Roll was killed in the Tucson massacre on Jan. 8, 2011.

Submissions are accepted through the 15th of each month for inclusion in following month's edition. ♡

» For submission details, see

[law.duke.edu/judicialstudies/thirdbranch](http://law.duke.edu/judicialstudies/thirdbranch).

### Center hosts Turkish judges studying U.S. courts

**T**HE CENTER FOR JUDICIAL STUDIES hosted a delegation of judges and high-ranking senior officials from the Turkish Ministry of Justice at Duke Law on Oct. 18. The delegation's visit was part of a weeklong program sponsored by the U.S. Department of Justice designed to inform the delegation about U.S. plea-bargaining practices.

The introduction of plea bargaining to Turkey's continental inquisitorial system could help expedite prosecutions and reduce the country's enormous backlog of criminal cases, explained center director John Rabiej, who also noted concerns regarding the fairness and feasibility of the practice.

In their meetings with the Turkish delegation, Professors Samuel Buell and Sara Sun Beale, the Charles L. B. Lowndes Professor of Law, discussed U.S. plea bargaining practices

from an academic perspective, reviewing its history, fairness concerns, and relevant Supreme Court case law. Ralf Michaels, Duke's Arthur Larson Professor of Law, and Professor Michael



Buell



Beale

Corrado of the University of North Carolina School of Law addressed plea bargaining from a comparative-law perspective, highlighting elements and models that might be workable in Turkish courts.

The Center for Judicial Studies plans to continue to work with judicial contacts in Turkey and elsewhere on projects designed to enhance the rule of law, said Rabiej. "This fits nicely with our mission of improving judicial systems and deepening public understanding of the courts." ♡

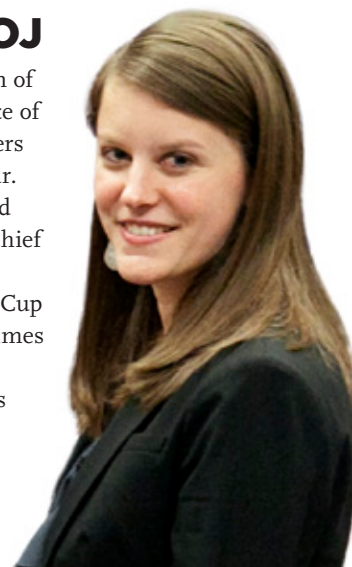
### Boyce '12 selected as 2013 Bristow Fellow in U.S. DOJ

**S**ARAH BOYCE '12 has been awarded a one-year Bristow Fellowship in the U.S. Department of Justice following the completion of her current clerkship with Judge Jeffrey S. Sutton of the U.S. Court of Appeals for the Sixth Circuit.

Bristow Fellows assist attorneys in the Office of the Solicitor General in drafting briefs in opposition to certiorari filed against the government in the U.S. Supreme Court, preparing petitions for certiorari and briefs on the merits in Supreme Court cases, preparing recommendations to the solicitor general regarding authorization of government appeals in

the lower courts, and assisting in the preparation of oral arguments in the Supreme Court. The Office of the Solicitor General generally admits four lawyers into the prestigious fellowship program each year.

Boyce, who aims to specialize in appellate and Supreme Court litigation, is a former editor-in-chief of the *Duke Law Journal*, and an alumna of the Appellate Litigation Clinic. She won the Dean's Cup Moot Court Competition twice, with partners James Harlow '12 in 2011 and Chris Ford '12 in 2012. Before graduation, she received the Law School's Advocacy Award. ♡





DUKE  
*/forward*



# Duke Law launches \$85 million campaign

**D**UKE LAW SCHOOL has launched an \$85 million fundraising campaign in conjunction with Duke University's "Duke Forward: Partnering for the Future" campaign. Duke Forward was announced by the University's Board of Trustees in late September and aspires to raise \$3.25 billion.

At Duke Law, the campaign is focusing on "the people who make this institution great," said Dean David F. Levi in his announcement. The funding priorities are scholarships and fellowships for students; professorships and research funds for faculty; support for innovation in the curriculum and clinical programs; and funds for research centers and programs that ful-

fill the University's ideal of "knowledge in the service of society." The campaign also aims to boost support for current-use operating funds, including a significant expansion of the Duke Law Annual Fund, which provides support for everything ranging from Wintersession and Moot Court programs to student fellowships and library resources.

"We have made remarkable progress since our birth in the 1930s as a graduate law program, and are now rightly recognized as one of the top law schools in the world," said Levi. "However, because Duke Law is so good, our mission has become all the more challenging."



# Duke Law launches \$85 million campaign

“The campaign gives all of us who have benefited from a Duke Law diploma the chance to give back to our alma mater and support the students, faculty, and administration at one of the leading law schools in the country.”

— John Yates '81, Duke Law campaign chair

## LEADERSHIP COMMITMENTS

Since the start of a two-year silent phase, Duke Law has raised more than \$40 million of its \$85 million campaign goal, including:

- » two \$5 million gifts from Stanley '61 and Elizabeth Star to support professorship and financial aid matching gift programs;
- » gifts to establish new professorships from David '78 and Jan Ichel; Professor Emeritus Tom Rowe; Jeffrey '65 and Bettysue Hughes; Mark '78 and Jill Fishman; Candace Carroll '74 and Leonard Simon '73; Terry and Jane Seaks; and a combination of donor gifts that established a professorship in honor of the late Professor Robinson O. Everett '59;
- » new support for programs and strategic priorities such as the Center for Judicial Studies, Strategic Priorities Funds, the Law & Entrepreneurship Program, the Program in Public Law, and more;
- » gifts to create or enhance at least 30 scholarships;
- » gifts from thousands of friends and alumni cumulatively totaling \$6 million in support for the Duke Law Annual Fund.

These gifts and others will help the Law School “expand our young faculty and bring more top scholars to Duke; support our students with much-needed financial assistance; enrich the curriculum with interdisciplinary and professional skills courses; and create exciting new centers and programs that serve our community, reach out to the legal profession, and advance our understanding of the law, such as our new Center for Judicial Studies,” said Levi.

An alumni committee is charged with helping to steer the campaign. John Yates '81, chair of the campaign committee and member of the Duke Law Board of Visitors, says the committee is a way for him and others to “give back” to the Law School and ensure that the school is able to provide the same opportunities for current and future students as it did for him. “We view our role and that of Duke Law graduates as being to support Dean Levi by reaching — or exceeding — our campaign goals,” Yates said. “The campaign gives all of us who have benefited from a Duke Law diploma the chance to give back to our alma mater and support the students, faculty, and administration at one of the leading law schools in the country.”

» To learn more about the campaign and how you can get involved, visit [law.duke.edu/campaign](http://law.duke.edu/campaign).

## TWO NEW ENDOWED PROFESSORSHIPS ESTABLISHED AT DUKE LAW

The donors to two new professorships have taken advantage of a \$5 million matching gift fund established by Stanley '61 and Elizabeth Star in 2010 to spark new support for faculty; the Star Matching Gift Fund has now led to the establishment of four endowed professorships at Duke Law. “These two wonderful gifts — from equally wonderful alumni — will enhance our faculty and teaching for generations to come,” said Dean David F. Levi.

### The Bernard M. Fishman Professorship

Jill and Mark Fishman have established the Bernard M. Fishman Professorship in honor of Mark's late father and business partner, with a \$1.25 million gift. Mark Fishman, CEO of F&T Apparel LLC and a life member of the Law School's Board of Visitors, said the gift also honors “the unbelievably good leadership and stewardship” of the



Mark Fishman '78, and his wife, Jill, have established the Bernard M. Fishman Professorship in honor of Mark's late father.

two deans he has worked most closely with, Levi and Katharine T. Bartlett. “I think Dean Levi is an extraordinary leader, as was Kate before him,” he said. “Dean Levi's vision for the Law School is wonderful.”

Through their longtime support of scholarships and fellowships, the Fishmans also have facilitated need-based financial aid for Duke Law students. Now, by endowing a distinguished professorship at Duke Law, Fishman said they aim to bolster the main draw for students: “great educators.”

Fishman, who is active in numerous charities in his hometown of Philadelphia and is a member of the Duke Law campaign committee, offered a straightforward rationale for his philanthropy: “I've been lucky and so I have a responsibility to give back. People who have been lucky enough to have had successful careers owe it to the next generation to do whatever they can to allow them to have successful careers.”



## The Carroll-Simon Professorship in Law

As longtime supporters of the Law School and Duke University, and as members of Duke Law's campaign committee, Candace Carroll and Leonard Simon, have directed their philanthropy in ways they hope will advance the school and enhance opportunities for students. They established a public interest fellowship fund in 1998 to provide summer grants for students who work in non-paid public interest positions during law school; 10 Duke Law students benefited from Carroll-Simon fellowships in summer 2012 alone. The couple, who met at Duke, also has established the Carroll-Simon student scholarship and provided support to numerous other initiatives. They say their \$1.25 million gift to create a professorship is a natural extension of those efforts.

"The faculty is the most important aspect of a school," said Carroll. "I have done some teaching, and I know how hard it is. I also remember how good my professors were when I was in law school. I remember sitting in Professor (William) Van Alstyne's class; much of the time, you couldn't keep up with him. But on those days that you



Bryan Miller

Leonard Simon '73 and Candace Carroll '74 have established a new professorship as well as a scholarship and fellowships at Duke Law.

could, you could actually feel your mind expanding. It's an amazing experience to be in the classroom with teachers of such intellect and skill. Faculty of that quality are what sets Duke Law apart."

A life member of the Duke Law Board of Visitors, Carroll is an appellate practitioner with more than 30 years of experience handling appeals in the federal, state and bankruptcy appellate courts. She has practiced with the San Diego firm of Sullivan Hill Lewin Rez & Engel for 30 years, and has taught seminars in Advanced Legal Writing at Duke Law and the University of San Diego School of Law, where she currently supervises a Ninth Circuit Legal Clinic.

Simon specializes in complex litigation in the federal courts, including class actions in the securities and antitrust fields. He is of counsel with Robbins Geller Rudman & Dowd in San Diego, where he also has handled a substantial number of significant complex appellate matters, arguing cases in the United States Supreme Court, several federal Courts of Appeals, and several California appellate courts. He

has taught courses at Duke, the University of San Diego, and the University of Southern California law schools on complex litigation and sports and the law, and has lectured extensively on complex litigation in professional development programs.

## NEW SCHOLARSHIPS UNDERSCORE COMMUNITY COMMITMENT TO STUDENTS

Recent scholarship gifts include a new scholarship for students studying law and entrepreneurship or business, created by Anne L. Dollard '94 and Adrian E. Dollard '95, and two other funds established by the Duke Law faculty and Dean David F. Levi and his wife, Nancy R. Ranney, respectively. The gifts expand the school's resources for students and reflect a unique depth of commitment within the Duke Law community to reigning in student debt and support for students in and out of the classroom.



Anne L. Dollard '94 and Adrian E. Dollard '95 created a new scholarship for students studying law and entrepreneurship or business.

### The Adrian E. and Anne L. Dollard Scholarship

The Dollards, who met at Duke, have established their scholarship with a \$500,000 gift commitment that will be matched with \$250,000 from the Star Financial Aid Fund, established in 2012. The Dollard Scholarship will be used to provide scholarships to students who are pursuing a dual JD and LL.M. in law and entrepreneurship, a dual JD/MBA, or the LL.M. in law and entrepreneurship (LLMLE). This focus reflects the professional interests of the San Francisco-based couple.

Anne Dollard retired last spring as deputy general counsel and chief patent counsel for Takeda, where she managed all facets of Takeda San Francisco's general legal and intellectual property matters, including the global management of Takeda's antibody technology. She joined the company in 2008 after spending more than a decade in the area of antibody technology and therapeutic antibody intellectual property.

# Duke Law launches \$85 million campaign

“The reality is that no student’s tuition comes close to paying for the education they actually receive. Whether you’re getting financial aid scholarships or not, everyone is really standing on the shoulders of the generosity of folks who have come before and tried to make that possible.” — Adrian Dollard ’95

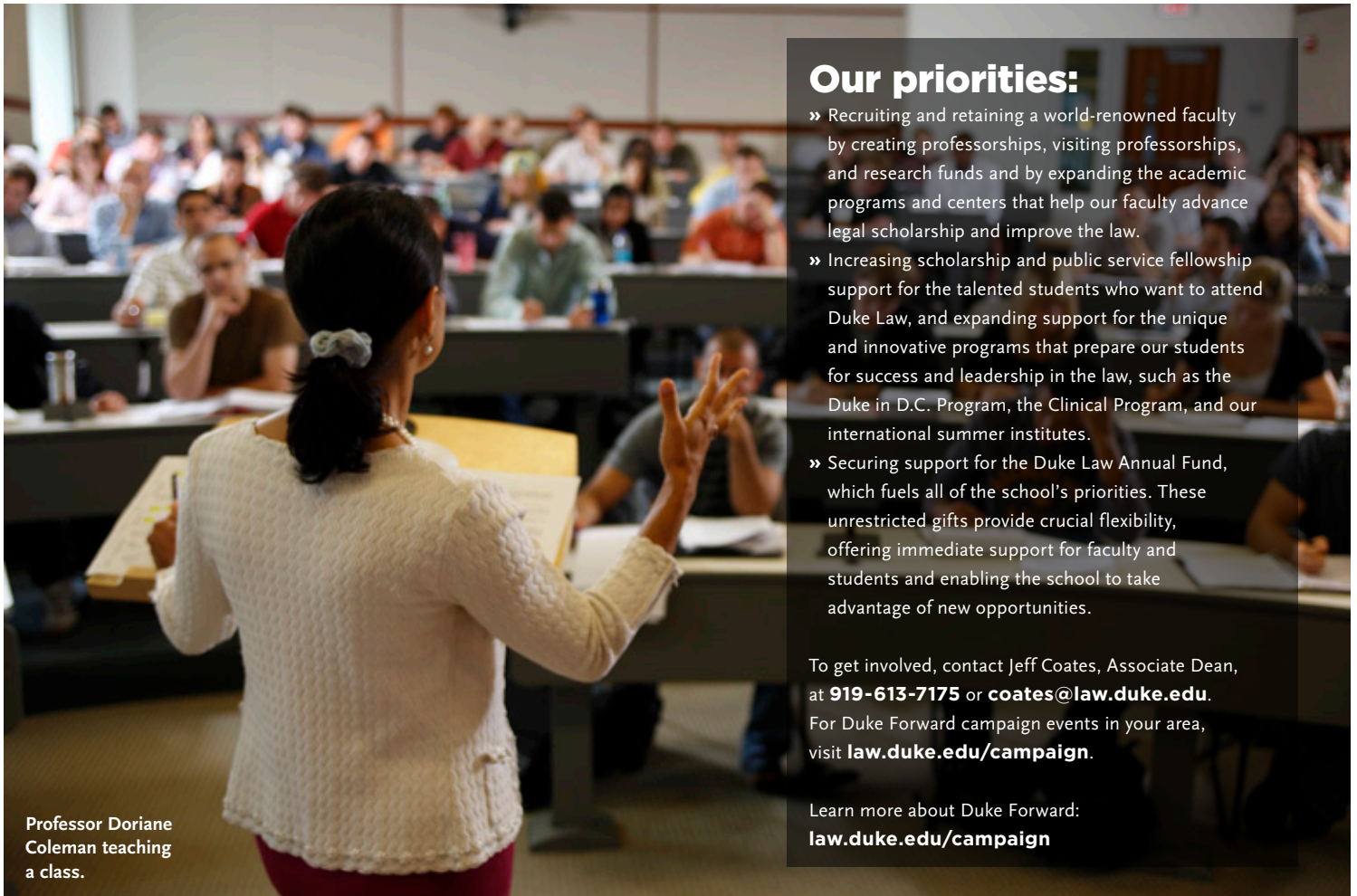
Adrian Dollard is a co-founder and the chief operating officer of Qatalyst Partners, a global, independent investment bank that services the emerging technology sector. Prior to co-founding Qatalyst in 2008, he served as general counsel of Credit Suisse’s technology group and practiced law at Shearman and Sterling, where he specialized in mergers and acquisitions, corporate finance, and venture capi-

tal. He is a member of the Law School’s Board of Visitors and the advisory board for the LLMLE program.

Establishing a scholarship for students pursuing studies in law, entrepreneurship, and business meshes with the couple’s professional interests and Duke University’s strengths, said Adrian Dollard, who also received his undergraduate degree at Duke.

“Duke has a strong culture of innovation; it’s not hidebound to tradition, and it’s also very interdisciplinary, which is exactly the stew of things you need to have a successful entrepreneurial class,” he said. “One of Duke’s defining characteristics as an institution is its nimbleness. It’s much younger than its peer institutions, it’s much more flexible, and it’s much more innovative in all different areas. That it has established a curriculum to stoke and nurture those interests is only a natural extension of the whole culture at Duke.”

Why support a scholarship? “The reality is that no student’s tuition comes close to paying for the education they actually receive. Whether you’re getting financial aid scholarships or not, everyone is really standing on the shoulders of the generosity of folks who have come before and tried to make that possible,” said Adrian Dollard, who received the Law Alumni Association’s Young Alumni Award in 2010. “The Duke community has enriched my family’s lives tremendously, and now it’s our turn to try to do the same for other folks down the line.”



## Our priorities:

- » Recruiting and retaining a world-renowned faculty by creating professorships, visiting professorships, and research funds and by expanding the academic programs and centers that help our faculty advance legal scholarship and improve the law.
- » Increasing scholarship and public service fellowship support for the talented students who want to attend Duke Law, and expanding support for the unique and innovative programs that prepare our students for success and leadership in the law, such as the Duke in D.C. Program, the Clinical Program, and our international summer institutes.
- » Securing support for the Duke Law Annual Fund, which fuels all of the school’s priorities. These unrestricted gifts provide crucial flexibility, offering immediate support for faculty and students and enabling the school to take advantage of new opportunities.

To get involved, contact Jeff Coates, Associate Dean, at **919-613-7175** or [coates@law.duke.edu](mailto:coates@law.duke.edu).

For Duke Forward campaign events in your area, visit [law.duke.edu/campaign](http://law.duke.edu/campaign).

Learn more about Duke Forward:  
[law.duke.edu/campaign](http://law.duke.edu/campaign)

Professor Doriane Coleman teaching a class.



“Our faculty’s devotion to our students is one of the reasons Duke Law is so special — and one of the reasons Nancy and I wanted to create our own scholarship. ... I have called upon our alumni to do more to help our current students. We want to answer that call as well.”

— Dean David F. Levi

### The Faculty Financial Aid Scholarship Fund

Established in mid-December, the Faculty Financial Aid Scholarship Fund already had, by early February, attracted gifts and multi-year pledges of \$175,000 toward a \$250,000 goal.

When Professor Laurence R. Helfer first discussed the idea of establishing an endowed, faculty-sponsored scholarship for students with his colleagues in December, he found enthusiastic support.



Professor Laurence R. Helfer rallied faculty members to start a scholarship.

“One of the most exciting and satisfying parts of my job at Duke Law School is teaching and getting to know our wonderful students,” said Sara Sun Beale, the Charles L. B. Lowndes Professor of Law and an early supporter of Helfer’s idea. “My colleagues and I want our contributions to the capital campaign to help support our students both now and in the future.”

Helfer, the Harry R. Chadwick, Sr. Professor of Law, said he hopes students take away three key messages from the faculty-sponsored initiative: “That we recognize the financial challenges students are facing; that we’re willing to help them to meet those challenges; and that we believe a Duke Law education is worth the investment.”

“This is an uncertain time in legal education,” Helfer said. “The scholarship fund provides one modest way for the faculty to respond positively to some of the recent changes.”

Helfer, who joined the faculty in 2009, characterizes the Duke Law community as one that is “intellectually engaged, cohesive and entrepreneurial.”

The depth of intellectual engagement is reflected in students who convene ad hoc seminars on areas of law that aren’t offered in the existing curriculum, he said, pointing to a series of seminars related to international law and human rights that have combined classroom study with field research on topics such as indigenous land rights in Brazil and violence against women in Haiti.

“The Dean’s Office and the faculty wanted to confirm the added pedagogical value of these seminars,” Helfer said. “But once that was

demonstrated, our attitude was, ‘That’s a good idea. How do we make it happen?’ This is just one example of how faculty support a range of teaching and learning opportunities for our students.”

### The David F. Levi and Nancy R. Ranney Scholarship

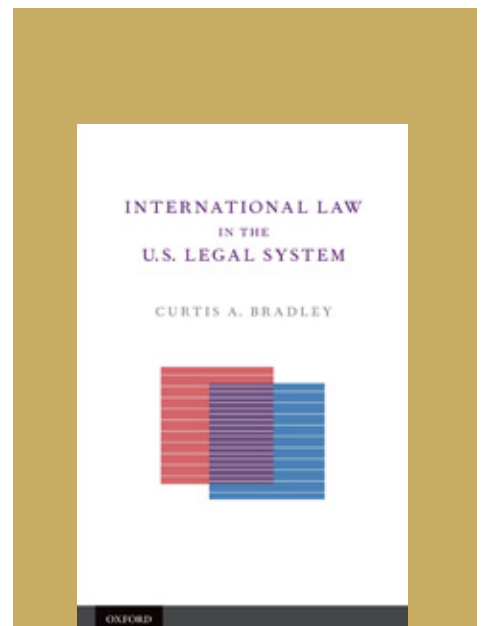
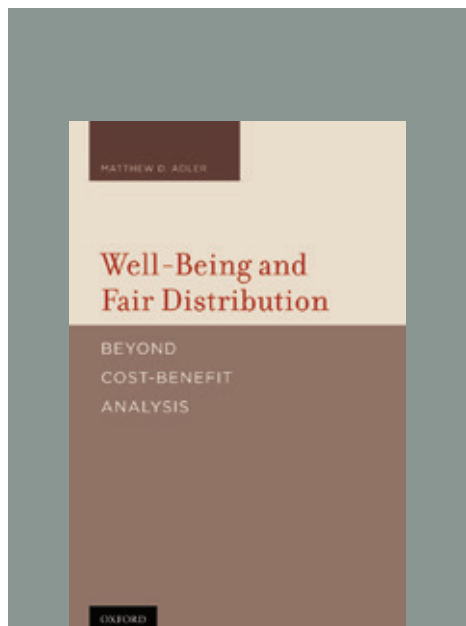
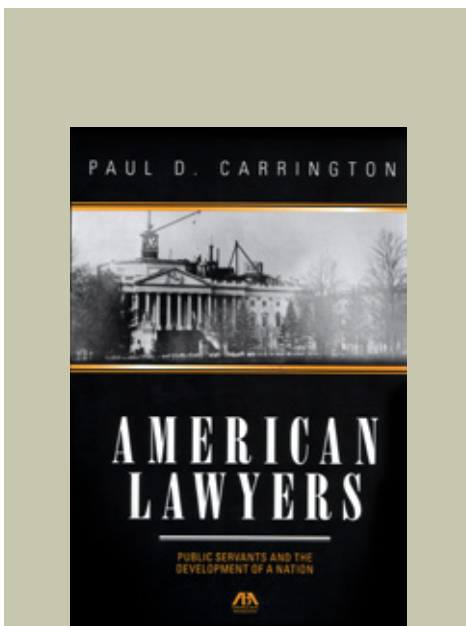
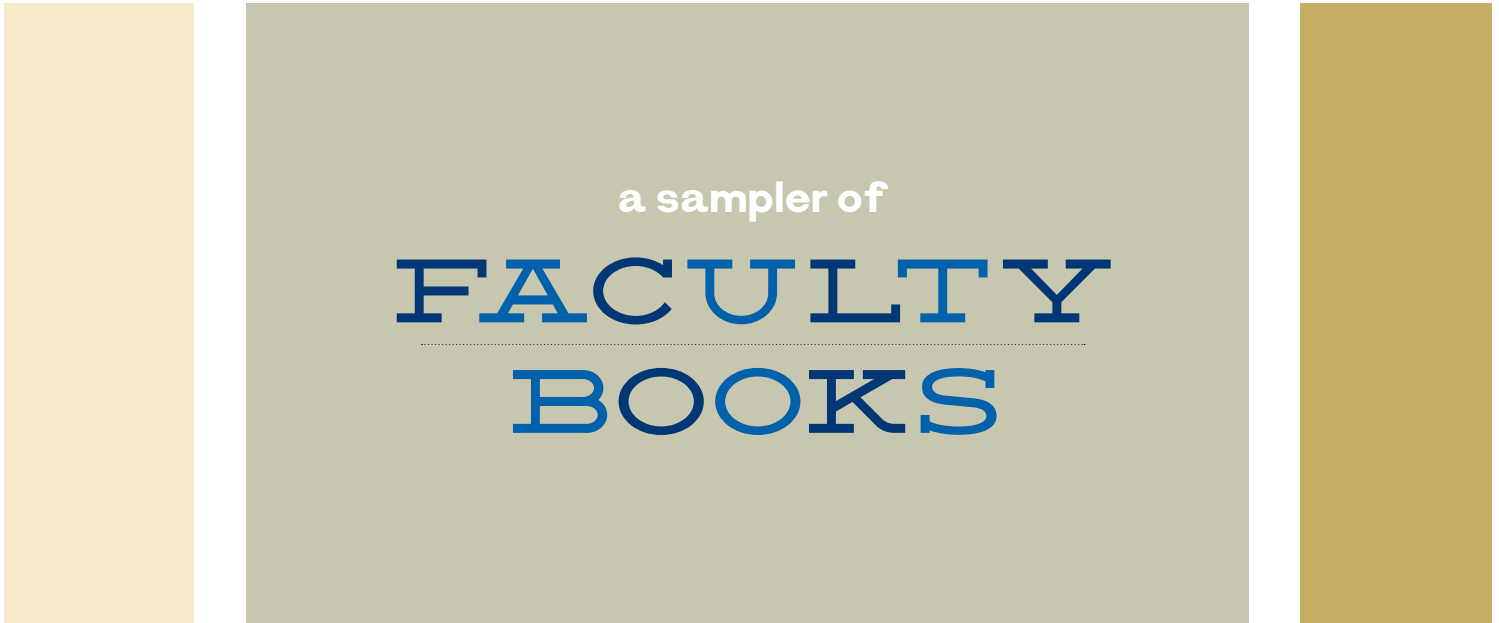
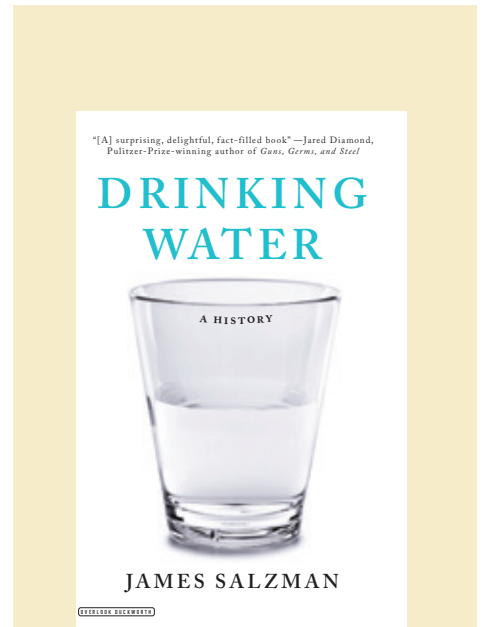
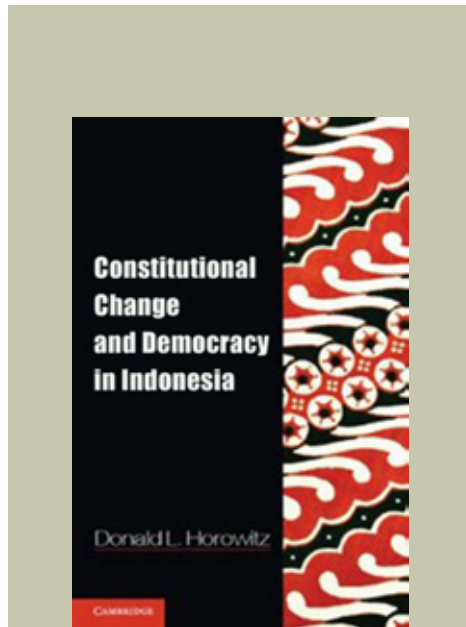
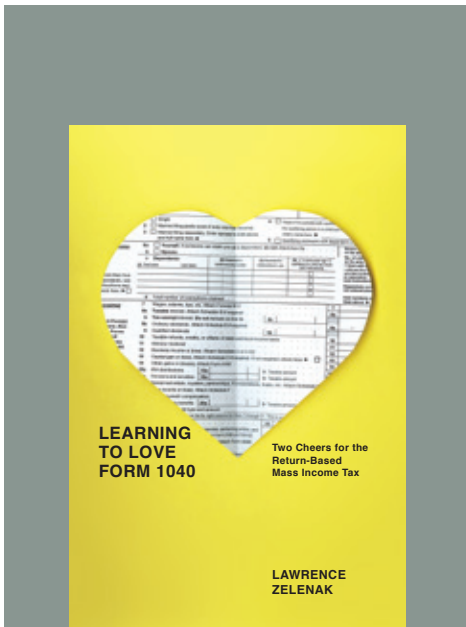
“Our faculty’s devotion to our students is one of the reasons Duke Law is so special — and one of the reasons Nancy and I wanted to create our own scholarship,” Levi said of the scholarship created by the couple’s personal gift of \$100,000 and matching funds from the Star Financial Aid Fund. “We believe in the work of this Law School and its capacity to train leaders for the legal profession and our society. Ensuring that students who want to be a part of this wonderful tradition can do so is important to us. I have called upon our alumni to do more to help our current students. We want to answer that call as well.”



Nancy R. Ranney and David F. Levi

The high cost of law school has long been a subject of focus for Levi who told alumni, in a recent message, that Duke Law has doubled its scholarship funding in the last five years and provides nearly 80 percent of students with scholarship support — a higher percentage than any other top law school. “By the power of our joint philanthropy,” he said, “we can keep our doors open for all the many deserving students who wish to come to our school.”

“Support of this magnitude from the Law School’s faculty and administration underscores both their tremendous commitment to students — a characteristic we experienced first-hand as students ourselves — as well as the potential for the Duke Forward campaign to mobilize our community in support of the Law School,” said Board of Visitors Chair David Ichel ’78 in announcing the new scholarships to alumni. “This sort of deep commitment across the spectrum of an academic institution is unique and special.” ♡







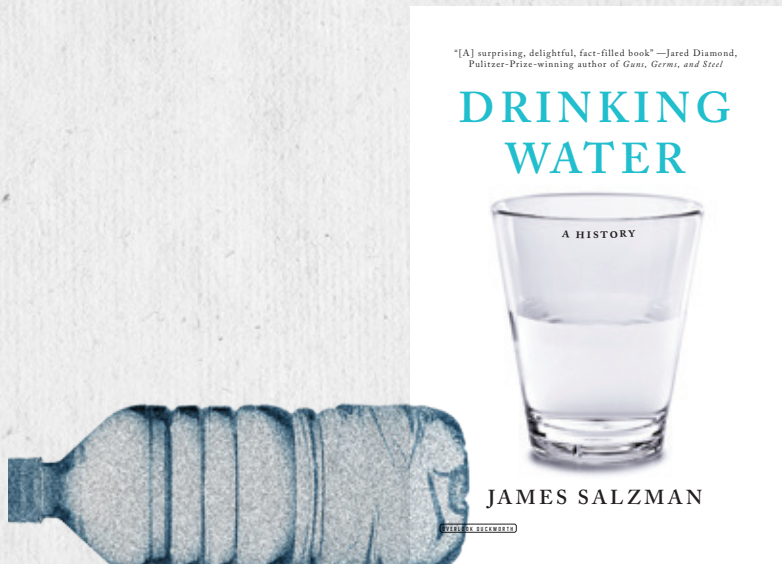
# **T**HE PROLIFIC SCHOLARS of

Duke Law published a flurry of long-form works in recent months, ranging in subject matter from the multiple ways international law is incorporated into the U.S. legal system to an examination of how our return-based system of mass taxation promotes fiscal citizenship.

We offer you this sampler.







## James Salzman

### **Drinking Water: A History**

Overlook Hardcover, 2012



**T**HE INSPIRATION for Professor James Salzman's latest book came to him as he was teaching students in his Environmental Law class about the Clean Water Act. As he pointed to the mass availability of clean tap water in America as a remarkable achievement, given the fact that drinking water has been a source of disease and death for much of history, he also noted the proliferation of bottled water around the room. "I thought, 'If there is more access to clean drinking water from the tap than ever before, then why are sales of bottled water shooting through the roof?' I found there was really nothing that took the historic perspective that looked at drinking water as a resource unto itself, and asked, 'How has humanity dealt with this resource over time?'" he told *Duke Law Magazine*. Salzman, the Samuel Fox Mordecai Professor of Law and Nicholas Institute Professor of Environmental Policy, does just that in *Drinking Water*, examining the history, science, and commodification of a basic need that is often taken for granted.

**Professor Salzman:** The issues that we are facing today are not very different from those faced in Sumeria or in Masada or in Versailles. People drink water. They need a reliable source, a safe source, and an accessible source. That's hard to do, and you don't find any settled society without clear rules for who gets drinking water, how it is kept safe, and how you identify safe water.

How we see drinking water and how we think of it has a lot to do with how we manage it. For example, if you think drinking water





**“How we see drinking water and how we think of it has a lot to do with how we manage it.”**

should be accessible by right, that it is a human right, then basically it's a government obligation to provide this. If, by contrast, you think drinking water is a commodity, no different fundamentally than pork bellies or Coca Cola, then the market should take charge of providing this. And what's interesting is that we seem to be, as a society in 21st century America, moving from the idea of drinking water as a right to drinking water as a commodity.

There's a story in the book about how the University of Central Florida built a brand-spanking new football stadium in the 1990s with absolutely no drinking water fountains. They basically saw drinking water as a side business. In fact, security took water from people as they entered the stadium, which really cornered the market. In a sense, water fountains are sort of going the way of pay phones. You can find them, but you really have to look for them.

**Duke Law Magazine:** How has the regulation of drinking water changed through history?

**Salzman:** In my first article on drinking water, I was really interested in how governing drinking water as a unique resource has changed over time, so I went back to the Bible, to nomadic Middle Eastern societies, aboriginal Australians, indigenous groups in Africa, and the Hindu castes in India, because I was interested in the current conflict in developing countries over privatizing drinking water. Should access to water be a human right? Should it be mediated by markets and basically privatized? I was interested in the origins of that debate — whether there were any insights we can gain from past civilizations', past societies' treatment and management of drinking water. I found that in indigenous societies, drinking water was seen as a right, not a commodity. There were rules for who got access first, and there was something I call a “right of thirst,” which meant that outsiders who were truly in need always got access to drinking water, even if local needs such as watering the fields or animals weren't met. And the reason for that, presumably, is that you never knew when you might be a stranger and in need of water, so it was a good common rule.

You first start to see drinking water treated as a commodity in ancient Rome. The Romans really understood water. It's remarkable just how complex and sophisticated their system was, with the aqueducts and the giant sewer. They provided free drinking water in

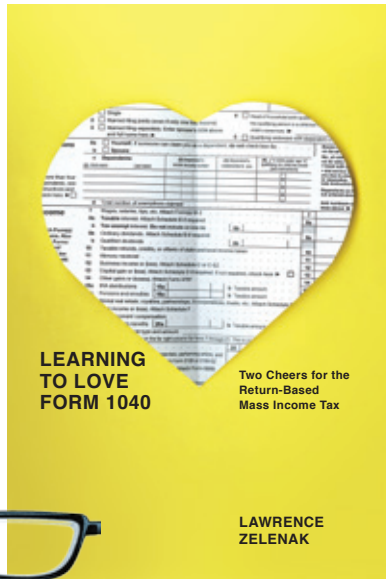
public wells placed about every 200 meters, with the amount you took limited by how much you could carry. But there was also a market. People were getting water piped into their homes, not for drinking, but for fountains and baths. They were charged for the service of delivering the water — not for the water itself — and because the system was gravity fed and the water was always flowing down the aqueduct, they were charged not on how much they used, but indirectly by the diameter of their pipe. The money raised from this tax was used to pay for infrastructure. In modern terms we call this a cross-subsidized public good. The private consumption is paying for the free consumption. It's a model you find in a lot of societies going forward, including today.

Privatization took over in New York City, at the beginning of the 19th century. The city essentially handed over drinking water to The Manhattan Company, a firm created, amazingly, by Aaron Burr and Alexander Hamilton. They got a charter from the state legislature to provide safe drinking water to city residents and they were allowed to raise \$2 million to do this. But Burr didn't really care about water. He used it as a front to get the powers of a bank without the restrictions of a bank charter. He used most of the money for lending and that provided the foundation of Chase Manhattan Bank. If you look at the bank's logo today, it is actually a cross-section of a wooden pipe. And until the early 1900s, the bank was still pumping some water out of a well because there was a fear that they might be required to do so in order to keep their charter. Eventually the City of New York just stepped in and moved to public provision of drinking water.

**DLM:** How easy is it to assess the safety of drinking water?

**Salzman:** I wrote an article called “Is It Safe to Drink the Water?” about how conceptions of drinking water safety change over time. In a sense, safety has always been a moving target because conceptions of safety are so dynamic. They turn in part on scientific understanding of the actual causes of disease. If you don't understand the germ theory, it's hard to know what makes water safe and what doesn't. You have very complicated tradeoffs. Chlorinating drinking water makes it safer, but it also creates, as a byproduct, some carcinogens. On balance, the experts think the carcinogens are less deadly to us than unchlorinated water. That's an example of a risk-risk trade-off, and drinking water is full of them. ♡ — *Forrest Norman*

**“The two great obligations of citizenship are voting and paying taxes, and just as there is a ceremonial aspect to voting, there ought to be ... a ceremony of fiscal citizenship through filing your tax return.”**



**Lawrence A. Zelenak**  
**Learning to Love Form 1040: Two Cheers**  
**for the Return-Based Mass Income Tax**

University of Chicago Press, 2013



**T**AX DAY IS A FOCAL POINT for cultural phenomena ranging from water cooler complaints, to sitcom tropes, to strident protest. In his new book, Professor Lawrence Zelenak outlines the full spectrum of political and cultural significance unique to the American income tax, which celebrates its centennial in 2013.

“It’s a tax that forces people to pay attention in a way that payroll taxes and retail sales taxes and various other less in-your-face forms of taxation don’t,” says Zelenak, the Pamela B. Gann Professor of Law. “The book argues that having that sort of a tax system can be a good thing, because it promotes the virtues of fiscal citizenship. The two great obligations of citizenship are voting and paying taxes, and just as there is a ceremonial aspect to voting, there ought to be — and in the case of return-based taxation there is — a ceremony of fiscal citizenship through filing your tax return.”

Since the return-based income tax became a mass tax during WWII, the federal income tax has been the focal point of the American public’s perception of taxes, Zelenak says. “The federal income tax raises only about 25 percent of the tax revenue in the U.S., but if you were to judge by popular culture, you would think it raised 100 percent. That’s because of the return-based nature of the tax.”

Zelenak examines depictions of tax day in radio and TV sitcoms and *New Yorker* cartoons in his book, due out in March. He also analyzes the effects of a system requiring substantial taxpayer participation.

“This sort of taxation makes it easier for people to cheat than other forms of taxation,” Zelenak says. “I argue that, although there’s an obvious bad aspect to that, there may be some good too. It may make people feel less at the mercy of Leviathan, that the federal government can’t just reach into their pockets and take their money; it requires their cooperation.”

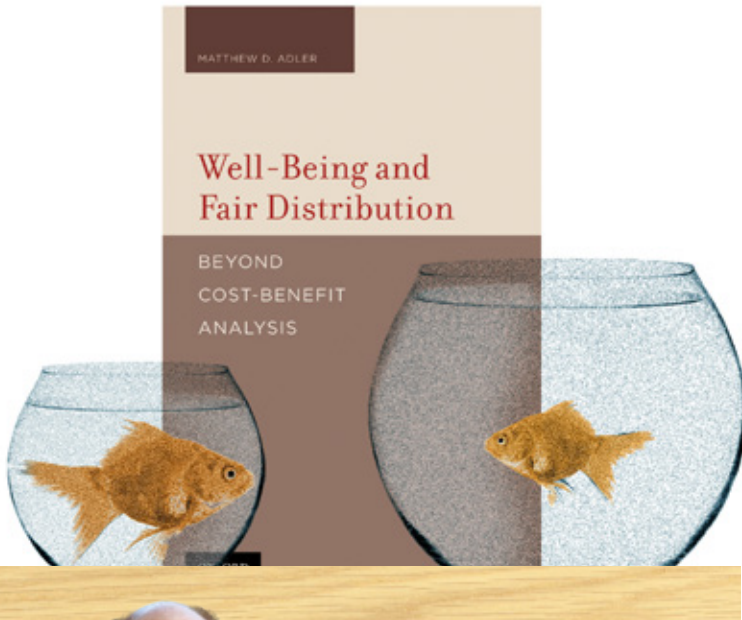
Return-based mass taxation enables protest as well as cheating, Zelenak says. “The tax protest movement depends on return-based mass taxation. If there is a tax that doesn’t depend on you doing anything, such as the payroll tax, it’s hard for people to protest effectively. With the income tax you can protest effectively, and that may serve as an important safety valve. It gives people a nonviolent way to enact a meaningful protest.”

The book notes that the concept of paying income tax as the key to fiscal citizenship played a role in the 2012 presidential campaign. Republican presidential nominee Mitt Romney’s complaint about the 47 percent of Americans who pay no income tax was based on the implicit assumption that the income tax was the only relevant tax. “The percentage of people who don’t pay taxes overall is much lower than the percentage who don’t pay income tax,” Zelenak remarks. “But the other taxes tend to get lost in the glare of the return-based income tax.”

Zelenak notes that despite all the current talk of tax reform, there is no serious discussion of abandoning return-based mass taxation: “They may be celebrating the bicentennial in 2113.” ♣ — *Forrest Norman*



**“I’m interested in inequality ... so I’ve been working on refining policy analysis to take account of considerations of equity, of fair distribution. ... Prioritarianism is a systematic way to do that.”**



**Matthew Adler**  
**Well-Being and Fair Distribution:  
Beyond Cost-Benefit Analysis**  
Oxford University Press, 2012

**C**OST-BENEFIT ANALYSIS is a common tool for evaluating public policy, and has been the standard of review for proposed executive branch regulation since the Reagan administration. In his latest book, Professor Matthew Adler proposes incorporating a concern for inequality into cost-benefit analysis via “prioritarianism”: a framework that considers policy effects on everyone’s well-being, but gives greater weight to impacts on those who are worse off.

“One way to think about the book is that it’s an argument for a weighted cost-benefit analysis, where dollar costs and benefits are first multiplied by weights before being added up, and weights are assigned in this ‘prioritarian’ fashion,” says Adler, the Richard A. Horvitz Professor of Law who holds secondary appointments in philosophy and public policy at Duke University. “This is clearly [an area] where we need a lot more research. The book is trying to bring together the economics and the philosophy.”

The multi-disciplinary book, which was the focus of a special session during the Association of American Law School’s 2013 annual meeting in New Orleans in January, is a follow up to his 2006 work, *New Foundations of Cost-Benefit Analysis* (Harvard University Press, with Eric Posner). Together they represent an effort to provide firm

normative foundations for cost-benefit analysis and to show how the technique can be refined, says Adler, who joined the Duke Law faculty in 2012 from the University of Pennsylvania and who serves as director of the new Duke Center on Law, Economics and Public Policy.

Cost-benefit analysis became a part of the review process for any proposed executive branch regulation during Ronald Reagan’s presidency, and has been used under every president since, he explains. Regulations involving public health, safety, and the environment are all examined through the cost-benefit lens.

“At first, people said, ‘Oh, this is just a Republican thing,’” Adler says. “But Clinton and Obama kept it in place. Now I think a lot of people agree that we should refine it going forward.”

“There are lots of complications, but the basic idea behind cost-benefit analysis is to take different aspects of well-being, whether it be income or health or environmental effects or what-have-you, and then try to measure those in terms of dollars, which are used as a common scale. I’m advocating a more nuanced analysis. So if you’re talking about regulating pollution in factories that tend to be located in poorer areas, the environmental benefits might be given greater weight as opposed to pollution that affects the average citizen, who can better weather a drop in property value or afford better health care.”

Cost-benefit analysis attempts to reduce complicated problems to an understandable dollars-and-cents formula, but it may oversimplify by not taking into account the fact that “a dollar means something very different to Mark Zuckerberg than it does to most people,” Adler adds.

“Imagine that there is a pollution regulation, and an analyst assesses the costs and benefits of that. The benefits will be less pollution, the costs will be costs for the shareholders of the companies that have to comply with regulations in place, maybe for consumers, maybe costs for workers. What cost-benefit analysis has to do, which is quite complicated, is figure out the costs for all these groups, in dollars, and add them up. So consumers will pay higher prices, shareholders might have smaller profits, workers might have lower wages. People might have cleaner air or water, and then we try to come up with dollar equivalents for that. Prioritarianism would take account of how well off these different groups are.”

The book addresses theory and specifics, Adler points out. “The book is mainly trying to get the theory right, but there is also analysis of how to calibrate weights. This idea of attaching weights to costs and benefits is actually used in practice, not in the U.S., but in the U.K., for example; the folks who do cost-benefit in government, already do this to some extent.”

The ideas for the book proceed naturally from Adler’s extensive work on cost-benefit analysis, and from recent events, he says.

“I’m interested in inequality, and there is increasing national interest in inequality, so I’ve been working on refining policy analysis to take account of considerations of equity, of fair distribution. This idea of prioritarianism is a systematic way to do that.” ♡ — *Forrest Norman*

**Indonesia's democracy, while not perfect, represents "a far-better-than-it-might-have-been story ... because of the way political leaders chose to proceed, opting for a course that risked public confidence in what they were doing, for the sake of avoiding even greater risks."**



## Donald L. Horowitz

**Constitutional Change and Democracy in Indonesia**

Cambridge University Press, 2013



**I**NDONESIA'S RECENT TRANSITION to democracy after almost 50 years of authoritarian rule was insider-dominated and incremental, with elections preceding constitutional change. By and large it was successful, according to Professor Donald Horowitz, whose latest book offers a case study of the process; Indonesians have held three free elections and experienced two turnovers of presidential power since the fall of Suharto in 1998, while largely avoiding ethnic polarization and violence.

Indonesia offered a "good story," Horowitz says, to launch his trilogy of books relating to constitutional design for severely divided societies. "There is no doubt that it's a fully fledged electoral democracy with a very strong constitutional court with, for the first time, a separately elected president. There is no doubt about the electoral side of this democracy and, for the most part, the guarantees of fundamental rights."

Process was key, says Horowitz, who is currently serving as a Fellow of the American Academy in Berlin. "The question after the fall of Suharto was how to democratize — the people who inherited his mantle realized they had to become democrats pretty fast. They reformed themselves and they reformed the laws and held a free election the next year, and so they were joined in parliament by the people who were in the opposition parties. They decided together that they would make the constitution rather than send it to an outside commission or to a separately elected constituent assembly." Their decision to craft the constitution as "an inside job" forced the parliamentarians to find compromise and consensus between those who

wanted dramatic constitutional change and those who did not but still held a power under the old constitution to veto changes, he explains.

The institutions they created allowed the multiple ethnic and religious streams of Indonesian society to be represented in parliament through a non-majoritarian "list-PR" electoral system, Horowitz says. "In theory, a party that gets 10 percent of the vote would get plus or minus 10 percent of the seats in parliament. This meant that nobody had a majority in parliament. One can think of Indonesia as being divided between observant Muslims and everybody else, which could raise a majority-minority problem. But that hasn't happened because of the system."

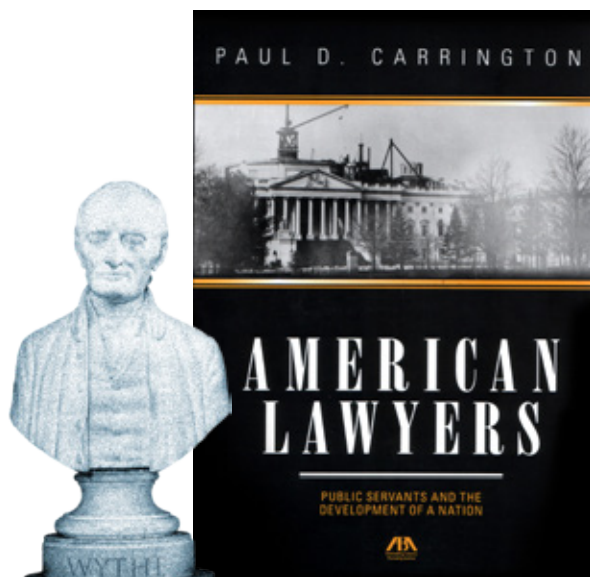
Superimposed on the electoral system, adds Horowitz, was the formula the parliamentarians developed for electing a president: securing the majority of votes in the country at large, plus at least 20 percent of the vote in at least half of Indonesia's provinces. "They wanted a president who has appeal to a broad swath of the electorate. Territorial distribution means that presidents, who previously were appointed by parliament and then became dictators, have to go and seek support all around the country. And if nobody can meet the formula's two requirements, then there is a majority runoff between the top two candidates."

The formula gives political parties incentive to cultivate support across societal streams, he says. "You can't get a majority if you are just staying within your own [ethnic or religious] stream. So you've got streams represented in the first instance and then you've got voters voting across streams for the president. And with time they actually began to vote across streams for the parties for the legislature, as well.

"This is an example of what I call 'multi-polar fluidity,'" says Horowitz. "It's multi-polar because there is a party for every taste, and it's fluid because you don't have to vote for that party, even if it represents the stream that you are nominally affiliated with. This is a very good way to run what would otherwise be a severely divided society."

Horowitz, who retired from teaching as the James B. Duke Professor of Law and Political Science on Jan. 31, makes it clear that Indonesia's democracy is a work in progress. "What the insiders did was a thoroughgoing democratization. But the problems that remained as a result of the insiders having the inside track, namely corruption networks and a variety of other pathologies, are still there." Still, he writes, "It is simply a far-better-than-it-might-have-been story ... because of the way political leaders chose to proceed, opting for a course that risked public confidence in what they were doing, for the sake of avoiding even greater risks." ♣ — *Frances Presma*





## Paul D. Carrington

### American Lawyers: Public Servants and the Development of a Nation

ABA Publishing, 2012



**T**HAT LAWYERS WOULD BE CENTRAL to the development and preservation of democracy and social order in the United States was always a given, says Professor Paul Carrington.

“If you’re going to have order, you’re going to have rules, and somebody has to know what they are and participate in their enforcement. That is the indispensable role of lawyers.” Almost everybody who participated in structuring the Constitution or writing the Declaration of Independence was a lawyer, he points out, with the notable exceptions of George Washington and Benjamin Franklin. In *American Lawyers*, he illustrates the key role lawyers have played in the development and preservation of democracy and social order in America.

Through more than 200 short essays, Carrington chronicles lawyers’ engagement in designing and developing American democratic government and law from the nation’s founding to the end of the 20th century. He also notes their missteps, from the perpetuation, by some, of slavery to the American Bar Association’s demand for “loyalty oaths” during the McCarthy era, to Watergate.

Carrington, who served as dean of Duke Law School from 1978 to 1988, says the book had its genesis in that period, when he oversaw the introduction of legal ethics into the curriculum. “At times I had a feeling that what we were talking about were lawyers who were right at the margin of doing the wrong thing,” he says. “So I started teaching it as this sort of history course, studying the careers of people who had tried to do something reasonably interesting, some of them succeeding.”

Carrington celebrates George Wythe, who helped craft the rules and procedures for the Constitutional Convention, for having pursued public service vigorously throughout his remarkable career, and for

passing that goal on to his numerous students and protégés.

“There will never be another law teacher as important as George Wythe,” Carrington says. As Thomas Jefferson’s teacher, mentor, and friend, Wythe’s influence (and Quaker connections) can be seen in the language of the Declaration of Independence. Jefferson later appointed Wythe, an early abolitionist, to be the professor of the law school he founded at the College of William and Mary, where Wythe taught John Marshall, a subsequent colleague. As chancellor of the Commonwealth of Virginia, Wythe hired and mentored Henry Clay for several years; Clay went on to found the law school at Transylvania University in Lexington, Ky., which produced an exceptional number of politicians.

Many of the early legal heroes Carrington profiles, such as Wythe, Thomas Cooley, and Abraham Lincoln never formally studied law, yet were good lawyers in part, he says, because they could sense what other people were thinking and what they actually meant or intended.

“That’s how you deal with disputes,” observes Carrington. “A good lawyer in a dispute situation understands what motivates the adversary. You have to be attentive to what other people are thinking and wanting. And then you also have to be willing to read and think about legal texts, whether it’s a judicial opinion, or a statute, or an administrative ruling. You have to read it and think about what they were trying to say.

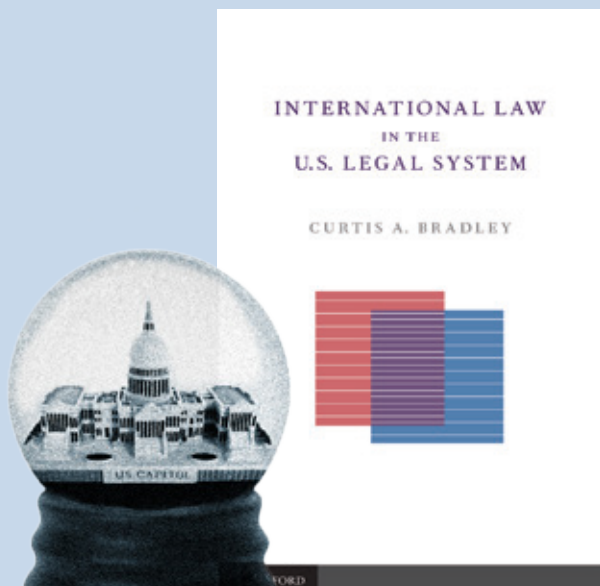
“It’s that personality trait that I think is really central to being a good lawyer — in the 18th, 19th, 20th, and 21st centuries. It’s still important to be able to figure out what someone in the room is thinking about.”

Carrington ends his book with a discussion of the career of his late friend, John P. Frank, calling it “a model of what you can do with your life.” A constitutional scholar and civil libertarian, Frank at various times fought against wartime internments and McCarthyism, and for the desegregation of legal education and the entry of women into the legal profession. A member of the legal team in *Brown v. Board of Education*, he was a leading Supreme Court advocate whose victories included *Miranda v. Arizona* in 1966.

“He had a kind of moral tone about what he was doing that you had to admire,” Carrington says. “He was trying to do the right thing wherever he was, and in whatever he was doing. I offered George Wythe as a model at the outset, but he’s a little premature. What John Frank was doing are things that lawyers around the country are still doing.” ♡ — Frances Presma

**“If you’re going to have order, you’re going to have rules, and somebody has to know what they are and participate in their enforcement. That is the indispensable role of lawyers.”**

“[I]f you only looked at the courts you’d be missing important legal issues that come up outside of the judiciary. State Department lawyers regularly address issues that don’t get into the courts, but involve difficult questions of international law.”



## Curtis A. Bradley

**International Law in the U.S. Legal System**

Oxford University Press, 2013



**I**n *International Law in the U.S. Legal System*, Professor Curtis Bradley analyzes the many ways that international law is processed and applied within the United States. Bradley, the William Van Alstyne Professor of Law and Professor of Public Policy Studies whose scholarly expertise spans the areas of constitutional law, international law, and foreign relations law, covers such topics as the role of treaties and executive agreements in the United States; the extent to which international law influences U.S. policies in wartime; the extradition of criminal suspects; how U.S. courts handle human rights cases; and how customary international law applies in the United States. Bradley also examines how U.S. governmental structures, at both the federal and state levels, affect the nation’s interactions with international law, including when it agrees to international law commitments and how it implements them, both through the courts and outside the courts.

Bradley, who was recently appointed as one of eight reporters for the American Law Institute’s *Restatement (Fourth) of Foreign Relations Law of the United States*, told *Duke Law Magazine* that he targeted the book broadly to scholars, students, and practitioners both inside and outside the United States.

**Professor Bradley:** The first chapter offers an overview of the U.S. legal system and some of the key doctrines that U.S. courts tend to apply in these cases, including a variety of doctrines that limit the role of courts in the foreign affairs area, which explains why you can’t always find the answers in the courts; sometimes you have to find the answers in the executive branch materials or in the actions of Congress.

The book is not an attempt to advocate my views about where the law should be. In areas where the law is unsettled, I express my opinion about what I think the better view in the debate is — and point out that I am expressing my own view. But my intent is to describe where the law seems to be right now, where the courts have been going, and where Congress and the executive branch seem to be on certain issues. I want readers to make their own judgments about whether the law should evolve further. This is somewhat like a *Restatement* approach.

**Duke Law Magazine:** You cover various areas of controversy throughout this book. To what extent does the United States deserve its reputation for being somewhat isolationist and reluctant to embrace international law?

**Bradley:** It really depends on which topic you have in mind and sometimes which period you’re focusing on. On some issues the United States has been a champion of international law and institutions. But it has had more difficulty with other areas and institutions, such as the International Criminal Court and the like.

Congress has, in modern times, been more resistant on some international law issues than the executive branch has been; the executive branch interacts with the rest of the world more directly than Congress does. And Congress has sometimes had concerns about the United States giving up sovereignty to international institutions. Congress also sometimes goes the other way and authorizes, for example, broad suits against state sponsors of terrorism and, in that sense, tries to vindicate certain international rights of the victims. The executive branch often has problems with those congressional actions, because they can trigger complaints from other countries that we’re being too aggressive in allowing lawsuits. So the executive and Congress often spar over those issues as well.

**DLM:** How receptive are the courts to international law, broadly speaking?

**Bradley:** The role of the courts is mixed. The courts are reluctant to do a lot with international law without guidance from Congress and the executive. They give deference to the executive, in particular, in deciding how to apply international law and what its content is.



The courts have sometimes been less deferential to the political branches in human rights cases. One example I discuss is litigation under the Alien Tort Statute, such as in *Kiobel v. Royal Dutch Shell Petroleum Co.*, a case currently pending before the Supreme Court. It's a suit against multinational corporations for allegedly facilitating human rights abuses in Nigeria. There have been a number of cases in recent years brought against companies connected to human rights-abusing countries. The executive branch has expressed concern that this litigation is not in the country's foreign policy interests, and some European countries have complained because it's sometimes against their corporations. The courts haven't always listened to the executive's concerns. But that's really an anomaly; courts have been reluctant, for example, to enforce treaties unless they have pretty clear indications that the political branches wanted them to give effect to the treaty.

Another high-profile issue in the courts is the extent to which officials of foreign nations have immunity from being sued in American courts. The Fourth Circuit recently issued a ruling in *Yousuf v. Samantar*, finding that a former high-level Somali official did not have immunity from damages under the Torture Victim Protection Act of 1991 and the Alien Tort Statute. The court went further than the executive would have liked in limiting immunity; it will have reciprocity implications, because U.S. officials would like to have immunity when they travel abroad. But in other cases, courts have been more willing to give immunity, and they have deferred to the State Department on the immunity question in still others. So nobody knows how that area of law is going to shake out.

There are a lot of other areas of international law, such as the application of extradition treaties, that are routinely applied in U.S. courts without a lot of controversy. There's more controversy in an area like human rights partly because it has more foreign policy consequences.

**DLM:** You make the point that public international law and private international law intersect ever more frequently with U.S. law.

**Bradley:** One reflection of that is that the Supreme Court is addressing these issues much more frequently than it has in the past, and the lower courts are also getting more of these cases. And there is a wide range of international law coming into the courts, with a mix of the public international standards, such as issues relating to war and Guantanamo, and private international law treaties, such as The Hague Convention on Child Abduction that comes up a lot in family law cases when divorcing parents want to take children out of the country. And there are other so-called private international law treaties that courts are now increasingly seeing. It reflects globalization and the fact that more people are traveling all over the world and we're connected to other countries more significantly.

I emphasize in the book — and this is based partly on my time as counselor in the Office of the Legal Adviser at the State Department — that if you only looked at the courts you'd be missing important legal issues that come up outside of the judiciary. State Department lawyers regularly address issues that don't get into the courts, but involve difficult questions of international law, the nature of U.S. obligations under international law, how the U.S. will interact with international institutions, and the extent to which the executive branch is obligated to follow international law even if the courts will not enforce the obligations.

## more RECENT FACULTY BOOKS

- » **Stuart M. Benjamin** *Telecommunications Law and Policy* (Carolina Academic Press, 3d ed. 2012) (with others)
- » **Guy-Uriel Charles** *Election Law in the American Political System* (Aspen, 2012) (with James A. Gardner)
- » **George C. Christie** *Advanced Torts: Cases and Materials* (West Publishing, 2004, 2d ed. 2012) (with Joseph Sanders)
- » **Deborah A. DeMott** *The Liability of Asset Managers* (editor with Danny Busch) (Oxford Univ. Press, 2012)
- » **Mitu Gulati** *Three and a Half Minute Transaction: Boilerplate and the Limits of Contract Design* (University of Chicago Press, 2012) (with Robert E. Scott)
- » **Mitu Gulati** *Acting White? Rethinking Race in Post-Racial America* (Oxford University Press, 2013) (with Devon W. Carbado)
- » **David L. Lange** *Intellectual Property: Cases and Materials* (West Publishing, 1998; 2d ed., 2003; 3d ed., 2007; 4th ed., 2012) (with others)
- » **David F. Levi** *Federal Trial Objections*, 2013 Edition (James Publishing) (with Peter A. Nowinski & Gail Killefer)
- » **Ralf Michaels** *Liber Amicorum Klaus Schurig* (editor with Dennis Solomon, Sellier 2012)
- » **Ernest A. Young** *The Supreme Court and the Constitutional Structure* (West Publishing, 2012)

Some of those issues have generated huge debates within the executive branch, such as those that arose during the Bush administration over the meaning of U.S. obligations under the Torture Convention with respect to interrogation of detainees, and the nature of the obligations entailed by the Geneva Conventions and whether they applied in the conflict in Afghanistan. There were very significant debates within the executive over those issues — between the State Department lawyers and lawyers in the Justice and Defense Departments. It can therefore be too simplistic to describe the “executive branch’s position” on international law; you really have to get down and look at different components of the executive. ♡ — *Frances Presma*

# Faculty Focus

## Schroeder returns to Duke after heading DOJ Office of Legal Policy



**C**HRISTOPHER SCHROEDER HAS RETURNED to Duke Law School after serving, since April 2010, as assistant attorney general for the Office of Legal Policy (OLP) in the Department of Justice. It is a familiar transition for Schroeder, the Charles S. Murphy Professor of Law and Public Policy Studies, a scholar of constitutional law and environmental law and regulation, who served as acting assistant attorney general in the Office of Legal Counsel during the Clinton administration and earlier served as chief counsel to the Senate Judiciary Committee.

Schroeder, who co-directs the Program in Public Law, talked with *Duke Law Magazine* about his latest foray into government service, his transition back to the academy, and his hope that students will consider public law careers.

**Duke Law Magazine:** What sorts of matters were you handling at the OLP?

**Professor Schroeder:** The office is relatively small, about 28 lawyers. About 25 percent of its bandwidth is devoted to the judicial nominations process; we vet all of the president's judicial nominees for the federal court. Another 25 percent is devoted to handling the administrative work of the DOJ, so any rules and regulations that the department issues come through our office. The remaining 50 percent or so runs a very broad spectrum, and is largely determined by what is important to the attorney general and the deputy attorney general at any point in time.

During my time with OLP we invested a lot of time exploring sensible firearms regulations, for instance. A lot of that work provided the foundations for the president's recent proposal. We worked with other components of the Department to build trusting relationships with Arab and Muslim communities. We also put a lot of energy into examining existing surveillance authorities, many of which were written before email was so

prominent, before people had cell phones with GPS devices, and before social media became such an important method of communication for so many people. Eventually that whole suite of domestic surveillance and information-gathering authorities is going to have to be modernized, and the OLP has been right in the middle of the DOJ's effort to figure out what our suggestions are going to be when that legislation begins to move.

**DLM:** What areas of firearms regulation did you work on?

**Schroeder:** I've spent a lot of time specifically on issues related to guns crossing the border into Mexico, where we have faced a number of obstacles. Improving the background check system was another area. Presently, sales can be done privately that don't go through a background check system at all. And then when they do go through a background check, there are straw purchasers — someone perfectly qualified to buy a firearm if they are buying it for themselves — who will hand it off, and then it may get

shipped off somewhere. We don't have as effective an enforcement regime for straw purchasers as we ought to. So we've been working on some legal proposals to increase the ability of prosecutors to go after those folks.

Right now, the kind of circumstantial case you can build against a straw buyer is often viewed by the courts as a paperwork mistake: You've lied on a form. It is very hard to get some courts to see this as a spigot through which a very serious problem gets started. If you could put more weight behind the prosecution of straw buyers, you'd get prosecutors to spend more time on them, and you can start using them to go up the chain to get to the people you'd really like to get hold of. Essentially, President Obama has proposed a gun trafficking law with stiffer penalties for anyone engaged in the enterprise, instead of cobbling together these minor offenses, where a straw buyer is penalized for lying on a form, but not much else. That approach came out of one of the working groups in the Department.

I can see the lineage in the president's proposal of much of the work that was underway at the Justice Department dur-



“I get my batteries recharged when I go work for the government. I develop new ideas about what I want to write about and teach.”

— Professor Christopher Schroeder

ing my tenure. Some things were outside of our bailiwick, having to do with Health and Human Services and mental health issues. But we worked on practically everything else, so that was very rewarding. Now we'll see if the parts that have to be enacted will make it through Congress.

Newtown changed everything. There is something qualitatively different about the specter of 20 6- and 7-year olds riddled with these massive holes that a .223 shell generates. And in the aftermath, it became clear that the impact of [the massacre] was just huge.

I think this time some proposals will come up for a vote, and we'll see what happens. I get the sense that support is very broad. The NRA always had the advantage of having strong, very deep support and for the last 25 years, its leadership has had a strategy of never giving an inch and demonizing anyone who tries to compromise. But Newtown may have changed how moderate gun owners and pro-regulation people feel, that they now feel just as strongly about taking sensible steps, about keeping a firearm and a dangerous person separate. Some of that, at least, can go on the regulation side. Some of it has to do with identifying dangerous people, which is complicated, and which we're not very good at. But the idea that you can't stop everything probably will no longer be a viable argument against doing what you can to stop what you can.

**DLM:** What kind of work did you do with Arab and Muslim communities?

**Schroeder:** Making sure the DOJ has the right policies and partnerships in place with state and local law enforcement to ensure those communities are treated fairly under our civil rights laws and anti-harassment laws. Seeing that hate crimes, where they arise, are being prosecuted. And trying to

build constructive relationships with those communities so that we're not dealing with people who are hostile to the effort to try to identify early-warning signals of domestic terrorism, should they arise. Those communities are very concerned about domestic terrorism, but they don't always trust the federal government because surveillance and monitoring are sensitive topics for any community, and because there have been occasions when individual agents have acted improperly. We've gotten, I think, a lot better at it during the first term of the Obama administration, but we're still working on it. And while the FBI is important to the discussion, so is the local sheriff and the local police department and the Department of Homeland Security (DHS), specifically the Transportation Security Administration (TSA). We often bring DHS into our conversations with these communities, because they often voice concerns about the TSA.

National security issues are pervasive in Washington now. They affect how you think about everything. Post-9/11, the world did change at the level of how the government sets priorities. The FBI is a totally different organization now in its orientation towards counterintelligence, counterinsurgency, all national security issues. There is a brand new national security division in the Justice Department with 700 or 800 lawyers that didn't exist in the '90s.

**DLM:** How does your government service affect your research and teaching agenda?

**Schroeder:** I get my batteries recharged when I go work for the government. I develop new ideas about what I want to write about and teach.

I have worked primarily on presidential powers issues in my scholarship, largely stimulated by the time I spent in the Office

of Legal Counsel back in the Clinton administration. And I now intend to do some writing on surveillance and GPS tracking issues that are definitely traceable back to issues I worked on in OLP. Each time I've come up with new interests and new ideas, and I'm raring to get my thoughts on paper and teach new classes. It's a real energizing experience.

I do enjoy teaching, and this time I was able to keep it up to some degree by participating in the Duke in D.C. seminar. The course that Ted Kaufman and Jeffrey Peck were teaching [last spring] was called Federal Policymaking, and I concentrated mostly on issues that involved the executive branch, the way it interacted with Congress, the way it makes rules, and the administrative process.

**DLM:** What is your advice to Duke Law students considering government service?

**Schroeder:** I strongly encourage students to consider public lawyering as part of a career. It's very ennobling and perspective-enlarging to be working for the people of the United States.

You don't have to think about it as your entire career. But if you have two to five years of practice on your resume and you've worked in an area that has relevance to the DOJ Civil or Criminal Divisions, or you can work at a firm and then get into a U.S. Attorney's Office, that's probably a good path to pursue. And I've come back from this most recent experience even more strongly convinced that the message I want to send to students is to really seriously think about public service. The number of extremely intelligent career civil servants there are in the DOJ is very uplifting. You may become one of them, or maybe you'll do it for a few years and go back to practice with a sense of accomplishment and a very different perspective on the issues. ♡ — *Forrest Norman*

# Mathew D. McCubbins

## LAW AND ECONOMICS EXPERT TO JOIN FACULTY



**M**ATHEW D. MCCUBBINS, a widely respected interdisciplinary scholar whose work explores the intersections of law, business, and political economy, will join the Duke faculty in the next academic year. He will hold a joint appointment in Duke's Department of Political Science and Duke Law School.

McCubbins is currently the Provost Professor of Business, Law and Political Economy at the University of Southern California and the director of the USC-CalTech Center for the Study of Law and Politics. He will be in residence at Duke after spending a sabbatical year at the Hoover Institution at Stanford University in 2013-14.

McCubbins brings additional strength to Duke's law and economics faculty, said Dean David F. Levi.

"In the last several years, with the hiring of Professors Jack Knight, John de Figueiredo, and now Mat McCubbins, Duke Law School has assembled an eminent trio

in law and economics and legal empirical analysis," said Levi. "These scholars are working at the forefront of the study of the major political and economic institutions in our democracy — legislatures, agencies, courts, and markets. Mat is a superstar in this field who will bring creativity and leadership to our faculty and to our research efforts in these areas."

One of the nation's leading scholars in the study of democracy and the law, McCubbins is credited with shaping the scholarly discussion of the role of regulatory agencies in government and of the lawmaking process, both in Congress and through the use of the ballot initiative. He is one of the founders of the positive political theory of law, which posits principally that political institutions are designed to shape incentives and to alter strategic situations in order to change the choices people make.

In particular, McCubbins has studied how Congress designs and influences regulatory agencies as well as its own internal processes in order to enact law, leading to path-breaking work in the areas of administrative procedure, legislative process, and statutory interpretation. His scholarship also has highlighted the inefficacies of the popular ballot initiative, which provides a mechanism for the people to enact law without providing the means necessary to implement law.

A skilled social scientist who uses formal modeling and quantitative research methods to study behavior and decision-making, McCubbins has, in recent work, utilized game theory, network theory, and cognitive science to explore relationships among institutions and the development of public policy.

"Mat's recent work has broadened scholars' perspectives to include a deeper understanding of the psychological aspects of individuals and how behaviors affect outcomes. It is pioneering work that will tremendously deepen our faculty's strength in these areas," said John de Figueiredo, the Edward and Ellen Marie Schwarzman Professor of Law and Professor of Strategy and Economics. "I am thrilled to welcome him to Duke."

McCubbins holds a PhD from the California Institute of Technology. He is a co-editor of the *Journal of Legal Analysis*, an elected member of the American Academy of Arts and Sciences, and an elected fellow of the American Association for the Advancement of Science. A highly regarded teacher, he received the Chancellor's Associates Award for Excellence in Graduate Teaching at the University of California, San Diego, in 2008, where he served on the Political Science faculty. He also has held faculty posts at the University of Texas, Washington University in St. Louis, and the University of San Diego, in the faculties of political science, business, and law, respectively. A prolific scholar, McCubbins has co-authored six books, has written or co-authored more than 120 scientific or legal articles and shorter works, and served as editor or co-editor of eight additional books. ♣ — Melinda Vaughn

*"Mat's recent work has broadened scholars' perspectives to include a deeper understanding of the psychological aspects of individuals and how behaviors affect outcomes. It is pioneering work that will tremendously deepen our faculty's strength in these areas."* — Professor John de Figueiredo



# Marin K. Levy

## EMERGING SCHOLAR OF JUDICIAL ADMINISTRATION, FEDERAL COURTS, JOINS GOVERNING FACULTY

**M**ARIN K. LEVY, whose scholarly interests include civil procedure, judicial administration, federal courts, remedies, and bioethics, joined the governing faculty on Jan. 1 as associate professor of law. Levy first joined the Duke Law faculty as a lecturing fellow in 2009; for the past year she has served as a visiting associate professor of law.

A 2007 graduate of the Yale Law School, Levy holds an M.Phil in the history and philosophy of science and medicine from the University of Cambridge and a B.A. in ethics, politics, and economics (concentration in bioethics) and in English from Yale College, where she graduated cum laude with distinction in both majors. After serving as a clerk to Judge José A. Cabranes of the United States Court of Appeals for the Second Circuit, Levy was an associate at Jenner & Block in Washington, D.C. She has published several scholarly articles on topics relating to judicial decision-making and court administration, including “Judging the Flood of Litigation,” 80 *U. Chi. L. Rev.* (forthcoming 2013) and “The Costs of Judging Judges by the Numbers,” 28 *Yale L. & Pol’y Rev.* 313 (2010) with Kate Stith & José A. Cabranes.

“Marin’s research interests complement and extend our faculty strengths and the work of our new Center for Judicial Studies,” said Dean David F. Levi. “Duke has a great tradition of scholarship in the fields of civil procedure and judicial administration. Professor Levy’s work on the practices of the appellate court has already generated considerable discussion within the judiciary and the appellate bar. She also has become a mentor to many of our students and, through her work with our student scholarship series, has been particularly helpful to those who are interested in pursuing academic careers. She will be a wonderful teacher and scholar, and we feel most fortunate to have her join our faculty.”

A fundamental premise behind much of Levy’s empirical research and scholarship on judicial administration is the common assumption that most courts function the same way. It’s incorrect, she says, and differences among courts’ systems and procedures can affect judicial decision-making and even legal outcomes. In “The Mechanics of Federal Appeals: Uniformity and Case Management in The Circuit Courts,” 61 *Duke Law Journal* 315-391 (2011), she reviewed the case management practices and their outcomes in five federal appellate

circuit courts, suggesting that “current practices can and should be improved through increased transparency and information sharing between the circuits.” She is now examining practices surrounding the composition and subsequent outcomes of judicial panels for oral arguments.

“There has been a sort of default assumption that these panels are randomly created, so when you argue a case in front of three judges, they’ve been more or less randomly assigned,” she says. “What actually goes on is a lot more complicated — and it’s not random. Either the clerk’s office or the chief judge puts the panels together, with different courts factoring in different considerations. For example, some courts limit the number of times that the same three judges sit together. Those courts want to make sure they are getting a variety of different panels so as to avoid an entrenchment of a particular set of views. Other courts don’t share the same priority and in those courts you see a greater repetition of panels.”

Levy first became interested in the inner workings of the judiciary as a law student at Yale when she researched the area for Professor Judith Resnik; her interest deepened during her clerkship with Judge Cabranes.

“Clerking is just a fabulous learning experience about how the courts really function, day-to-day,” she says. “One thing that struck me was the number of cases that never go to oral argument. I realized there was a stack of cases we never dealt with and I wondered, ‘Why is that, and what are those cases?’ That brought up more questions.

“Also, I started to appreciate that court practices differed. The Second Circuit had different practices from other courts, but it was also clear that most judges were not intimately familiar with how other courts operated. They were simply trying to keep their own courts running. That triggered my interest.”

Levy’s interest in how courts respond to pressure has moved from case management to substantive law. Her forthcoming paper in the *Chicago Law Review* focuses on the Supreme Court’s use of “floodgate arguments.”

“From time to time you see the court saying, ‘We’re conscious of the fact that if we go with x decision, that will open the floodgates of litigation.’ It’s a fairly commonplace argument, but when you start thinking about it, you wonder, ‘Wait a minute, why should that affect the substantive outcome?’



At what point do we get to worry about how many people will come through the courthouse door? Is that really a valid consideration?’ I’m looking at how the Supreme Court has used these arguments, and who benefits. I’m asking when, and whether, this is appropriate.”

Levy, whose parents and grandparents are academics, admits that her tenure-track position at Duke is her dream job. It is work, Levy says, that she has been drawn to for most of her life.

“From a young age, my hope was to be a law school professor someday,” she says. “I’ve consistently thought the law was fascinating. It felt to me like it encompassed the biggest issues we grapple with — how we govern ourselves and what mechanisms we use to resolve our disputes.”

Levy is equally enthusiastic about the classes she teaches, which include Civil Procedure. “The procedural courses [address] the second-order questions of, ‘When things go wrong, how are we going to figure out how we get together on this,’” she says. “I think some people see it as dry material, but I love it.”

Grayson Lambert ’12, who worked as Levy’s research assistant, says he enjoyed her propensity for “delving into unexplored areas of law.”

“But what makes Professor Levy such an incredible addition to the faculty is that in addition to this intellectual rigor, she enjoys students. She takes a genuine interest in them that shows that she really cares about their opinions, interests, and aspirations. As a teacher and a mentor, she will be a student favorite for years to come.” ♡ — *Forrest Norman*

### WIENER CO-CHAIRS WORLD CONGRESS ON RISK

**P**ROFESSOR JONATHAN WIENER served as co-organizer and co-chair of the World Congress on Risk, held last July in Sydney, Australia. This major event was the third in the series, convened every four years by the international Society for Risk Analysis (SRA), following the prior World Congresses on Risk held in Belgium and in Mexico.

Wiener, Duke's Perkins Professor of Law, professor of public policy, and professor of environmental policy, is an international leader in risk analysis and policy. He served as the SRA's president in 2008 — the first lawyer or law professor elected to that post.

Nearly 400 congress attendees represented more than 44 countries and a broad range of disciplines, including toxicology, epidemiology, public health, engineering, computer science, economics, psychology, sociology, political science, public policy, and law. The congress had a special focus on "synthetic biology," the emerging research on designing new organisms. ♪



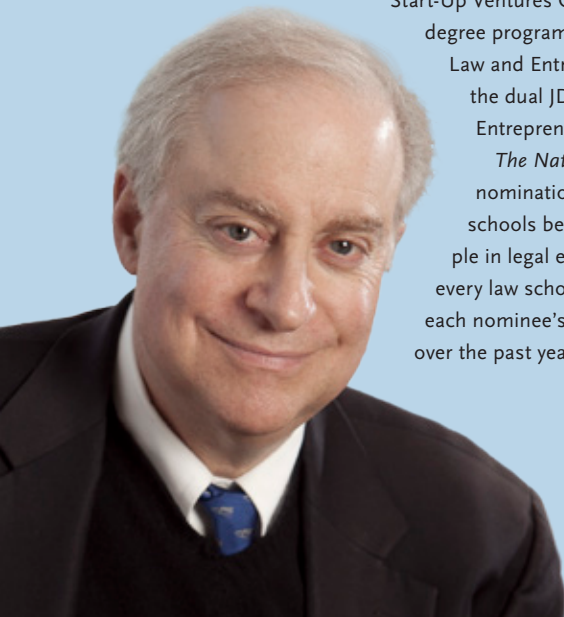
### LEVI NAMED A 'MOST INFLUENTIAL' LEADER IN LEGAL EDUCATION

**T**HE NATIONAL JURIST named Dean David F. Levi one of the 25 most influential people in legal education in the publication's January 2013 issue, calling him "devoted to bridging the gap between academia and the legal profession."

Levi "has been particularly successful in bringing lawyers and judges together with scholars and students" through such programs as the Master of Laws in Judicial Studies offered through the Center for Judicial Studies. The magazine also cited Levi's establishment of the Duke Program in Law and Entrepreneurship which helps prepare lawyers for work and leadership in the

growing entrepreneurial sector through the Start-Up Ventures Clinic and two new degree programs, the LLM in Law and Entrepreneurship and the dual JD/LLM in Law and Entrepreneurship.

*The National Jurist* solicited nominations from all U.S. law schools before asking 350 people in legal education, including every law school dean, to rate each nominee's influence on them over the past year. ♪



Forrest McCormack/FSM Photography

### MCALLASTER TAKES PART IN AIDS IN AMERICA FORUM

**O**N JULY 24, Clinical Professor Carolyn McAllaster shared a stage in the nation's capital with U.S. Secretary of Health and Human Services Kathleen Sebelius and Surgeon General Regina Benjamin, among others, as they examined policy options to stem the epidemic of HIV and AIDS in the United States. The AIDS in America Forum, co-sponsored by the Ford Foundation and the Kaiser Family Foundation and hosted by the *Washington Post*, coincided with the 2012 International AIDS Conference, where leading experts and policymakers grappled with the global crisis.

McAllaster's participation in the forum reflects both her stature as an advocate for people living with AIDS and HIV and the depth of work being done by students and faculty in Duke's AIDS Legal Project, which she has directed since 1996, and the AIDS Policy Clinic, launched in 2011 with a grant from the Ford Foundation. Recent clinic activities have included the release of a report detailing the spread of AIDS in nine Southern states, policy research and advocacy at the state and federal levels, and the ongoing provision of free legal assistance to low-income HIV-infected clients. ♪





Jay Mallin

## SILLIMAN SWORN IN AS APPELLATE JUDGE ON THE U.S. COURT OF MILITARY COMMISSION REVIEW

**P**ROFESSOR SCOTT SILLIMAN has been sworn in as an appellate judge on the United States Court of Military Commission Review. The appellate court reviews each military commission case held at Guantanamo Bay.

Silliman, director emeritus of the Duke Center on Law, Ethics and National Security, was sworn in by Chief Judge David B. Sentelle of the Court of Appeals for the District of Columbia Circuit on Sept. 12. President Barack Obama nominated

Silliman to the Court of Military Commission Review on Nov. 10, 2011 as one of two civilian judges, positions authorized by the Military Commissions Act of 2009; the court was earlier comprised solely of military appellate judges. The president formally appointed Silliman as a judge on Aug. 30, following his confirmation by the United States Senate.

Silliman, a former Air Force judge advocate, continues to teach National Security Law at Duke. ♫

## BRADLEY APPOINTED TO WORK ON FOREIGN RELATIONS LAW RESTATEMENT

**C**URTIS BRADLEY, the William Van Alstyne Professor of Law and Professor of Public Policy Studies, has been named one of eight reporters for the American Law Institute's *Restatement (Fourth) of Foreign Relations Law of the United States*. The *Restatement* is a major reference work used by lawyers, scholars, and judges in assessing the state of foreign relations law and international law in the United States.

The multi-year undertaking will involve building consensus among leading experts and practitioners on major foreign relations law issues, and a painstaking writing and review process. Bradley, a leading authority on U.S. foreign relations law, also serves as senior associate dean for academic affairs. His new book is *International Law in the U.S. Legal System* (Oxford University Press, 2013). (Read more, Page 22.) ♫



## BREWSTER PARTICIPATES IN WTO PUBLIC FORUM

**P**ROFESSOR RACHEL BREWSTER participated in the World Trade Organization's annual public forum in September, where she discussed the complex interaction of trade, sustainability of natural resources, and environmental protection.

The WTO Public Forum in Geneva brought together international lawyers, economists, and members of non-governmental organizations to address the state of the multilateral trading system. Brewster joined participants from the International Centre for Trade and Sustainable Development, the Organisation for Economic Cooperation and Development (OECD), and the WTO's legal affairs division on a panel titled "Perspectives on Sustainability: Renewable Resources, Trade, and WTO Governance;" the panel focused on the possibilities and pitfalls of using trade measures to conserve limited global resources.

Brewster, who serves as co-director of the Center for International and Comparative Law, focuses her scholarly research and teaching on the areas of international law and international relations theory, and international trade. She served as legal counsel in the Office of the United States Trade Representative in 2008. ♫

# Profiles

## Ben Fountain '83 The writer

**B**EN FOUNTAIN was named a 2012 National Book Award finalist for his first novel, *Billy Lynn's Long Halftime Walk*, which is now being adapted for the screen. His debut collection of short stories, *Brief Encounters with Che Guevara*, won the 2007 Pen/Hemingway Award. Writing in the *New Yorker*, Malcolm Gladwell called Fountain's writing "genius." But Fountain still picks up the phone at his Dallas home on the first ring.

"Writing keeps your ego in check," Fountain says in his mild drawl. "You can win a National Book Award, or a Faulkner Prize, but there's not a single prize out there that's going to help you sit down at your desk and get the words on the page."

From Billy Lynn, the 19-year-old war hero on leave from Iraq and bewildered to be stuck in the halftime show of an overhyped Dallas Cowboys football game, to John Blair, the bird-loving graduate student kidnapped by South American rebels in the short story "Near-Extinct Birds of the Central Cordillera," Fountain writes about real people you care about and want to know. It was Fountain's desire to get to know real people and have real experiences before creating fiction that led him to Duke Law School.

As a 15-year-old in Cary, N.C., Fountain read an Ernest Hemingway short story, and

then everything else Hemingway wrote. That the human condition could be presented in clean, simple language in a short story or novel stunned him. He knew then that he would be a writer, though he did not realize it would take 30 years to fully achieve this dream.

He wrote throughout high school and his undergraduate studies at the University of North Carolina at Chapel Hill, receiving encouragement from his instructors. But the idea of launching himself as a writer directly after graduating scared him; he could not just start writing without any life experience of his own. Duke Law School struck him as a good place to "get ready for the world," he says.

Along with meeting his future wife, Sharon Monahan Fountain '82, during his first week, Fountain's favorite memories of law school were of other students and the professors. "There were very few jerks," he

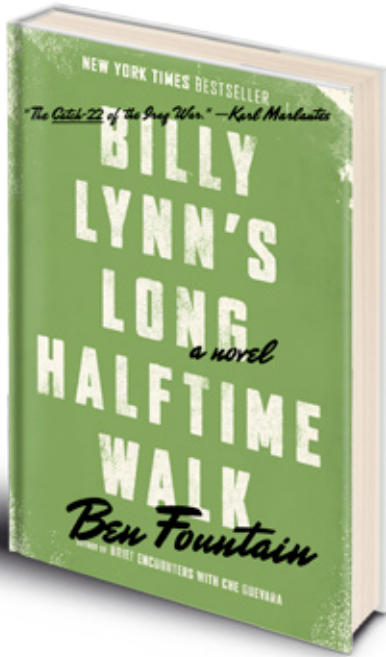
says, with a laugh. "And the professors were all good people. They truly cared that we learned what they were teaching."

"There was a lot to love about Duke," he adds. "It was intellectually revelatory and gave me time to grow up." The effect of law school on his fiction writing, however, was fairly devastating, at least in the short term, as he found himself too busy to write fiction and creatively stymied by the precise rules of legal writing. "During law school, and those first years out, I was stuck in a sequential, logical mode of viewing the world."



Thorne Anderson





“Writing keeps your ego in check. You can win a National Book Award, or a Faulkner Prize, but there’s not a single prize out there that’s going to help you sit down at your desk and get the words on the page.”

— Ben Fountain '83

On Feb. 28, Fountain was announced as the winner of the 2013 National Book Critics Circle Award for Fiction for his debut novel, now out in paperback (Ecco).

Dallas Cowboys’ halftime show. The show featured Beyoncé and a group of scantily-clad dancers gyrating around a group of young, seemingly stunned U.S. soldiers. Fountain calls this American scene “as visceral” as that in any Haitian village he’d visited. The novel is now being adapted for the screen by Simon Beaufoy, the Oscar-winning screenwriter of “Slumdog Millionaire.”

Is there any hint of the lawyer in Fountain’s writing? His legal career did inspire a legal thriller of sorts, but he confesses the experience nearly undid him. The novel was getting close to publication in October 2008 when Gladwell featured Fountain in his *New Yorker* article “Late Bloomers: Why do we equate genius with precocity?” comparing his late-blooming achievements as a writer to Cezanne’s as a painter. In the wake of the Gladwell article, Fountain’s editor decided the legal thriller was not good enough for the writer Fountain had become.

“The decision to scrap that novel was devastating, but it was the right decision,” Fountain says. “It was a novel that I’d worked on over a long period of time, and my writing had evolved beyond it.”

While Fountain probably won’t be writing another legal thriller, he has not given up his lawyerly discipline. He still writes every morning and is currently working on a novel that takes place in Dallas. ♡

— Caitlin Wheeler '97

After graduating, Fountain followed Sharon to Dallas where she worked at Thompson & Knight (she now heads the firm’s tax practice). Working in the real estate group at Akin Gump, he tried to write in the evenings, with limited success. After the birth of their first child, he and Sharon decided that he would leave his growing practice to stay home with the baby and write full time.

Fountain admits that everything he wrote in those early years was “terrible ... I cringe to think of it now.” But he kept writing. He credits his legal education for his focus and self-discipline. “Every morning, I would drop the baby off at morning daycare and I’d go home and sit down and I would write.” Within the first year, he published a couple of short stories in literary magazines, success that made him feel that he’d made the right decision.

For subject matter, he is drawn to what he calls the “vital” issues: politics, power, and race. He developed an interest in Haiti and explored the country extensively. “In Haiti, the veneer is stripped away. What’s left is raw, blatant life,” he says. The stories inspired by his visits to Haiti and South America won numerous awards — including two Texas Institute of Letters Short Story Awards, a Pushcart Prize, and an O. Henry Award — before they were collected in *Brief Encounters*.

By contrast, Fountain got the inspiration for *Billy Lynn’s Long Halftime Walk* (HarperCollins, 2012) while sitting on his couch watching a

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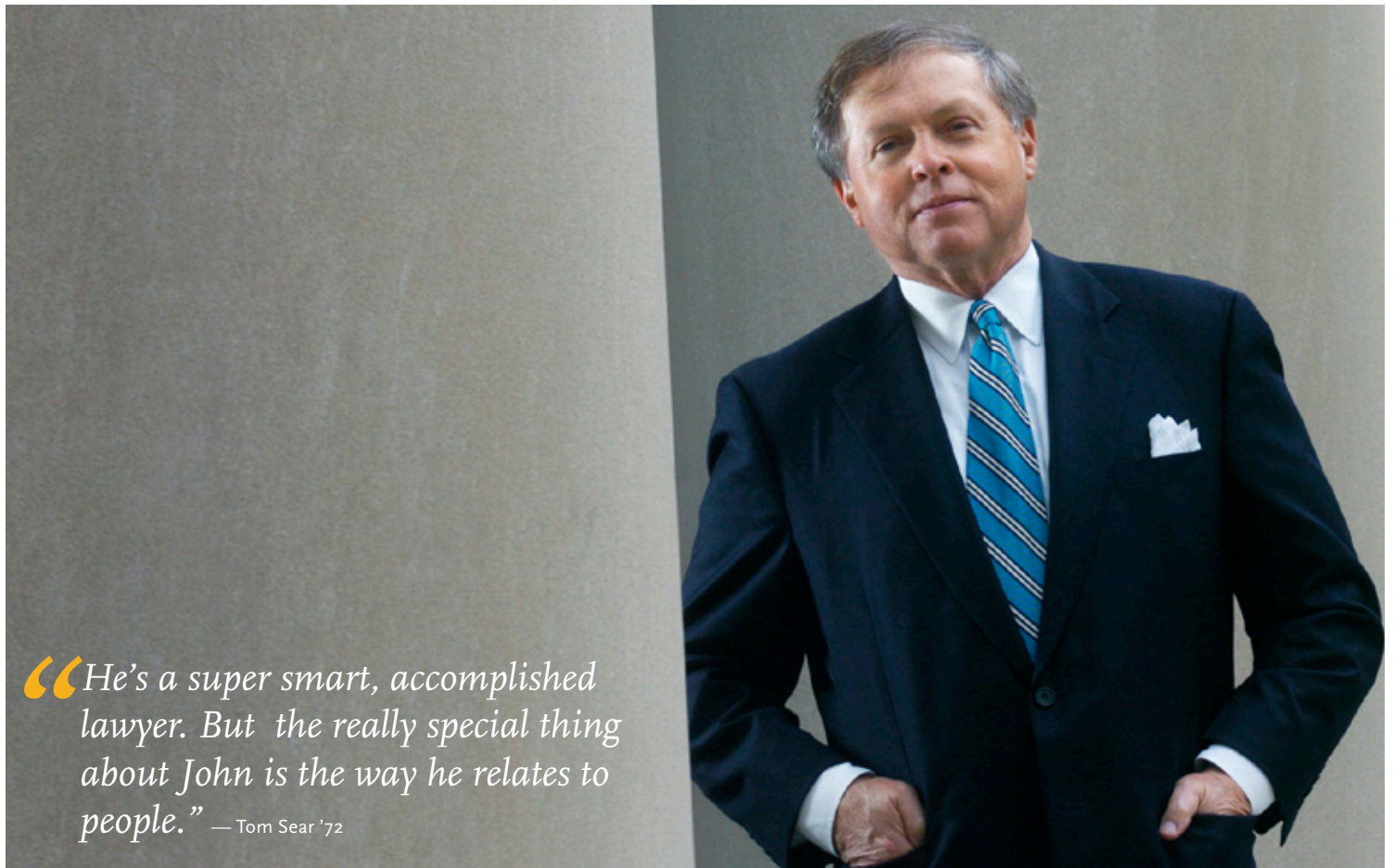
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“He’s a super smart, accomplished lawyer. But the really special thing about John is the way he relates to people.” — Tom Sear ’72

## John Wester ’72 Community builder

**J**OHN WESTER is resolute. “For years, I heard lawyers promise judges: ‘I’ll be brief’ — and then go on and on,” he explains. “I resolved to skip the promise, try my best to *be* brief, and savor the relief on judges’ faces.”

In fact, it’s impossible to imagine Wester wearing on an audience, in court or out. He is a natural storyteller — and his full-blooded experience with the law provides plenty of material. There is the one about his arguing, at age 33, for Ford Motor Co. in the U.S. Supreme Court; another about representing North Carolina’s governor and cabinet secretaries in a class action challenging the constitutionality of employment practices in the state. Then there’s the one about how, after a typically rough game for Duke Law’s football team, he wound up in Duke’s emergency room getting stitches in his chin while his friend and teammate, Joseph McManus ’72, lay

beside him getting stitches in *his* chin. “You two are going to be lawyers?!?” Wester recalls the nurse asking.

For Wester it was the camaraderie, more than his love of football, that resonated. He has spent his career building and fostering communities: from family to college and law school, to Robinson Bradshaw & Hinson, the law firm where he has practiced for his entire career, to legal aid groups in Charlotte, and, as president of the North Carolina Bar Association from 2009-2010, the state’s legal community as a whole.

“He’s a super smart, accomplished lawyer,” says friend and classmate Thomas Sear ’72, now retired from Jones Day in New York. “But the really special thing about John is the way he relates to people.”

It was Wester’s collegiality that led to his two-decade involvement in *Hyatt v. Shalala*. Soon after his experience in the Supreme Court, he represented the Charlotte-

Mecklenburg Housing Authority in a series of cases, arguing again and again against the attorneys from Charlotte’s Legal Aid office. “I lost nearly every case against them, and then we’d go out afterwards for drinks and dinner,” he recalls. “I learned so much from them. We became good friends.”

A few years later, Legal Aid saw a rapidly growing number of disabled clients losing or being denied Social Security benefits. The Legal Aid team decided that a class action would be needed to challenge an internal ruling issued without notice by the Social Security Administration. Although the U.S. Court of Appeals for the Fourth Circuit had ruled in favor of similarly situated plaintiffs, the SSA had refused to follow this precedent. To take this on, Legal Aid turned to Wester and his firm, asking them to become counsel *pro bono publico*.

Wester and his partners handled the case for almost 20 years, through numerous



hearings, a trial, five arguments before the Fourth Circuit, and two petitions for certiorari to the Supreme Court. As a result of this litigation, more than 50,000 disabled North Carolinians received disability benefits. The case also contributed to similar relief in other states and to a revised Social Security regulation for disabling pain.

The case won Wester and his firm accolades along the way: The American Bar Association awarded Robinson Bradshaw & Hinson its inaugural public interest law award. But for Wester, the most meaningful moment came at a recess during trial.

“A gentleman tapped me on my shoulder to introduce himself. ‘Mr. Lawyer,’ he said, ‘I want to know how you think it’s going.’ I shook his hand, told him I didn’t know, and added: ‘I’d like to know how *you* think it’s going.’ He answered: ‘Mr. Lawyer, I’m

almost deaf, so I can’t hear much of what y’all are saying. But I know what you’re doing, and I know what you’re getting paid for doing it. And I just want to thank you.”

When the court awarded fees in the case — nearly \$500,000 — Wester and his partners agreed unanimously to donate the full amount to the Mecklenburg County Bar Foundation. Throughout the case, Wester says he was motivated by the knowledge that there were thousands of “clients” counting on him, his partners, and Legal Aid — all lawyers they had never met. “For good reason, we are wary of elitism,” Wester points out, “but we cannot overlook the very precious implements that only lawyers can wield.”

Looking at his career, one likely explanation for Wester’s achievements as a litigator and his appeal as a friend and colleague is

his genuine affection for the communities he has helped to build. Duke Law School ranks high among them.

“Duke Law is the foundational community for me as a lawyer,” he says. “For that, I am most grateful. The richly diverse mix of excellent faculty all under one roof was simply stunning.”

Wester attended Duke on what he calls the “John and Louise Wester Scholarship.” He has recently decided to honor his parents by donating funds to the Law School to make his “scholarship” official, and as he told his mother, last Mother’s Day, it will be called the “Louise Robbins & John Howard Wester Scholarship Fund.” In doing so, Wester honors several of the communities he holds dear: his family, Duke Law School, and the future legal community in North Carolina and beyond. ♡ — *Caitlin Wheeler ’97*

## ANNOUNCING THE PATENT LAW INSTITUTE AT DUKE LAW

Hosted by the Duke Law Center for Judicial Studies in association with the American Intellectual Property Law Association

May 13-17, 2013, Duke Law School

The Patent Law Institute is a weeklong intensive training program for practitioners on important developments in patent law. Participants will gain practical strategies for navigating the new procedures set out in the America Invents Act and develop a comprehensive understanding of the case law that is shaping patent and intellectual property litigation.

### Topics of Focus

- » AIA: Policy rationale, major provisions, and legislative history
- » Recent case law developments in patent validity: impact on prosecution, licensing, and litigation
- » Claim construction, infringement, and remedies
- » Patents, licensing, standards, and antitrust, including treatment of reverse payment settlements

### Faculty

- » **Arti Rai:** Elvin R. Latty Professor of Law, Duke Law School
- » **Mark Webbink:** Duke Law Senior Lecturing Fellow, former Red Hat General Counsel
- » **Kenneth Sibley ’85:** Duke Law Senior Lecturing Fellow, Partner, Myers, Bigel, Sibley and Sajovec
- » **Tom Irving:** Partner, Finnegan, Henderson
- » **Barbara Fiacco:** Partner, Foley, Hoag

### Guest Speakers

- » **Randall Rader:** Chief Judge, Court of Appeals for the Federal Circuit
- » **Thomas S. Ellis, III:** District Court Judge, Eastern District of Virginia
- » **James Smith ’86:** Chief Administrative Patent Judge, United States Patent and Trademark Office
- » **Deanna Tanner Okun ’90:** Partner, Adduci, Mastriani & Schaumberg and Former Chair, U.S. International Trade Commission
- » **Joseph Matal:** Associate Solicitor, United States Patent and Trademark Office, former United States Senate Judiciary Committee staff
- » **Howard Shelanski:** Chief Economist, Federal Trade Commission
- » **James W. Dabney:** Partner, Fried Frank Harris Shriver & Jacobson
- » **Jorge Contreras:** Associate Professor of Law, American University Washington College of Law

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“There is more than one right answer. In today’s policymaking, we have only ‘right and wrong’ — we don’t have a ‘next right answer’ where we build on each other’s ideas to come to resolution.”

— Ember Reichgott Junge '77 relates a key lesson she learned from the legislative battle to pass the nation’s first charter school law.



## Ember Reichgott Junge '77 Charter school pioneer

AS A MINNESOTA state senator, Ember Reichgott Junge spearheaded the passage, in 1991, of the nation’s first charter school law. She recalls feeling “personally devastated” as a bruising three-year legislative battle came to an end.

“The bill was severely compromised in the conference committee and, as passed, I thought it was so weak that a charter school would never open,” she admits more than 20 years later. She recounts the massive opposition her bill met from teachers unions and members of her own Democratic-Farmer-Labor party, and the legislative gymnastics used to pass it.

“I had to accept the compromise because I knew we would never get another chance — the resistance was too great,” she says. “A colleague taught me a great lesson: ‘Ember, just remember: Pigs get fed and hogs get slaughtered.’ I had to take the weak compromise. Even then it passed by only three votes, with the help of a bipartisan coalition from the center.”

Her doubts weren’t realized. The first charter school opened in Minnesota in 1992 and a movement grew; as Reichgott Junge points out, more than two million students

now attend charter schools across the country. She cites a September 2012 Kappan/Gallup poll indicating that two-thirds of the American public supports chartering.

“What else does two-thirds of the American public support in this divided political climate?” Reichgott Junge says with a laugh. But she also acknowledges ongoing controversy surrounding chartering, a movement designed, she says, simply to afford parents and teachers the autonomy to operate public, independent schools in return for specifically contracted performance results. She hopes, in part, to set the record straight with her new book, *Zero Chance of Passage: The Pioneering Charter School Story* (Beaver’s Pond Press, 2012), where she shares her personal journey of pioneering chartering through its origins, legislative passage, and into the robust national public education debate.

### Making legislative history

On her election to the state Senate in 1982 at the age of 29, Reichgott Junge was appointed to both the Judiciary Committee — she was the first woman to sit on that committee, which she later chaired — and the Education Committee. “Education was a passion of

mine,” she says. “I was a proud product of our public schools and worked closely with teachers in my election.” She sponsored into law the nation’s first open-enrollment statute, initially proposed by Gov. Rudy Perpich in response to a national report calling for improvements to public education. It became law in 1988.

“Open enrollment was a national breakthrough in public education, because it was the first time public school students could choose to attend any public school in the state. They didn’t have to stay in their home districts. The option was immediately popular,” Reichgott Junge says. “But once we had more access to choices, what if all the choices were the same? We needed more choices to access. So we started thinking about creating more and different [school] choices for children, particularly in their own neighborhoods. Open enrollment was fine, but only people with resources could transport their children across town to another school.”

A task force of civic leaders addressing school improvement issues offered chartering as a viable option, she explains, as a way to spur the public K–12 system to become more responsive to change, and to empower

teachers who felt constrained by the dictates of school districts. “Chartering, by definition, allows someone other than the public school district to deliver public education. That provides more choices for students *and* stimulates responsive change in the larger system.” It worked, says Reichgott Junge. “Many K-12 districts have responded to charter schools in their neighborhoods with new options requested by parents and teachers.”

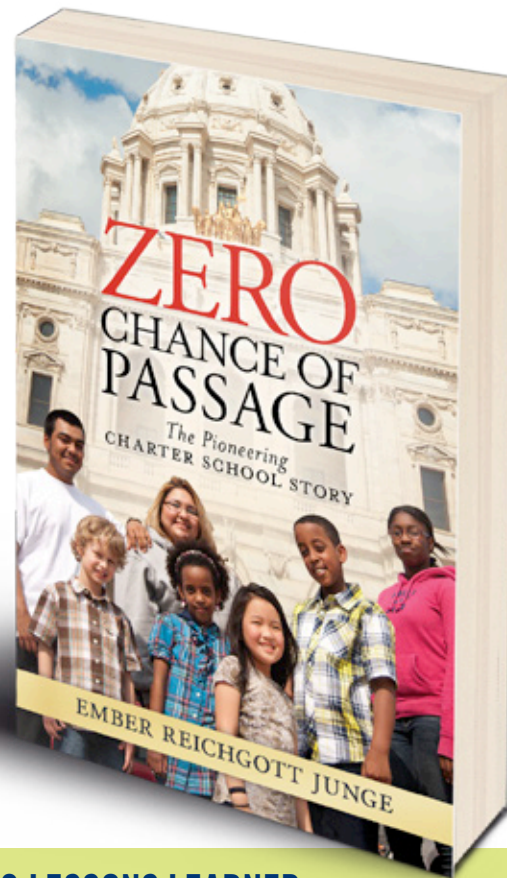
**Joining a national movement**

Reichgott Junge facilitated various improvements to Minnesota’s pioneering charter school law in subsequent legislative sessions. It was protected against repeal, she notes, by the national conversation on charter schools — as a public school choice alternative to private-school vouchers — that exploded within weeks of the law’s passage. And although she did not know it at the time, Gov. Bill Clinton had been pointing to Minnesota’s law as a model for chartering as he campaigned for his first term as president.

She never anticipated being involved with the issue for the long term. She enjoyed a long career as a corporate lawyer before joining the nonprofit sector in 2007 and currently serves as vice president of strategic outcomes for People Incorporated, a mental health services nonprofit. But controversy and misconceptions had arisen around charter schools by the time she retired from the legislature in 2000. “Charter schools were being perceived as far right in some states and far left in others,” says Reichgott Junge. She became involved on a volunteer basis with national chartering organizations and wrote her book, she says, to clarify the goals of chartering and inform its future.

“We need to strengthen the quality and accountability [of charter schools] with strong authorizers, skilled school leaders, and well-trained charter school board members, among other things,” she says. “Charter schools have always been expected to do more with less, but that funding gap is becoming unsustainable in some places. I hope my book can refocus the national conversation in part on these issues.” ♪

— Frances Presma



**POLICYMAKING LESSONS LEARNED:**

**E**MBER REICHGOTT JUNGE is eager to share lessons that still resonate today from the legislative push for charter schools, which earned her a 2000 Innovations in American Government Award from Harvard’s John F. Kennedy School of Government; she also was inducted into the National Charter Schools Hall of Fame in 2008.

“The first lesson is ‘Compromise is not defeat,’” she says. “Compromise was the only way the bill could pass, and it provided a firm foundation for a system redesign lasting over 20 years. Without compromise, we might not have charter schools today.

“The second lesson is ‘There is more than one right answer.’ In today’s policymaking, we have only ‘right and wrong’ — we don’t have a ‘next right answer’ where we build on each other’s ideas to come to resolution. That’s governing at its best — and we can return to that! I hope today’s Duke Law students will bring back that kind of policymaking by becoming tomorrow’s policy entrepreneurs.”

Including outside points of view is a third key lesson for policy development, she suggests. “The civic leaders involved in the original chartering discussions were true policy entrepreneurs. They came from business, labor, nonprofits, and other areas of civic life and were willing to help legislators think through important issues and move their thinking ‘outside the box.’”

Finally, bipartisanship was central to the launch of the charter movement and is sorely needed in today’s political climate, Reichgott Junge says. “Chartering would not pass today, in most states or in Congress, because we are too divided and too partisan. Chartering came from the middle of the political spectrum — even from outside the political spectrum — and was passed with a true bipartisan coalition. That is why it has sustained for 20 years.” ♪





### Tatiana Sainati '13 Aiming for academia

TATIANA SAINATI once planned a career as an English professor. She is still aiming to enter academia, but now has her sights set on the legal academy, with a focus on human rights. The shift came somewhat gradually, she explains.

It started with her part-time job at a preschool with an AmeriCorps “Jumpstart” program, while she pursued her master’s degree in English at the University of Virginia. “There was something really rewarding about working directly with people and seeing the difference that you could make in someone’s life,” she says with a smile. “And so as much as I love Jane Austen — and I really, *really* do — I decided that maybe there was something else I could be doing.”

Master’s in hand, Sainati took a job with a Minneapolis nonprofit that worked with refugees. “I was hearing stories about the horrific conditions people had endured in Somalia, in Myanmar, in Cambodia,” she recalls. “I just kept thinking that there has

to be a way to intervene more effectively and more directly to help people. I realized there is a way, and it’s the law, and I needed a law degree to do this kind of work.”

That clarity of purpose has served her well as she has concurrently pursued her JD and LLM in international and comparative law at Duke, allowing her to “take advantage of everything I could,” she says, including overseas work and study, advanced clinic work, and intensive research opportunities.

#### Pursuing international opportunities

Sainati enrolled, in her first year, in Professor Curtis Bradley’s human rights seminar focused on housing rights in East Jerusalem. “We studied some of the issues that are going on between Palestinians and Israelis in East Jerusalem and traveled to Jerusalem. It was an incredible experience.”

Sponsored by the Law School’s Steckley-Weitzel Fellowship and the Public Interest

“To have professors who are so willing to learn about you and to know what it is you want to do and to help you get there — I don’t think I can say strongly enough what tremendous value that is to helping fulfill your ultimate goals.”

— Tatiana Sainati '13

Law Foundation, Sainati served as a legal intern at the Documentation Center of Cambodia in Phnom Penh during her 1L summer. Her work for the independent research organization included preparing a report on effective human rights investigations that was submitted to the international tribunal trying senior Khmer Rouge leaders for atrocities committed during the 1970s; monitoring and reporting on trials; collecting survivor stories for genocide education projects; and crafting op eds on the importance and function of the court and the rule of law. The work later informed Sainati’s *Duke Law Journal* note, “Toward a Comparative Approach to the Crime of Genocide.”

Sainati, who worked for a Chicago social justice law and policy center in her 2L summer, says she appreciated the varied perspectives from faculty and students on such issues as torture, terrorism, and human rights that she subsequently found at the Duke-Geneva Institute in Transnational Law. “It was also an incredible opportunity to engage with students from around the world.”

#### Finding satisfaction in clinical work

At Duke, Sainati has immersed herself in HIV and AIDS law and policy through three semesters in the Duke Law Clinics, working under the direction of Clinical Professor Carolyn McAllaster and Supervising Attorney Allison Rice. Sainati recalls being impressed by the passion with which McAllaster, director of the AIDS Legal Project and the advanced AIDS Policy Clinic,

spoke of her work when they first met. “I felt that there was a lot to learn from her, both about the work she does and in cultivating that sort of passion for the law and what the law can do for people,” Sainati says.

She found enormous satisfaction in her initial clinic experience, particularly in working with a client to set up a stand-by guardianship for her child; because the client was herself under the guardianship of her mother, the situation was a case of first impression in North Carolina. Sainati counts learning to explain the law in lay terms as a lasting skill she derived from her clinic experience, and one that helped her come to a better understanding of the legal principles involved.

That skill helped Sainati during two subsequent semesters in the AIDS Policy Clinic, in which she largely focused on analysis and educational outreach, for clients and caregivers, relating to the Patient Protection and Affordable Care Act. “When you have to go out and talk to [lay] people, you engage with the law at a deeper level,” she observes. “They just want to know what the law says and what it actually means for them. It’s been a fascinating process to focus on the individual impact the law can have and take that back to the larger level again, asking how it will work as policy? It’s something that will only help me in the longer term.”

Bound first for a post-graduate clerkship with Judge Rosemary Barkett of the U.S. Court of Appeals for the 11th Circuit, Sainati hopes the longer term will include engagement in policy issues as a legal academic. She expresses gratitude for the academic advisers, models, and mentors she’s found at Duke Law, including the international and comparative law faculty for whom she has worked as a research assistant — Professors Ralf Michaels, who also supervised her *DLJ* note, Curtis Bradley, and Laurence Helfer. Helfer, she notes, has nurtured her academic goals by bringing her into projects at different phases so she can see how they develop from preliminary research to completion, and advising her on how to formulate a research agenda.

“To have professors who are so willing to learn about you and to know what it is you want to do and to help you get there — I don’t think I can say strongly enough what tremendous value that is to helping fulfill your ultimate goals. I feel very fortunate.” ♡  
— Frances Presma



## Phil Aubart '13 Opening discussion

**A**N ARMY-INTELLIGENCE-TRAINED, Arabic-speaking, travel-loving 3L, Phil Aubart brings a genuine passion for even-keeled discussion to his leadership of the Federalist Society at Duke Law.

Now in his second year as chapter president, a post he currently shares with Jonny Havens '13, Aubart has aimed to open the group, known nationally for its conservative/libertarian viewpoint, to all Duke Law students, regardless of political leanings. While he chooses speakers from the national organization’s approved list, he routinely presents alternate, opposing views alongside to

encourage conversation and debate. “I don’t want one of our guest speakers to just be up there pontificating on conservative topics,” Aubart says. This broadminded approach has made Federalist Society events some of the best-attended at the Law School.

A Minneapolis native whose diplomatic instincts first helped him navigate a “tough” transition from being home schooled to becoming captain of his private high school’s football team, Aubart credits participation on the school’s “discussion” team with honing his interest in hearing all sides of an issue.

“I’ve worked hard at making everyone feel welcome.”

— Phil Aubart '13 on his approach to leading Duke Law's chapter of the Federalist Society

“In *debate*, the goal is to argue one’s opponent into the ground,” he explains. “In *discussion* you have to get into a harmonious conversation with your competitors and come up with a solution to the given topic. You don’t want to dominate the conversation or interrupt anybody — to win you’ve got to subtly lead the group towards a good conclusion.” Aubart eventually became Minnesota’s statewide discussion champion.

Inspired by that success and by a summer job with a public interest attorney, Aubart decided he would be a lawyer — eventually. He joined the Army in 2004, directly out of high school, having felt called to serve following the 9/11 attacks and the invasion of Iraq, and following a family tradition of military service.

“When the recruiters called, I was interested enough in what they had to say to take the Army entrance exam,” he recalls. The recruiters were pleased with his score and told him he could train as an interrogator. Again, Aubart was “interested enough” to take the next exam required, which involved learning rules for a fictitious language and then trying to read and apply the language. “That was the most fun I’ve ever had taking an exam,” Aubart says, laughing.

If the test was fun, basic training with its harsh, seemingly round-the-clock drills, was not. Afterward, learning Arabic seemed easy, Aubart says. Once he was proficient in the language, he began interrogation technique training. “I loved it,” he says, explaining that the training reminded him of his high school involvement in discussion. The technique involved convincing a prisoner to reveal what he knew through conversation; there was no physical contact allowed.

Training over and still keen on becoming a lawyer, Aubart set out for Dartmouth where he joined the Reserve Officer Training Corps to pay for college. He majored in

Arabic language and history at Dartmouth and worked for a quarter in Cairo. Upon graduation, he was commissioned as a 2nd lieutenant and deferred his four years of required military service to attend law school, with the intention of performing his service as a member of the JAG Corps. There was one catch: the JAG Corps — with its 10 percent acceptance rate — would not guarantee him a spot after graduation, and if he didn’t earn one, he would be drafted right into the Army. He decided to chance it — successfully, as it happened. He will begin his career as an Army JAG following an Army-approved clerkship with Judge Terrence W. Boyle of the U.S. District Court for the Eastern District of North Carolina.


Aubart has taken on law school with the same kind of energy and excitement for challenges that propelled him into the military. He is on the Moot Court Board — he was a finalist in the 2012 Dean’s Cup Competition — serves as the Public Interest Law Foundation’s auction manager and co-chair, and plays on the intramural softball and flag football teams. A lead editor for the *Alaska Law Review*, he clerked for the Army JAG Corps in Alaska last summer and fit in a cross-country drive along the way; he is proud of having visited 48 states to date and fully intends to visit the last two, Hawaii and Rhode Island. But Aubart’s involvement with the Federalist Society is closest to his heart.

“It was John Radsan’s visit that did it for me,” Aubart says. Radsan, a former deputy general counsel of the CIA and professor of law at William Mitchell College of Law in St. Paul, was a Federalist Society guest in 2010, and Aubart enjoyed meeting him

over dinner. “His speech was engaging,” says Aubart, “and the discussion over dinner was great. I knew that night I wanted to be involved in bringing more guests like him to Duke.”

Aubart’s success with the Federalist Society is striking. Last year he organized 28 events, several of which drew more than 100 students. In addition to visitors such as Baylor University President Kenneth Starr '73, many featured members of the Duke Law faculty engaging with guests on topics ranging from health care reform to government regulation of internet speech.

The Duke Bar Association honored Aubart with its 2012 award for “Outstanding Student Contribution to the Duke Law



On March 2, Duke Law’s Federalist Society chapter won the James Madison Award for Chapter of the Year at the society’s 2013 Student Symposium held at the University of Texas School of Law.

Community,” and the Federalist Society with its award for “Greatest Contribution to Civic Discourse.” But to Aubart, the most significant achievement has been the broadening of student interest in the group. He estimates that it has about 230 members, many of whom do not have a conservative political bent. “I’ve worked hard at making everyone feel welcome,” says Aubart. “We do not want to appear as some weird right-wing cabal. We want interesting topics and interesting speakers interacting with Duke Law’s own very interesting speakers.”

His plans now call for two events per week for the remainder of the academic year, followed by a career in the Army JAG Corps — with side trips, of course, to Hawaii and Rhode Island. ♣ — Caitlin Wheeler '97



# Alumni Notes

## 1949

**Charles F. Blanchard** received the 2012 Advocate's Award from the Litigation Section of the North Carolina Bar Association for exercising the "highest degree of professionalism dedicated to the pursuit of justice." Charles is of counsel at Blanchard, Miller, Lewis & Isley in Raleigh.

## 1956

**Russell M. Robinson II**, a founding partner of Robinson Bradshaw & Hinson, was awarded an Honorary Doctor of Laws Degree by Davidson College in May. He is considered one of North Carolina's preeminent experts in corporate law and is the author of *Robinson on North Carolina Corporation Law*. **BOV**

## 1960

**Herbert O. Davis** has been named to the 2013 edition of *Best Lawyers* in the areas of corporate law, financial institutions law, and banking law. Bert's corporate practice at Smith Moore Leatherwood in Greensboro, N.C., focuses on mergers and acquisitions, leveraged buyouts, private debt placements, banking law, and a range of commercial transactions.

**Newton Taylor** received a 2012 Forever Duke Award for his excellent volunteer leadership in support of the Duke Alumni Association's mission of engaging, connecting, and celebrating. Newton is retired as a judge of the Huntingdon County (Pa.) Court of Common Pleas.

## 1966

**E. D. Gaskins Jr.**, the managing partner at Everett Gaskins Hancock in Raleigh, was inducted into the N.C. Bar Association's General Practice Hall of Fame at its annual meeting in June 2012.

## 1967

**Joseph A. Fink**, a member at Dickinson Wright in Lansing, Mich., was named Lansing's 2012 "Insurance Law Lawyer of the Year" by *Best Lawyers*. He also is listed in *Michigan Super Lawyers*. Joe focuses his practice on insurance, insurance and ERISA litigation, class action, labor and employment litigation, and health care.

**W. Christopher Barrier's** article, "Stranger in Town: Arkansas' Single Action Rule," was published in the summer 2012 issue of *Arkansas Lawyer Magazine*. A member at Mitchell Williams Law in Little Rock, Christopher writes and illustrates a monthly column on real estate law for a local law and business newspaper.

**George Guthrie** has co-founded Thomas Combs & Spann, a litigation boutique in Charleston, W.Va., along with **Phil Combs '92**, **Chris Dodrill '08**, and **Daniel Higginbotham '09**, and seven other attorneys. George currently focuses his practice primarily on the representation of physicians, health care entities, and corporate clients.

## 1968

**Robert Garro** retired from JPMorgan Chase in Chicago after 19 years of service.

**Brice Toland Voran** has co-authored *It Takes a Team: You Can't Make it Rain by Yourself* (Life Career Publishing, 2011), a book about the need for team work in modern law firms. Brice is retired and living on a lake in Michigan.

## 1970

**Larry Lawton** has recently completed an 18-month mission for The Church of Jesus Christ of Latter-day Saints in Hong Kong, and returned with his wife to their Wyoming home. As associate area legal counsel at the Asia Area Administrative Office, Larry's wide-ranging duties included preparing agreements for church humanitarian projects throughout Asia.

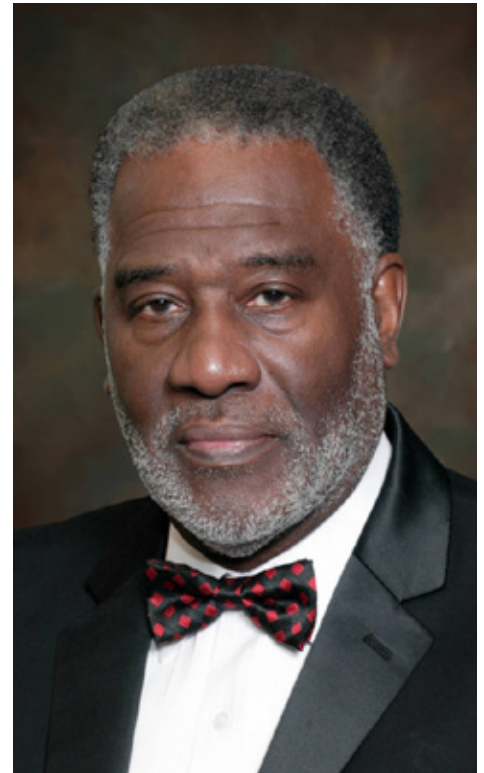
**Joseph Olson** is featured prominently in chapter seven of *Living With Guns: A Liberal's Case for the Second Amendment* (by Craig R. Whitney, PublicAffairs, 2012). A professor of law at Hamline University in St. Paul, Minn., Joe is president of the Gun Owners Civil Rights Alliance.

**R. Mack Rudisill Jr.** has been promoted to senior compliance manager at FIS Regulatory Advisory Services in Orlando.

## 1971

**James Fox**, who specializes in litigation at Bell, Davis & Pitt in Winston-Salem, N.C., has been named to the 2013 edition of *Best Lawyers* in the areas of commercial, bet-the-company, antitrust, banking and finance, intellectual property, and securities litigation.

**Michael L. Richmond** received the 2012 Attorney of the Year Award from Broward Lawyers Care, the pro bono project of Legal Aid Service of Broward County and Coast to Coast Legal Aid of South Florida. Michael is a professor of law at Shepard Broad Law Center at Nova Southeastern University in Ft. Lauderdale.



## Class of 1969

**Charles L. Becton** became interim chancellor at North Carolina Central University on Aug. 6, by appointment of University of North Carolina President Tom Ross. An internationally recognized expert in trial procedures, Becton is on leave from teaching Trial Advocacy and Rhetoric and Advocacy at Duke Law, where he is a visiting professor of law, and teaching at University of North Carolina School of Law, where he is the John Scott Cansler Lecturer. He is a former judge of the North Carolina Court of Appeals. ♣

Read more at  
[law.duke.edu/news/becton-nccu](http://law.duke.edu/news/becton-nccu).

This section reflects notifications received by Oct. 31, 2012.

**BOV** indicates membership on Duke Law School's Board of Visitors.

## 1972



**W. Pitts Carr** was appointed to the board of directors for Atlanta Life Financial Group. Pitts is a founding partner of Carr & Palmer in Atlanta, where he specializes in trial litigation.

**Joseph Claxton** retired from the faculty at Mercer University School of Law on July 1, 2011, and assumed the status of professor emeritus. He continues to teach and carry out special projects for the school. Joe received the Mercer Law Alumni Association's "Meritorious Service Award" in March 2011.



**Samuel W. Johnson**, a partner at Poyner Spruill in Rocky Mount, N.C., has been elected as a Fellow of the American Bar Foundation. Sam focuses his practice on business and commercial real estate law.

**Cym Lowell** has joined McDermott Will & Emery as a partner based in its Houston office. Cym advises multinational companies and high-net-worth individuals based in the United States and around the world on a broad spectrum of tax planning and controversy matters. He is vice chairman of the International Chamber of Commerce Taxation Commission and a member of the Business and Industry Advisory Committee to the OECD and the U.S. Council of Business.

## 1973

**Mark Foster** has been elected to the board of trustees at Park University in Parkville, Mo. Mark is a partner at Stinson Morrison Hecker in Kansas City, where he focuses on corporate litigation and arbitration. He served as the firm's managing partner for 15 years.

**Charles Holton** was honored by the national Legal Services Corporation (LSC) Board of Directors for his volunteer work with Legal Aid of North Carolina (LANC) during an event held at Duke Law School on Oct. 1, 2012. A partner at Womble Carlyle Sandridge & Rice in Research Triangle Park, Charles is the vice chair and chair elect of the LANC Board of Directors, and was recognized as a pro bono leader in the area of fair housing for low-income clients in central North Carolina. He teaches Arbitration Law and Practice at Duke Law as a senior lecturing fellow.

**Raeburn Gleason Kennard** retired from Kirton & McConkie in Salt Lake City on June 30, 2012, where he was a member of the firm's tax and estate planning section.

**Eleanor Kinney** is serving as the Garwin Distinguished Visiting Professor of Health Law at Southern Illinois University during the 2012-2013 school year. Eleanor is the Hall Render Professor of Law Emerita at Indiana University's McKinney School of Law; she retired from the faculty in June 2011.

## 1974



**Roger Ferland**, a partner at Quarles & Brady in Phoenix, was ranked in the 2012 edition of *Chambers USA* directory for excellence in the practice area of environmental law. Roger is a member of his firm's environmental practice group and chairs its clean energy, climate change, and sustainability practice.

**Ira Sandron** has been elected chair of the ABA National Conference of the Administrative Law Judiciary. He is an administrative law judge of the National Labor Relations Board.

## 1975

**John A. Howell** has joined Halloran & Sage in Washington, D.C., as partner. He is a member of the government contracts and investigations practice group.

**John Keller** has been named to the 2013 edition of *Best Lawyers* in the area of oil and gas law. John is a partner at Vorys, Sater, Seymour and Pease in Columbus, Ohio.

## 1977

**Scott C. Gayle** was honored, in July, by the N.C. Governor's School Alumni Association with its Governor Terry Sanford Achievement Award for his efforts to secure continuation of the Governor's School after it was defunded by state budget cuts. Scott, a director and chair of the business practice group at Tuggle Duggins in Greensboro, was recognized for chairing a nonprofit drive which raised \$700,000 to fund the school privately in 2012, and for his advocacy efforts contributing to restoration of state funding for the school in 2013 and beyond. The Governor's School is a six-week summer residential program for high school students gifted in the arts and sciences.

**Craig Mariger**, a shareholder at Jones Waldo in Salt Lake City, has been named to the 2012 edition of *Best Lawyers* in the areas of construction law and litigation-construction.

**Kim W. West** has joined Clyde & Co. as a partner in the firm's San Francisco office. Kim focuses his practice on insurance coverage, principally on the representation of insurers in connection with claims made under directors' and officers' liability and professional liability policies, including policies for financial institutions. He previously was with Tucker Ellis & West.

**Jeri Whitfield** was appointed chair of the North Carolina State Bar's Board of Legal Specialization. Jeri is a partner at Smith Moore Leatherwood in Greensboro, where her civil practice includes handling toxic tort and asbestos-related litigation and premises liability claims at the trial and appellate levels.

## 1978

**Jon Buchan** has published his first novel, *Code of the Forest* (Joggling Board Press, 2012). Jon is a partner with McGuireWoods in Charlotte, where he handles a broad range of business litigation, with an emphasis on media, intellectual property, and banking issues.

**Leslie Peter Klemperer** has retired from Delta Air Lines, Inc., where he served as vice president-deputy general counsel and corporate secretary. Leslie now serves as volunteer board chair for the Georgia Justice Project, which provides legal and social services to indigent persons accused of a crime, and on the board of the nonprofit Odyssey Family Counseling Center.

**Robert Parrish**, a partner at Moseley Prichard Parrish Knight & Jones in Jacksonville, Fla., has been named to a two-year term as president of the U.S. Maritime Law Association. Bob is a trial lawyer whose practice focuses on products liability, defense for R.J. Reynolds Tobacco Co., personal injury defense, and serious maritime matters on behalf of shipowners and their insurance interests.

## 1979

**Mark High**, a member in Dickinson Wright's Detroit office, was named to the 2012 editions of *Chambers USA*, *Best Lawyers*, and *Michigan Super Lawyers*. Mark focuses his practice in the areas of automotive, corporate, international, mergers and acquisitions, and private equity.

## 1980



**David Dreifus** has been elected a Fellow of the American Bar Foundation. David is a partner with Poyner Spruill in Raleigh, where he focuses his practice on complex business litigation.

**Michael L. Hall**, a partner in the Birmingham office of Burr & Forman, has been named a 2012 Alabama Super Lawyer in the practice areas of bankruptcy and creditor/debtor. He also has been named to the list of Top 50 Alabama Super Lawyers. Mike chairs the firm's creditors' rights and bankruptcy practice group.



**John H. Hickey**, principal of Hickey Law Firm in Miami, has been appointed to the Eleventh Circuit Committee on Professionalism, which aims to elevate the level of practice within the legal community. Last April, Jack participated, with four judges from the circuit and county courts of Miami-Dade County, in a seminar entitled "Practicing with Professionalism," hosted by the Young Lawyers Division of The Florida Bar.

## 1981

**John J. Coleman III**, a partner at Burr & Forman in Birmingham, has been recognized as a 2012 Alabama Super Lawyer in the areas of employment and labor.

## 1982

**Michael H. Krimminger** has joined Cleary Gottlieb Steen & Hamilton as a partner in the firm's Washington, D.C. office, where his practice focuses on domestic and international banking and financial institutions. He previously served as general counsel of the Federal Deposit Insurance Corporation.

**Ann L. Majestic** received the 2012 Lifetime Achievement Award from the National School Boards Association Council of School Attorneys for exemplary leadership in legal advocacy and distinguished service to the association, of which she is a past chair. Ann is a partner at Tharrington Smith in Raleigh where she represents numerous North Carolina school boards and serves as outside counsel to the N.C. School Boards Association.

**Mark Shepard** was named one of the top lawyers in Pennsylvania for 2012 by *Pennsylvania Super Lawyers* magazine. He was also named one of the "Top 50" Pittsburgh Super Lawyers in the general litigation section. Mark is a shareholder with Babst Calland.

## 1983

**Benjamin E. Fountain III** published his first novel, *Billy Lynn's Long Halftime Walk* (Ecco/HarperCollins 2012), for which he was named one of five finalists for the 2012 National Book Award. (See profile, Page 30.)



**Michael A. Lampert** has been elected chairman of the Tax Section of the Florida Bar. Michael has his own firm in West Palm Beach where he specializes in a wide range of matters related to tax law, estates and trusts, and elder law.



**Toshio Nakao** is participating in the 2012-2013 class of Leadership Cincinnati. Toshio is a partner in the Japan practice, business, and finance practice groups at Taft Stettinius & Hollister in Cincinnati.



**Bruce J. Ruzinsky** has been named to the 2013 edition of *Best Lawyers* in the areas of bankruptcy and creditor-debtor rights law, and litigation – bankruptcy. Bruce is a partner at Jackson Walker in Houston.



**Jeffrey S. Schloemer**, a partner at Taft Stettinius & Hollister in Cincinnati, was named a "Leader in Their Field" by *Chambers USA* in banking and finance. He serves as co-chair of his firm's business and finance practice group and practices primarily in the areas of banking and finance, mergers and acquisitions, and commercial and corporate law.

## 1984

**David Feher** has joined Winston & Strawn as a litigation partner in the firm's New York office. A leading sports lawyer who serves as outside counsel for the NFL and NBA Players Associations, among other clients, he also has extensive experience in complex litigation, negotiations and arbitrations involving antitrust, intellectual property, contract, and international issues. He previously was a partner at Dewey & LeBoeuf.

**Donald Strickland**, a partner at Twigg Strickland & Rabenau in Raleigh, has been elected to the board of directors of the International Academy of Trial Lawyers. Fellowship in the Academy, which includes lawyers from more than 30 countries, is by invitation only. Don also has been inducted as a fellow in the International Society of Barristers, an invitation-only organization of trial lawyers. Don represents clients in serious personal injury and wrongful death cases in North Carolina state and federal courts.

**David Thuma** has been sworn in as a U.S. bankruptcy judge for the District of New Mexico for a 14-year term.

## 1985



**Janet Ward Black**, principal of Ward Black Law in Greensboro, was selected by the North Carolina Bar Association to moderate the North Carolina gubernatorial Forum between then-candidates Pat McCrory and Walter Dalton, held last June. Janet, who served as Miss North Carolina 1980, was featured in the North Carolina Museum of History's exhibit celebrating the 75th Anniversary of the Miss North Carolina Scholarship Pageant. Janet used her scholarship money to pay for college and law school.

**Anna Chacko** has joined Con Edison as senior associate general counsel in New York City.

**James S. Christie Jr.** was inducted, in September, as a Fellow of the American College of Employee Benefits Counsel for his expertise in and contributions to the advancement of the employee benefits field. Chris is a partner with Bradley Arant Boult Cummings in Birmingham, Ala., where he chairs the firm's insurance group, is a member of its employee benefits and executive compensation, litigation, labor and employment, and health care practice groups, and co-chairs its pro bono committee.

**William Horton** was elected as the 2012-2013 secretary of the American Bar Association Health Law Section, making him the first Alabama lawyer to serve as an officer of the section. William is a partner with Johnston Barton Proctor & Rose in Birmingham, where his primary focus is on the representation of health care providers, financial services organizations, and other business enterprises in the areas of mergers, acquisitions and joint ventures, securities and corporate finance law, regulatory compliance, and corporate governance matters.



## Class of 1983

**Marianne Philip**, chairman of Denmark's largest law firm, Kromann Reumert, was hailed as the country's "coolest lawyer" in a May 2012 cover feature in *Berlingske Business Magazine*. "Nobody can remember that it has happened before. That a Danish lawyer has been top rated in three tough disciplines in the international rating agency Chambers & Partners yearly rating: Capital Markets, Corporate/M&A and Restructuring. And in the Capital Markets category, she has even been rated 'Star Individual' as the absolutely best lawyer in that area in Denmark," the article began. Noting that Philip, who serves as the vice-chairman of the Danish Committee on Corporate Governance and on several boards of directors, is married to "another busy lawyer" — **Per Haakon Schmidt '83** — is also a mother of three and grandmother of two, the article called her a "role model for female lawyers who want to get to the top in a world where children, friends, and leisure are secondary." BOV



## 1986

**T. Richard Kane** has been elected into membership in the Fellows of the American Bar Foundation. Rick is a partner with Poyner Spruill in Charlotte, where he has an environmental law and toxic tort practice and a “lawyer law” practice in which he principally defends attorneys against claims of legal malpractice.

**Stephen Labaton** has joined RLM Finsbury as a partner in Washington, D.C. and New York City. He provides strategic counseling on public affairs, crisis communication, litigation, competition issues, and areas at the intersection of law, policy, and regulation. Stephen previously worked for a public relations firm he co-founded, Georgetown Policy Advisers.

## 1987



**Deborah Doxey**, a partner at Phillips Lytle in Buffalo, N.Y., has been elected chair of the 4,024-member Business Law Section of the New York State Bar Association. Deborah practices in the areas of banking and commercial lending, including secured transactions, asset-based finance, acquisition financing, and commercial real estate transactions.

**Brian Rubin** has been selected for inclusion in *Washington, D.C. Super Lawyers* in the category of securities litigation. He also has been named to the 2013 edition of *Best Lawyers* in the area of litigation – securities and securities regulation. He is a partner at Sutherland Asbill & Brennan.

**Jonathan Shapiro**, a partner at Fisher & Phillips in Boston and managing partner of the firm’s New England office, has been named to the 2013 edition of *Best Lawyers*. Jonathan practices in all aspects of employment, labor and employee benefits law, and litigation on behalf of management.

## 1988

**Michael Scharf** has been appointed associate dean for global legal studies at Case Western Reserve University School of Law in Cleveland, with supervisory responsibility over the school’s international law centers, institutes, and programs. He also is the John Deaver Drinko – Baker & Hostetler Professor of Law.

**Jo Ellen Whitney**, a senior shareholder at Davis Brown Law Firm in Des Moines, Iowa, has received the “AV Preeminent” rating by LexisNexis Martindale-Hubbell, its highest rating. Jo Ellen chairs the firm’s employment and labor relations department and focuses her practice on employment and labor law, health law, privacy, and fair housing, among other areas.

**Thomas Scott Wilkinson** has been promoted to the position of executive vice president with the Atlanta Hawks organization of the National Basketball Association. Scott, who formerly served as senior vice president, chief legal officer and assistant general manager, has retained responsibility for negotiating and drafting contracts for players, coaches, and staff; trade research; salary cap management; collective bargaining agreement issues; insurance/risk management; and scheduling of the club’s preseason games. He also manages all legal matters for the Atlanta Hawks’ HTPA Holding Company and the Atlanta Hawks Foundation.

## 1989

**Kimberly Brown** has joined Jones Day as a partner, in Pittsburgh. She is a member of the business and tort litigation practice, focusing on commercial and insurance litigation and the defense of product liability and toxic tort actions. Kimberly was formerly a partner with Thorp Reed & Armstrong.

**Russell E. Ryba**, a partner at Foley & Lardner in Milwaukee, has been named co-chair of the firm’s senior living industry team, which represents providers of independent senior housing, assisted living, skilled nursing facilities, and continuing care retirement communities. He also is a member of the firm’s transactional & securities practice and energy industry teams.

**Maurice C. Taylor** has been appointed to the Financial Advisory Committee for the Economic Development Incentive Fund for Prince George’s County in Maryland. The seven-member committee is reviewing proposals for \$50 million in economic development loan and grant incentives. Maurice is vice president for university operations at Morgan State University in Baltimore. He also has served as a member of several task forces and work groups for the Maryland Higher Education Commission.

**Gregory Weiss** has been promoted to executive vice president and chief legal officer at Ryan, a global tax services firm. Gregory, who also serves as corporate secretary, is responsible for all Ryan’s legal affairs, including corporate affairs and governance, mergers and acquisitions, contracts, employment, intellectual property, real estate, litigation, and bankruptcy. He is based in Dallas.

## 1990

**Steven Chabinsky** has joined CrowdStrike, a security technology company in Boston, as senior vice president for legal affairs and chief risk officer.

**Terrill Johnson Harris** has been named to the 2013 edition of *Best Lawyers* in the areas of health care law and commercial litigation. Terri focuses her practice at Smith Moore Leatherwood in Greensboro, N.C., on a wide-range of health care related matters.

**Donald Nielsen** has been named to the 2013 edition of *Best Lawyers* in the areas of land use and zoning litigation, environmental law, and environmental litigation. Don practices in the Winston-Salem office of Bell, Davis & Pitt.

**Deanna Tanner Okun** has joined Adduci, Mastriani & Schaumberg, an intellectual property boutique firm in Washington, D.C., as a partner. She previously served two terms as chairman of the U.S. International Trade Commission during 12 years of membership. In 2012, Deanna was named “Outstanding Woman of the Year” by the Association of Women in International Trade, a chapter of the Organization of Women in International Trade. **BOV**

## 1991

**Michael Popok** has been re-elected as managing partner for the Miami office of Weiss Serota Helfman, and elected to its strategic development committee. Michael also has been recognized as a “Florida Best Lawyer” in the area of municipal litigation, and a *South Florida Business Journal* “Leading Lawyer” in the area of business dispute litigation.

**David S. Sager** has joined Lowenstein Sandler as a member of the firm, based in Roseland, N.J. He focuses his practice on litigating and arbitrating complex business disputes.

## 1992

**Phil Combs** has formed the litigation boutique, Thomas Combs & Spann in Charleston, W. Va., along with Duke Law alumni **George Guthrie ’67**, **Chris Dodrill ’08** and **Daniel Higginbotham ’09**, and seven others. The firm specializes in product liability, toxic tort, and commercial litigation defense. Phil also recently published an article titled “Modern Products Liability Law in West Virginia,” 113 *W.Va. L. Rev.* 417 (2011) (with Andrew Cooke).

**John Jay Hoffman** has been appointed executive assistant attorney general for the Office of the Attorney General in New Jersey. He previously served as director of the division of investigations for the State Comptroller’s Office and served for six years as an assistant U.S. attorney for the District of New Jersey.

**Omar Y. McNeill** is a partner in the white collar and corporate investigations practice group of Pepper Hamilton, based in the firm’s Wilmington, Del., office. He previously was partner and general counsel at Freeh Sporkin & Sullivan and also general counsel and secretary of Freeh Group International Solutions. The Freeh Group merged with Pepper Hamilton in September 2012.

**Karl Metzner** was appointed chief of the Organized Crime Unit in the Office of the United States Attorney for the Southern District of New York in August. Karl previously served as chief of the Narcotics Unit and also has held positions as deputy chief of the Criminal Division and a deputy chief of the Appeals Unit.

## 1993

**Craig Factor** has been appointed vice president, general counsel, and secretary for Audience, Inc., in Mountain View, Calif. He previously served as vice president and general counsel at Nanosolar, Inc.

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[law.duke.edu/alumni](http://law.duke.edu/alumni)

**Alan Gallatin**, a partner at Grant Thornton in Detroit, has been named the firm's tax practice leader.



**Robert R. Marcus** has been named to the 2012 *Chambers USA Guide* in the area of litigation: general commercial practice. Rob is a partner at Smith Moore Leatherwood in Charlotte.

## 1994



**Scott S. Balber** has joined Cooley as a partner in its New York office and as head of financial services litigation in the business litigation practice group. Scott previously was co-chair of Chadbourne & Parke's commercial litigation practice.



**Scott Berg**, a partner at Quarles & Brady in Phoenix, was named to the 2013 edition of *Best Lawyers* in the area of banking and finance law. Scott is a member of the firm's real estate client service group.

**Stacie Ilene Strong** is serving as the 2012-2013 Supreme Court Fellow assigned to the Federal Judicial Center; she is spending her fellowship year in the Center's International Judicial Relations Office. Stacie is an associate professor of law at the University of Missouri School of Law, where her research lies in the areas of international procedural law, comparative law, and jurisprudence.

## 1995

**Greg Brown** was a finalist for the Texas General Counsel Forum's 2012 Magna Stella Award for in-house excellence in leadership and management. Greg is general counsel for Beusa Energy in Houston.

**Gary Cohen** and his wife, Jennifer, announce the birth of their daughter, Erin Jane, on July 26, 2012.

**Paul Hespel** was named a 2012 top attorney by *New York Super Lawyers Magazine*. Paul is a partner at Pepper Hamilton, where he specializes in finance and restructuring transactions.

**Erika King Lietzan**, a partner at Covington & Burling in Washington, D.C., was honored by *Best Lawyers* as "Biotechnology Law Lawyer of the Year" for 2012. Erika specializes in regulation of drugs and biological products.

**Tricia McKitty** received a 2012 "Forever Duke Award" in September for her excellent volunteer leadership in support of the Duke Alumni Association's mission of engaging, connecting, and celebrating. Tricia is a vice president at Morgan Stanley in New York.

**Teresa Pearson** was named to the 2013 edition of *Best Lawyers* in the areas of bankruptcy and creditor-debtor rights/insolvency and reorganization law, litigation — bankruptcy. Teresa is a partner at Miller Nash in Portland, Ore.

**Richard J. Peltz-Steele** has published *The Law of Access to Government* (Carolina Academic Press, 2012), a casebook dedicated to freedom of information law. Richard is a professor of law at the University of Massachusetts School of Law — Dartmouth.

**Mark Schwartz** has joined the faculty of George Mason University School of Law as an adjunct professor teaching the regulation of food and drugs. Mark is associate chief for drugs and biologics at the Food and Drug Administration. He advises the FDA commissioner, chief counsel, the Center for Drug Evaluation and Research, and the Center for Biologics Evaluation and Research on a variety of constitutional, statutory, and regulatory issues involving drugs and biologics.

**Jacinda Townsend's** novel, *Saint Monkey*, will be published in the spring by W.W. Norton and Co. Jacinda is a creative writing professor at Indiana University, and is working on a new novel titled *Souria*.

**Cynthia Walden** was named to *Massachusetts Lawyers Weekly's* 2012 list of "Top Women of Law." She is a principal and practice group leader of Fish & Richardson's trademark and copyright group in Boston.

## 1996

**Peter Korn** has joined the board of trustees of The Pingry School, where he also serves as president of the Pingry Alumni Association. Chip is a partner and member of the corporate practice group at SNR Denton in New York.

## THE FOURTH ANNUAL INTERNATIONAL ALUMNI AND STUDENT DINNER

Jan. 24, 2013, New York City

**M**ORE THAN 100 LLM CANDIDATES, alumni, and friends joined Dean David F. Levi and Associate Dean for International Studies Jennifer Maher '83 for dinner at The Netherland Club of New York.

**Mark Califano '88** (right), senior vice president and managing counsel for litigation at American Express offered a keynote address at the event, which raised \$45,250 for the Judy Horowitz LLM Scholarship Fund. Members of the International Alumni Board were instrumental in organizing the dinner.



The dinner was preceded by the 10th Annual International Student and Employer Reception, where current LLM candidates networked with more than 75 representatives of law firms from 16 countries. The reception, which celebrated Duke Law's International Student Interview Program, was organized with the generous support of **Robin Panovka '86**. ♡



Photos: Joseph Lawton





## Class of 1999

**Kerry Reichs**, center, discussed her third novel, *What You Wish For* (Harper Collins, 2012) with Duke alumni and friends at Durham's Respite Café on Nov. 1. The novel addresses contemporary legal issues surrounding fertility treatments, IVF, and embryo personhood.

(Respite is owned by **Courtney Brown '07**.) 🐾

## 1997



**John Barlament**, a partner at Quarles & Brady in Milwaukee, was named to the 2013 edition of *Best Lawyers* in the area of employee benefits (ERISA) law.

**David Buchsbaum** has been named to the 2013 edition of *Best Lawyers* in the area of labor and employment law. David is a partner in the Fort Lauderdale office of Fisher & Phillips.



**Kirkland Hicks** became general counsel at Towers Watson, a global professional services company, on Nov. 1. He previously served as managing counsel-commercial for the Americas region. Based in Arlington, Va., Kirkland also chairs the firm's diversity and inclusion council for the Americas.

BOV

## 1998



**Marisa Janine-Page** has co-founded Caldarelli Hejmanowski & Page in San Diego. Marisa focuses her practice on complex business and employment litigation with an emphasis on securities and class actions. She was named by *San Diego Super Lawyers Magazine* as a top attorney in San Diego for 2012.

**Chad Pinson** has been named managing director at Stroz Friedberg, a global digital risk management and investigations firm. He is based in the firm's Dallas office, and advises corporate, law firm, government, and individual clients in criminal, civil, regulatory, expert testimony, and internal corporate matters. Chad was formerly with Baker Botts.

**Kimberly Schaefer** has been named to the 2013 edition of *Best Lawyers* in the area of corporate law. Kimberly is a partner and member of the corporate and finance group at Vorys, Sater, Seymour and Pease in Cincinnati, where she concentrates her practice on financial institutions, securities, franchising, and general corporate matters.

**Nicole Owens Thompson** and her husband, Khalil, announce the birth of their first daughter, Selah Nicole, on Jan. 28, 2012. Nicole has launched an entertainment management group in Atlanta.

## 1999

**Lori E. Andrus** and her partner in Andrus Anderson, the San Francisco firm they co-founded, were profiled in the *San Francisco Daily Journal* in May 2012.



**David Bowsher** has been appointed to the American Bankruptcy Institute Southeast Bankruptcy Workshop Advisory Board. David is the partner in charge in the Birmingham, Ala., office of Adams and Reese.

**Tara Allen Esteves** and her husband, Joshua, welcomed their daughter, Maristella Electa, on Feb. 27, 2012. Tara is a partner at Reed & Scardino in Austin, Texas.

**Brian Fowler** has joined Millennium Laboratories in San Diego as assistant general counsel for litigation. Brian was previously with Troutman Sanders in Richmond, Va.

**Joe Lombardo**, his wife, Allison, and their twins, Henry and Mirela, have welcomed home Lily, who they adopted in China. Joe is a partner at Chapman and Cutler in Chicago, specializing in complex commercial litigation.

## 2000

**Brett Lund**, executive vice president and general counsel of Gevo Inc., a renewable chemicals and advanced biofuels company, has been named one of Colorado's "25 Most Influential Young Professionals" by *ColoradoBiz Magazine*.

**Barry H. Uhrman** has been named the assistant city attorney for the City of Phoenix.

## 2001

**Kristi Bowman** participated in the *Wake Forest Law Review's* October symposium titled "Privatizing the Public Good: Emerging Trends in K-16 Education." Kristi is a professor of law at Michigan State University College of Law where she teaches property, torts, remedies, education law, and street law.

**Collin Cox** was named the "2012 Woodrow B. Seals Outstanding Young Attorney of Houston" by the Houston Young Lawyers Association. He is a partner with Yetter Coleman, where he focuses his practice on complex business litigation.





**Peter Tomasi**, a partner at Quarles & Brady in Milwaukee, has been named to the 2012 *Chambers USA Guide* in the practice area of natural resources and environment. Peter focuses his practice on environmental permitting and environmental litigation.

**Claire Wofford** joined the faculty of the Department of Political Science at the College of Charleston in January 2012 as an assistant professor, after receiving her PhD in political science from Emory University. Her teaching and research interests are in the field of American politics, with a particular emphasis on the U.S. legal system and the role of race, class, and gender in structuring political power. Claire and her husband, Robert O'Brien, welcomed their first child, Luke, on June 3, 2012.

**Randall Katz** has been appointed assistant U.S. attorney in the District of Rhode Island. Randy previously served as an assistant U.S. attorney in the Economic Crimes Section of the U.S. Attorney's Office in Miami.

**Priya Velamoor** married Jarrod Yahes on July 21, 2012, in Laguna Beach, Calif. Priya is a director and assistant general counsel for the banking and markets group in the Merrill Lynch division of Bank of America in New York.

## 2002

**Jennifer Adams** and her husband, Michael, announce the birth of their daughter, Amelia Blythe, on June 27, 2012. Amelia joins big brother Ollie. Jennifer is the general counsel at Indiana University in Bloomington.

**Drew Dropkin** and his wife, Tallulah, announce the birth of their first child, Nicholas Ptashynsky, on June 22, 2012.

**Ronald W. Flowers Jr.**, a partner at Burr & Foreman in Birmingham, Ala., has been recognized as a "2012 Alabama Super Lawyer" in the practice area of employment and labor. In his practice, Ron represents management in all aspects of labor and employment law.

**Mark Pryor** has published his first novel, *The Bookseller* (Seventh Street Books, 2012). It is the first in a series of mysteries set in Paris, with two more due out in 2013. Mark also has published *As She Lay Sleeping* (New Horizon Press, 2013), his account of a cold case investigation and trial he prosecuted. Mark is an assistant district attorney with the Travis County District Attorney's Office in Austin, Texas.

**Marc P. Solomon**, a partner at Burr & Forman in Birmingham, Ala., has been recognized as a "2012 Alabama Rising Star" in the practice area of bankruptcy and credit/debtor. Marc's practice focuses on the representation of unsecured creditors' committees, corporate debtors, and financial institutions, and trade creditors' in creditors' rights matters both in and outside of bankruptcy.

## 2003

**Allison Beard Campbell** was elected shareholder at Hill Ward Henderson in Tampa, Fla., where she is a member of the commercial real estate group. Allison and her husband, Mark, welcomed their first child, Elizabeth Ann, on March 21, 2012.

**Jonathan Kellner** has joined Linklaters as a counsel in the firm's corporate finance and Latin America practices in the São Paulo, Brazil, office. His practice focuses on capital markets, mergers and acquisitions, joint ventures, private equity, bank finance and investment funds for United States and Brazilian corporations and financial institutions. He formerly was an associate with Skadden, Arps, Slate, Meagher & Flom.

**Bernhard Krebs** married Christina Schoelch on July 7, 2012 in Hanover, Germany. Bernhard serves as counsel for ExxonMobil Central Europe Holding GmbH.

**Christopher Perry** has joined the Office of the General Counsel for the U.S. Department of Transportation in Washington, D.C., where he works on a variety of litigation and regulatory matters.

**Frank Schaefer** has joined Ernst & Young Law GmbH in Hanover, Germany, where he heads the legal team, assisting German and international clients in mergers and acquisitions, corporate, and commercial matters.

**James C. White** was named to *North Carolina Lawyers Weekly's* list of "2012 Leaders in the Law." Jim is the lead bankruptcy attorney and litigator at the Law Office of James C. White in Durham.

## 2004

**Caroline Belk** and her husband, Robert, announce the birth of their third child, Lillian May, on Feb. 4, 2012.

**Jerry DeLuca** and his wife, Aurora, announce the birth of their second child, Vincenza Antonette, on Sept. 5, 2012.

**Robert Gallagher** and his wife, Lauren, announce the birth of their daughter, Caroline Eve, on May 1, 2012. Caroline joins big sister, Maggie.

**Timothy Kuhner** has joined Georgia State University College of Law as an associate professor. He previously served as a visiting assistant professor at Duke Law and spent three years as associate professor of Anglo-American Law at the University of Navarra in Pamplona, Spain.

**Reginald McKnight** was named to the National Bar Association's 2012 list of "Nation's Best Advocates: 40 Lawyers Under 40." Reginald is a counsel at WilmerHale in Washington, D.C., where he is a member of the investigations and criminal litigation and business trial practice groups. He focuses his practice primarily on complex civil litigation and investigations.

**Stephen Poolos** and his wife, **Kristin Robinson Poolos '05**, announce the birth of their son, Jackson Patrick, on Feb. 14, 2012.

**Brian Sumner** has joined Alcoa Inc.'s legal department in New York, as counsel. His areas of responsibility include government investigations, related civil litigation, regulatory compliance matters, and corporate governance.

**Sam E. Toth** has joined Trenam Kemker in Tampa as an associate in the real estate and lending transactions practice group. He concentrates his practice on the acquisition, sale, financing, and leasing of real property. He previously was an associate at Greenberg Traurig and Kirkland & Ellis in Chicago.

## 2005

**Britt Whitesell Biles** and her husband, Lacey, welcomed their first child, Talbot Charles Lacey, on July 9, 2012.

**Matt Christensen** was selected as a "2012 Mountain States Rising Star" in the area of bankruptcy and creditor/debtor relations by *Idaho Super Lawyers*. Matt is a bankruptcy and real estate attorney at Angstman Johnson and an adjunct professor at the University of Idaho Law School in Boise, where he teaches international trade/business, real estate, and law practice management.

**John Francis Curry** has joined Winstead's real estate finance practice group in the firm's Charlotte office. John previously was a senior associate at K&L Gates.

**Kara Moorcroft Kapke** and her husband, Geoff, announce the birth of their son, Neil Hayde, on March 29, 2012.

**Lei Mei** has published *Conducting Business in China: An Intellectual Property Perspective* (Oxford University Press, 2012). Lei is the managing partner at Mei & Mark, an intellectual property and litigation firm in Washington, D.C.

**Kristin Robinson Poolos** and her husband, **Stephen Poolos '04**, announce the birth of their son, Jackson Patrick, on Feb. 14, 2012.

**Howard Sherman** and his wife, **Lauren Chait '06**, announce the birth of twin sons, Matthew Donner Sherman and Benjamin Donner Sherman, on Oct. 3, 2012. Howard is patent counsel at GSI Commerce, Inc., in Washington, D.C.

**Max Wellner** and his wife, Heidi, welcomed twins, Maximilian and Liselotte, on June 23, 2012. Max is legal and corporate affairs director at Tobaccoland Handels GmbH & Co KG in Austria.

## 2006

**Lauren Chait** and her husband, **Howard Sherman '05**, announce the birth of twin sons, Matthew Donner Sherman and Benjamin Donner Sherman, on Oct. 3, 2012. Lauren is an attorney with the Social Security Administration.

**Oleg Cross** was selected by nine local bar organizations in San Diego as the inaugural recipient of the Judge David R. Thompson New Lawyer Award for his contributions to the legal community and professionalism. Oleg and his wife, **Natalie Prescott '06**, are the founders of Cross Prescott APC Trial Lawyers.

**Matthew Kleiman** has co-authored *The Laws of Spaceflight: A Guidebook for New Space Lawyers* (American Bar Association, 2012). Matthew is corporate counsel at the Charles Stark Draper Laboratory, Inc. in Cambridge, Mass.

**David Lamond** has launched Lamond Capital Partners, a long/short technology hedge fund. The fund began trading on April 2, 2012. **BOV**



**James McLaughlin** has been named to the Crossroads Venture Group Hartford Chapter Board, where he is responsible for developing initiatives to build regional networking and business opportunities between venture investment professionals and area companies. James is an associate in the business and finance department at Martha Cullina in Hartford, Conn., where his principal areas of practice include capital markets and mergers and acquisitions as well as advising public companies on governance and general corporate matters.

**James Nowlin**, the CEO of Excel Global Partners, has received a 2012 "40 Under Forty" award from the *Dallas Business Journal*. In 2012 he also received the "Minority Business Leader Award" for his leadership of his management and corporate financial consulting firm.

**Vann Pearce** and his wife, Emily, announce the birth of their son, Owen Alexander, on Aug. 16, 2012. Vann is a senior associate in the intellectual property group at Orrick, Herrington & Sutcliffe in Washington, D.C.

**Elizabeth Alsbrooks Player** and her husband, Stokes, announce the birth of their son, Samuel Brabston, on May 17, 2012. Samuel joins big brother Clark. Elizabeth is with Roper Saint Francis Healthcare in Charleston, S.C.

**Natalie Prescott** was named one of the 2012 "Top 5 Best Lawyers" in the insurance category by *San Diego Metro Magazine*. Natalie and her husband, **Oleg Cross '06**, are the founders of Cross Prescott APC Trial Lawyers.

**Marc Roark** has joined the faculty of the Savannah Law School in Savannah, Ga., as associate professor and director of the Office of Academic Achievement. Marc has previously held academic appointments at the University of La Verne, the University of Missouri-Columbia, and the University of Tulsa.

**Pei-kan Yang** has joined the faculty of Taipei Medical University's Graduate Institute of Humanities in Medicine where he teaches international health law, international trade and public health. He also is leading the university's efforts to establish a new Graduate Institute of Medical and Health Law.

## 2007

**Vincent Asaro** (LLMLE '12) has joined Rock Creek Capital, a Tallahassee-based venture capital firm, as the managing director of its New York office.

**Rebecca Dixon** has been appointed by New York Governor Andrew Cuomo to the inaugural class of Empire State Executive Fellows. The Empire State Fellows Program is designed to prepare a new generation of leaders for policymaking roles in state government. Rebecca previously ran the Unemployment Insurance Modernization campaign for the National Employment Law Project in Washington, D.C.

**Aleksandra Kopec Przymusinski** and **Lucas Przymusinski** were married on May 12, 2012, in Commack, N.Y. Aleksandra is an associate at King & Spalding in New York where she focuses on corporate finance matters. Lucas is an associate in the product liability group at DLA Piper in New York.

**Brettny Hardy** has joined Earthjustice, a non-profit public interest law firm specializing in cases protecting natural resources, safeguarding public health, and promoting clean energy. She is based in Juneau, Alaska.

**Kelcey Patrick-Ferree** has joined ACT, Inc., as a staff attorney in Iowa City.

**Beth Richardson-Royer** has joined the Federal Public Defender's Office in Los Angeles as a deputy federal public defender in the capital habeas unit.

## 2008

**Amanda Brown** has joined the Dallas County Public Defender's Office as a misdemeanor attorney. She previously was with the Bee County Regional Public Defender office in Texas.

**Chris Dodrill** has been appointed assistant attorney general by West Virginia Attorney General Patrick Morrisey. In 2012, Chris formed the litigation boutique, Thomas Combs & Spann in Charleston, W. Va., along with Duke Law alumni, **George Guthrie '67**, **Phil Combs '92**, and **Daniel Higginbotham '09**, and seven others.

**Sean Memon** and **Jeanette Wingler** were married at the Washington Duke Inn on May 19, 2012. Sean is an associate at Sullivan & Cromwell and Jeanette is an associate at Dechert, both in Washington, D.C.

**Jonathan Pahl** and **Jessica Brumley '09** were married at the Washington Duke Inn in Durham on May 27, 2012. Jonathan is an associate at Williams & Connolly in Washington, D.C.

**Lawrence Reed Watson** has published *Tapping Water Markets* (Resources for the Future (RFF) Press, 2012, with Terry L. Anderson and Brandon Scarborough). Reed is a research fellow and the director of applied programs at the Property & Environment Research Center (PERC). He also co-directs PERC's Enviropreneur Institute.



**Katherine Yarger** has been named a 2012 "Top Woman Lawyer" by *Law Week Colorado*. She is an associate at Wheeler Trigg O'Donnell in Denver, where she focuses her practice on complex commercial, class action, product liability, and medical malpractice matters before federal and state courts, as well as in arbitration. Katie has been selected by Justice Clarence Thomas of the United States Supreme Court as one of his four clerks for the 2013 term.

## 2009

**Thallen Brassel** and her husband, Alandis, welcomed their son, Alandis Kyle Jr. on Aug. 2, 2012. Thallen is an associate at Milbank Tweed Hadley & McCloy in New York.

**Jessica Brumley** and **Jonathan Pahl '08** were married at the Washington Duke Inn in Durham on May 27, 2012. Jessica is an associate at Williams & Connolly in Washington, D.C.

**Jonathan Christman** and his wife, Allison, announce the birth of their daughter, Elizabeth Hope, in August 2011. In April, Jonathan joined Fox Rothschild in Blue Bell, Pa., where he represents clients in a range of complex civil and commercial litigation matters.

**Adam Doverspike** is serving as clerk for Chief Judge Gregory Frizzell of the U.S. District Court for the Northern District of Oklahoma. Adam was previously an associate at Sidley Austin in Washington, D.C.

**Jessica Hartzog** and her husband, Christopher, announce the birth of their son, Carter Christopher, on Oct. 12, 2011, in Atlanta.

**Daniel Higginbotham** has formed the litigation boutique, Thomas Combs & Spann in Charleston, W. Va., along with Duke Law alumni, **George Guthrie '67**, **Phil Combs '92**, and **Chris Dodrill '08**, and seven others. The firm specializes in product liability, toxic tort, and commercial litigation defense.

**J. Adam Martin** has joined Robinson Bradshaw & Hinson as an associate in the firm's Research Triangle Park, N.C. office, where he practices primarily in the areas of private equity, mergers and acquisitions, and general corporate law. Adam previously was a corporate associate with Dechert in New York.

**Michael Vernace** and **Laura Bull '10** were married July 7, 2012, in Sebastopol, Calif. Michael is an associate at Simpson Thacher & Bartlett in New York.

**Phillip Zackler** has joined the business and non-profit practice of Minami Tamaki in San Francisco, as an associate. He also has been elected to the board of trustees for the Glide Foundation.

2010

**Laura Bull** and **Michael Vernace '09** were married July 7, 2012 in Sebastopol, Calif. Laura is a public defender for the Legal Aid Society in New York.



**Jeffrey W. Glasgow** has joined Hill Ward Henderson in Tampa as an associate in the firm's real property and commercial litigation groups. He focuses his practice primarily on litigation involving real property, including land use and zoning matters, title issues, eminent domain proceedings, and property tax challenges.

**Taren Greenidge**, an associate at Ward Greenberg Heller in Rochester, N.Y, has launched a minority young professional initiative, Black Young Professionals (BYP), in partnership with the Urban League of Rochester. The BYP assists professionals between the ages of 21 and 40 with leadership development, networking, and volunteerism.

2011

**Chris Luwaga** married Unnie Kirungi Wamala on May 5, 2012 in Kampala, Uganda. Chris has joined the Ugandan subsidiary of American Tower Corporation as the legal and regulatory affairs manager.

**Bridget McNamee** had joined the Tampa office of GrayRobinson as an associate in the firm's banking and finance litigation group. She previously interned for **Judge Paul L. Huey '85** at the Thirteenth Judicial Circuit Court of Florida.

**Carmen Jo Ponce** married James Rejda on July 7, 2012. Carmen is an associate at Baker Botts in Houston.

2012

**Vincent Asaro** (JD '07) has joined Rock Creek Capital, a Tallahassee-based venture capital firm, as the managing director of its New York office.

**Aditya Kurian** served as a legal intern with the Secretariat at the ICC International Court of Arbitration in Hong Kong from August to November 2012.

**Ian Long** is clerking for U.S. Senior District Court Judge William B. Shubb in the Eastern District of California.

**Isabelle Mercier-Dalphon** has joined the litigation team at Stikeman Elliott in Montreal.



**Simeon L. Vance** has joined Parsons Behle & Latimer's Reno, Nev., office as an associate and member of the corporate transactions, securities & tax department group. He concentrates his practice on corporate law and commercial transactions, including business formation, corporate governance and operations, telecommunications site leases, commercial leases, software licensing and technology transactions.

## In Memoriam

**Class of '33**  
**William McGuire**

August 15, 2012

**Class of '41**  
**Numa L. Smith Jr.**

Dec. 10, 2012 **BOV**

**Class of '48**  
**Robert Barnett**

June 13, 2012

**Frank R. Buonocore**

March 26, 2012

**Class of '49**  
**Silas Williams Jr.**

Dec. 10, 2011

**Class of '50**  
**James G. Cate**

March 21, 2012

**Joseph Tenhet**

May 21, 2012

**William Rudolph Winders**

Oct. 15, 2012

**Class of '52**  
**Frank J. Montemuro**

March 29, 2012

**Class of '54**  
**Everett Leo Mast**

July 15, 2012

**Bill L. Smith**

July 10, 2012

**Class of '60**  
**Joseph Martin Parker**

Aug. 6, 2012

**Class of '61**  
**Robert M. Walker**

Dec. 3, 2011

**L. Neil Williams**

Aug. 26, 2012 **BOV**

**Class of '63**  
**Allan Dodd Bray**

May 24, 2012

**William James Kinnamon**

April 14, 2012

**Class of '64**  
**Alton Murchison**

Oct. 1, 2012

**Class of '65**  
**Ronald G. Seeber**

June 22, 2012

**Class of '73**

**William Heywang Bayliss**

May 11, 2012

**Frank David Spiegelberg**

July 28, 2012

**Class of '74**

**Johnnie L. Gallemore Jr.**

April 24, 2012

**Andrew Shaw**

Sept. 28, 2012

**Michael Charles Tice**

May 18, 2012

**Class of '82**

**E. Brian Davis**

Aug. 29, 2012

**Class of '93**

**Jason Kopelow**

Sept. 24, 2012

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This list reflects information received by the Duke Law Alumni and Development Office by Dec. 15, 2012.





### The Civil Rights Lecture Series: The Power of Names

**R**ANDALL KENNEDY, the Michael R. Klein Professor at Harvard Law School, talks with Ellie Marranzini '13 and Sneha Shah '14 following the first of his five spring lectures at Duke Law on the modern history of the civil rights movement on Feb. 13. In his lecture, Kennedy examined the significance of names to African Americans throughout their history in the United States, and how names stood as declarations of dignity and equality during the civil rights movement; in the 1963 case of *Hamilton v. Alabama*, the focus of his lecture, an African American woman, Mary

Hamilton, was fined and jailed for demanding the prosecutor address her as “Mrs. Hamilton” on the witness stand, and not simply by her first name.

The lecture series is supported by the Robert R. Wilson Fund at Duke University and is part of Duke University's celebration of the 50th anniversary of the undergraduate program's desegregation. The remaining lectures in the series will take place on March 28 and April 8 and 9; all will be webcast on Duke Law's website and archived at [law.duke.edu/news/audiovideo](http://law.duke.edu/news/audiovideo). ♪



# Working in Washington this summer?

Put the  
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Institute on Law  
and Policy**  
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July 8 – July 18, 2013

**SESSION TWO:**

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For more information visit  
[law.duke.edu/dc institute](http://law.duke.edu/dc institute).

A photograph of the Lincoln Memorial in Washington, D.C., featuring its iconic neoclassical architecture with a portico of tall columns. The building is set against a clear blue sky, with green trees and a grassy area in the foreground. People can be seen walking on the steps leading up to the memorial.

**DUKE LAW**



# Duke Law launches \$85 million campaign

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“The campaign gives all of us who have benefited from a Duke Law diploma the chance to give back to our alma mater and support the students, faculty, and administration at one of the leading law schools in the country.” — John Yates '81, Duke Law campaign chair

