

BLSLawNotes

THE MAGAZINE OF BROOKLYN LAW SCHOOL | SPRING 2011



A World of Opportunity

BLS Fellows Work around the Globe,
Gaining Enriching International Experience

BLS LawNotes

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Letters and Comments

We welcome letters and comments about articles in *BLS LawNotes* from our graduates and friends. We will consider reprinting brief submissions in *LawNotes* and on our Web site.

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WE ARE PLEASED TO REPORT that Brooklyn Law School's publication, *BLS LawNotes*, is the winner of the Bronze prize for external publications from the 26th Annual Educational Advertising Awards. Our newly-designed Web site, www.brooklaw.edu, is the winner of the Silver prize.

FEATURES



A World of Opportunity

By Andrea Strong '94 and Bethany Blankley

Every summer, a growing number of BLS students are funded through a variety of international fellowships to work abroad. Whether crusading for the environment in China, combating human trafficking in Thailand, representing asylum seekers before the UNHCR in Hong Kong, or prosecuting genocidaires in Tanzania, the nine fellows profiled in this piece had the opportunity to perform what many would consider the legal work of a lifetime.



An Era of Transformation: Strategic Leadership Fosters Exceptional Growth

Over the course of former Dean Joan G. Wexler's 16-year deanship, the Law School achieved new heights in every key area of its development. This feature shines a light on Wexler's leadership and vision and celebrates her significant accomplishments, including recruiting top students, attracting quality faculty, and developing a strong and thriving endowment.



Lasting Legislation: Banishing the Temporary Tax Code

By Professor Rebecca Kysar

This insightful piece by Professor Rebecca Kysar explores the rampant use of sunset provisions in tax legislation which have effectively removed the certainty from the tax code and transformed it into a temporary body of statutes with devastating effects. For nearly all tax law, she proposes a policy presumption against temporary legislation and argues in favor of legislation that does not expire by its own terms, which she calls "lasting legislation."

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Spring has arrived, Brooklyn is in bloom, and on June 6th we held our 110th Commencement ceremony. Judge Thomas Buergenthal, a Holocaust survivor who served as a judge of the International Court of Justice from 2000–2010, was our commencement speaker and the recipient of an honorary Doctor of Laws degree.

Our cover feature, “A World of Opportunity,” adds special meaning to Judge Buergenthal’s presence at Commencement. This article focuses on the many BLS students who, with the support of the Law School’s international fellowships, are working all over the world. These students have had what many of us would consider the experience of a lifetime, by, for example, working on environmental issues in China, prosecuting Rwandan *genocidaires* in Tanzania, and representing refugees in Hong Kong.

In our second feature, we chronicle the achievements of Joan G. Wexler, who led the Law School as Dean for 16 years before becoming its President. Joan’s imprint is indelible and deep and we try to do it justice here.

In an article by one of the newest additions to our tax faculty, Professor Rebecca Kysar explores the use of sunset provisions in tax legislation. In an adaptation of her article that was recently published in the *University of Pennsylvania Law Review*, she contends that temporary tax laws increase interest group activity; prevent a future Congress from pursuing its own agenda; and produce planning conundrums for public and private actors alike. Accordingly, she advances a policy presumption against temporary legislation and argues in favor of “lasting legislation,” by which she means legislation that does not expire by its own terms.

Also in this issue we highlight just some of the many accomplishments of our outstanding students, introduce our new Military Legal Practice Clinic, and turn the spotlight on faculty members who have been consulted by the media on cutting-edge legal issues. We also remember two members of the BLS family who recently left us: former Dean David G. Trager and Professor Margaret A. Berger. We also highlight the career of Professor Will Hellerstein, who retired after 25 years of teaching.

Finally, in our *Class Notes* section, we highlight four remarkable alumni: Charles Ortner ’71, co-head of the Entertainment Industry Group at Proskauer Rose, and a newly appointed member of the Kennedy Center Board of Trustees; Harriet Cohen ’74, one of New York City’s most prominent matrimonial lawyers; Matthew Swaya ’81, the new Chief Ethics and Compliance Officer of Starbucks; and Julie Kay ’95, a human rights pioneer, who argued the European Court of Human Rights case that forced Ireland to rewrite its centuries-old abortion law.

We hope you enjoy keeping up with the news and accomplishments of your extended BLS family, and we wish you a happy and healthy summer.

A handwritten signature in black ink that reads "Michael A. Gerber". The signature is written in a cursive, slightly slanted style.

Michael A. Gerber
Interim Dean



BROOKLYN LAW SCHOOL

PRESIDENT'S ADVISORY COUNCIL

Brooklyn Law School is pleased to announce the formation of the President's Advisory Council. The Council brings together a very select group of graduates and friends of the Law School who are distinguished lawyers and business leaders. The Council's role will be to provide advice and counsel to the President, Dean, and other senior administrators on significant issues.

"I am excited about the creation of the President's Advisory Council," said President Joan G. Wexler. "The benefit of having the counsel of such creative and successful individuals is invaluable." □

MEMBERS *(in formation)*

Jodi L. Avergun '87

Cadwalader, Wickersham
& Taft LLP

Dennis J. Block '67

Cadwalader, Wickersham
& Taft LLP

John P. Browne '75

Nikon Inc.

Gabrielle S. Brussel '92

JCDeaux North America

Nicholas J. Camera '72

Interpublic Group of Companies

Leon H. Charney '64

L.H. Charney Associates Inc.

Irwin B. Cohen '58

Private Investor

Steven S. Elbaum '74

The Alpine Group, Inc.

Irwin Engelman '61

Hebrew Union College
International Wood LLC

Bruce E. Fader '74

Proskauer Rose LLP

Howard S. Finkelstein '59

Finkelstein & Partners LLP

Edmond T. FitzGerald '91

Davis Polk & Wardell LLP

Maxine Frank '80

New York Presbyterian Hospital

Andrew T. Frankel '90

Simpson Thacher & Bartlett LLP

J. Michael Fried '75

Phoenix Realty Group

Eric M. Friedberg '83

Stroz Friedberg, LLC

Richard Godosky '58

Godosky & Gentile, PC

Jonathan A. Gottlieb '92

RBS Securities, Inc.

Alphonzo A. Grant, Jr. '98

Sullivan & Cromwell LLP

Ronald M. Green '68

Epstein Becker & Green, P.C.

Stanley M. Grossman '67

Pomerantz Haudek Grossman
& Gross LLP

Allen J. Grubman '67

Grubman, Indursky & Shire, PC

Noah J. Hanft '76

MasterCard Worldwide

Ellen Taubenblatt Harmon '79

ATMI

Dave S. Hattem '81

AXA Equitable Life Insurance
Company

Scott L. Hazan '73

Otterbourg, Steindler, Houston
& Rosen PC

Howard S. Hershenhorn '89

Gair, Gair, Conason, Steigman,
Mackauf, Bloom & Rubinowitz

Lawrence A. (Lon) Jacobs '81

News Corporation

Stacy J. Kanter '84

Skadden, Arps, Slate, Meagher
& Flom LLP

Caleb D. Koeppel '81

Bantam Holdings LLC

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Content Partners LLC

Michael A. London '97

Douglas & London, PC

Vivian A. Maese '82

Morgan Stanley Smith Barney

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Foley & Lardner LLP

Susan L. Merrill '86

Bingham McCutchen LLP

Bernard Nash '66

Dickstein Shapiro LLP

Vincent F. Pitta '78

Pitta & Gibling, LLP

Geoffrey A. Richards '95

William Blair & Company

Geraldo Rivera '69

FOX News Channel

Gary M. Rosenberg '74

Rosenberg & Estis PC

Joseph J. Rosenberg '63

Global Student Loan
Corporation

Marian P. Rosner '73

Wolf Popper, LLP

George H. Ross '53

The Trump Organization

Howard J. Rothman '71

Kramer Levin Naftalis
& Frankel LLP

Kenneth L. Shapiro '61

Wilson Elser Moskowitz
Edelman & Dicker LLP

Gerald L. Shargel '69

The Law Office of
Gerald L. Shargel

Douglas Sharrott '94

Fitzpatrick, Cella, Harper
& Scinto

Jeffrey S. Sherman '80

Becton, Dickinson and Company

Lowell J. Sidney '04

The Law Office of
Lowell J. Sidney

Lawrence A. Sucharow '75

Labaton Sucharow LLP

Justice William C. Thompson '54

Appellate Division, Second Dept.
(ret.), Ross & Hill

Susan A. Thrope '81

New York Life Insurance
Company

Laurence A. Urgenson '75

Kirkland & Ellis LLP

David J. Woll '87

Simpson Thacher & Bartlett LLP

On Board

Dedicated to Service: Martin A. Fischer '64

If Martin A. Fischer '64, a member of the Law School's Board of Trustees since 1993, had been happy in the military, he might never have gone to Brooklyn Law School.

"I wanted to solve the world's problems and I thought I could do that in the Navy," said Fischer, who went directly to Officer Candidate School after graduating from Clark University in 1958, despite his father's suggestion that he might prefer law school. After two years in the Navy, Fischer realized that his father was right all along. "It wasn't a good fit for me, and I decided to listen to my father and go to law school." He applied for admission, but needed an early discharge from the Navy in order to begin in the fall with the incoming first-year class. The elder Fischer wrote to his Congressman, John Rooney, who was instrumental in securing the early discharge.

During that first semester, Fischer and his wife Susan, who began working at the Law School as an assistant librarian, took a trip to Washington D.C. to thank Congressman Rooney for his help. The trip turned out to be quite fortuitous: "I parked my Studebaker downstairs, I was in my corduroy suit, and I walked in and introduced myself and thanked him," recalled Fischer. "Rooney said, 'What are you doing now? I want to introduce you to the President.' And I said, 'The President of what?' And he said 'President Kennedy!'" The spur-of-the-moment invitation landed Fischer in the middle of a cocktail party at the Mayflower Hotel where he hobnobbed with Kennedy's cabinet, senators, and congressmen.

The next day, Congressman Rooney took Fischer to meet Hugh Carey, a young New York politician who was then campaigning for Congress. Rooney suggested that Fischer work on his campaign when he got back to Brooklyn. "How could I say no?" recalled Fischer. As it turned out, Carey was fortunate to have him: Fischer played an instrumental role in Carey's 267-vote victory over seven-term Republican incumbent Francis A. Dorn.

With a congressional campaign behind him, Fischer graduated from Brooklyn Law School in 1964 and began his legal career at Otterbourg, Steindler, Houston & Rosen while continuing to maintain a close relationship with Carey. He left Otterbourg two years later to join Warner Communications (predecessor to Time Warner Inc.), where he rose from associate general counsel to president of Warner's subsidiary, Kinney System Inc. He was elected executive vice president and a director of Kinney System Inc. and the Katz Parking System Inc. in 1973 and was president and chief operating officer from 1981 to 1986.

During his tenure as president of Kinney, Fischer was contacted by his old friend, Carey, who had since become the Governor of New York. In 1977, Carey made him chairman of the Board of Commissioners of the State Insurance Fund, a position which Fischer held from 1977 through 1995. He also served as counsel to Warshaw Burstein Cohen Schlesinger & Kuh in New York City from 1987 until 2001.



Throughout his career, Fischer made a point of serving his alma maters. Fischer was a member of the Board of Trustees of Clark University for eight years until 1993, and later served as chairman of its Capital Campaign. He also has been a longtime champion of the Law School, supporting its growth through his dedicated service to the Board and through generous gifts to the endowment. The Law School's dining mezzanine is named in honor of Fischer, his wife, Susan, and their son, Michael '92, and the Susan G. and Martin A. Fischer Scholarship is awarded annually to a student in financial need to continue his or her education.

In addition to his current duties on the Law School's Board, where he serves on the finance committee and the development committee, Fischer also sits on the Board of Directors of The Berkshire Bank, a New York State chartered bank in New York City, and is chairman of the Board of the Mount Carmel Cemetery Association, a New York State not-for-profit corporation.

Fischer credits the leadership of both Joan G. Wexler and the late David G. Trager for the Law School's significant growth and development. "Thanks to Joan and David, we have a top-notch faculty of young, ambitious scholars, and we have attracted the best and brightest students to the Law School," he said. "We also have a beautiful, modern school with new residential real estate, in particular Feil Hall. Some of us from the old days wonder if we would even get into Brooklyn Law School today." □

Dean's Roundtables Bring Alumni and Students Together to Discuss Careers

Imagine for a moment that you are a law student, dreaming of a career in art law, and you are given the opportunity to lunch with the director of education for the Smithsonian Institute. Or perhaps you have a passion for criminal law, and you are invited to dine with the deputy chief of homicide at the U.S. Attorney's Office in Washington, D.C. The chance to learn from and network with these practitioners would be too good to pass up. This is precisely what happens at each of the Dean's Roundtable programs, which connect students with leading alumni in their fields. At a typical Roundtable, which takes place at the Law School over lunch or dinner, graduates discuss their career paths, impart practical advice, and respond to questions from students in an informal environment.

The program originated in the late 'gos under President Joan G. Wexler (then the Dean), and has become one of the Law School's most popular events. The Law School hosts an average of 10 to 12 Roundtables per year and draws highly distinguished graduates working in business, law firms, government, and non-profit organizations. In setting the agenda for each year, the Alumni Office and the Dean select graduates from a variety of practice areas so that students are exposed to multiple fields.

"I've attended a number of Roundtables," said David Kim '11, who is currently interning at the Department of Enforcement at the Securities and Exchange Commission. "They're a great opportunity to learn about the many different ways that people have navigated their careers, and they also offer another perspective from the one we get in the classroom."

Kim was particularly enthusiastic about a Roundtable in the fall featuring Ross Intelisano '94, a partner of the law firm of Rich & Intelisano, LLP, which represents individual and institutional investors in securities arbitration and litigation against financial institutions. "Mr. Intelisano is at a securities arbitration law firm, working in an area of the law I hadn't really thought of practicing. I had the opportunity to talk to him personally after the event, which was a very good networking opportunity," said Kim.

"The Roundtables are really a two-way street, adding value to our students' overall experience while acknowledging alumni who are leaders in their fields," said Caitlin Monck-Marcellino '02, Director of Alumni Relations and the organizer of the Roundtables. "The events are a wonderful opportunity for our graduates to meet our students and learn about their impressive accomplishments. They are also a way for our students to learn more about areas of the law they may be interested in and to network with some of the most lauded members of the legal profession." □



Jeffrey Kimmel '91, Partner at Salenger, Sack, Kimmel & Bavaro, engages with students at a Dean's Roundtable. Interim Dean Michael Gerber at left.

2010–2011 Dean's Roundtable Speakers

- Claudine Brown '85, Director of Education for the Smithsonian Institution
- Nicholas Camera '72, Senior Vice President, General Counsel, and Secretary of the Interpublic Group
- Fred Curry '03, Principal, Forensic and Dispute Services practice of Deloitte Financial Advisory Services LLP
- Fred Feingold '69, Partner, Feingold & Alpert LLP
- Sheila Gowan '89, Partner, Diamond and McCarthy
- Amanda Haines '90, Deputy Chief of Homicide Section, U.S. Attorney's Office, District of Columbia
- Ross Intelisano '94, Partner, Rich & Intelisano, LLP
- Jeffrey Kimmel '91, Partner, Salenger, Sack, Kimmel & Bavaro
- Ross Levi '97, Executive Director of the Empire State Pride Agenda and Foundation
- Anne Reilly '97, Senior Counsel, Johnson & Johnson
- Joy Weber '89, Executive Director of Regulatory Affairs, UBS

Allen Grubman '67, Lawyer to A-List Celebrities, Delivers the Media and Society Lecture

On October 27, Allen Grubman '67, a lawyer who counts Madonna, LeBron James, and Robert DeNiro among his clients, delivered the annual Media & Society Lecture. In a captivating talk peppered with a little Yiddish and a lot of humor, Grubman led the sold-out crowd of alumni, faculty, and students through the arc of his remarkable career.

Grubman was born in Crown Heights to a working class family. His first experience with the entertainment industry was as a child singer on the Sunday afternoon "Horn and Hardart Children's Hour." When his voice began to change, his days as a performer came to an end — but his passion for the business of entertainment remained. "I remember when I was on the show, they took us to great restaurants," he told the audience. "I was taken to rehearsals in a limousine. I knew then that I wanted to be an entertainment lawyer."

Grubman admitted that his impressive success in entertainment law was not without its share of plot twists. He was almost derailed by, as he put it, "abominable grades," at Brooklyn Law School, and made it through by the skin of his teeth thanks to the generosity of Professor Joe Crea, who gave him another chance on one of his finals.

Grubman, who had interned as a page at CBS during law school, knocked on doors all over town when he graduated, pleading for work. Finally, an attorney by the name of Walter Hofer — who just happened to represent the Beatles — hired him. Grubman

recalled their conversation: "I said, 'Listen, I don't have a lot of money so I can't afford a lot, but tell me what I have to pay *you* to let me work here.' Instead, Hofer agreed to pay *me* \$125 a week." Thus a career was launched.

Grubman worked for Hofer for a few years before starting his own firm in 1974 with fellow BLS graduates Paul Schindler '71 and Arthur Indursky '67. The firm later became known as Grubman Indursky & Shire. Today, the firm is one of the most elite entertainment firms in the nation. Grubman has been called "the undisputed king of music entertainment law" by *Forbes* and "the head of the most powerful entertainment law firm in the country," by *Vanity*

Fair, which included him in an elite group of "must-see agents, lawyers, and studio heads for any deal worth doing."

Though his highly personal view of the business included surprising, humorous tales of personalities and acts, Grubman also discussed the intricacies of entertainment law, the structure of a deal, and the different roles played by managers, agents, and music publishers in the industry.

After his talk, Grubman fielded a number of questions from the audience about changes in the entertainment industry over the years. "In the year 2000, something terrible happened," he remarked. "It's called the Internet. People figured out how to get movies and music for free, and this



Grubman has been called "the undisputed king of music entertainment law" by *Forbes* and "the head of the most powerful entertainment law firm in the country," by *Vanity Fair*, which included him in an elite group of "must-see agents, lawyers, and studio heads for any deal worth doing."

is an issue that artists have had to adjust to. iTunes is killing artists. They used to sell an entire album for \$15.98, now single songs go for 99 cents. The issue is one of compensation."

Despite the challenges he and the entertainment industry have faced over the years, Grubman ended his talk on an encouraging note. "I am living proof that you can achieve the biggest things in life even if you are a C student," he said. "But you have to believe in yourself and have tenacity." □

Fashion Week Comes to Brooklyn Law School

Fashion Week arrives in New York City every fall, and with it come the hottest designers, the most sought-after models, and a slew of celebrities and journalists. Fashion Week is more than just the excitement of the runway itself. It is also evidence of a booming industry. With revenue of around \$196 billion, double that of all the other entertainment industries combined, the fashion industry has produced its own legal niche. To explore this new niche, Brooklyn Law School held its own Fashion Week this fall.

“We are seeing a change in the way the law is applied to this emerging field because of globalization and the change in the industry itself,” said Professor Claire Kelly ’93, who was instrumental in putting together the week’s events. “It’s important that the Law School be at the forefront of such meaningful discussion.”

BLS Fashion Week opened with “A Sit Down with Chanel.” Hosted by the Art Law Association (ALA), the Intellectual Property Law Association (IPLA), and the Dennis J. Block Center for the Study of International Business Law, the panel featured Stephanie Sandler ’02, Director of Skin Care Marketing for Chanel. Sandler spoke to a packed room of students about the ins and outs of working for a high-end fashion company and the skills needed to work in a fashion design house.

The second and biggest event of the week, “Representing the Fashion Client,” was co-sponsored by the IBL Center, the International Law Society, and IPLA. The program was dedicated to exploring fashion’s most pressing legal topics, including intellectual property, licensing, import and customs, international development, and counterfeiting.

Professor Kelly moderated a panel featuring fashion’s legal elite: Steven R. Gursky ’79, a partner at Olshan Grundman Frome Rosenzweig & Wolosky; Frances P. Hadfield, a co-organizer of the event and an attorney and customs broker with Grunfeld, Desiderio, Lebowitz, Silverman & Klestadt; Guillermo C. Jimenez, an attorney, a Professor of International Trade at the Fashion Institute of Technology, and a co-editor of *Fashion Law: A Guide for Designers*,



Karen Ceil Lapidus '84, Vice President and General Counsel of Loehmann's delivers an insider's view at the program, "Representing the Fashion Client."



Fashion Executives and Attorneys (Fairchild 2009); Barbara Kolsun, Executive Vice President and General Counsel of Stuart Weitzman; and Karen Ceil Lapidus '84, Vice President and General Counsel of Loehmann's.

Jimenez opened the evening's presentation with an overview of fashion law, explaining that clothing is generally considered a utilitarian item, as opposed to a “creative” work. Therefore, copyright law does not shield, for example, the cut of the fabric, but only the fabric's graphic design. “The fashion industry lives off of imitation and knocking off,” he said, “but think about it. What if this happened in other areas? What if it were possible for someone to knock off the author Jonathan Franzen's work? Wouldn't we find it shocking? But we don't find it shocking in fashion.”

Gursky examined the more powerful legal remedies available to brand-name designers when actual counterfeits of their creations enter the marketplace. He described a recent lawsuit in which Fendi sued Filene's Basement for selling fake Fendi merchandise, and Filene's Basement settled for \$2.5 million. “Making them pay makes them not forget my client and not forget me,” said Gursky. “If you want to stop recidivism in this area, make them write a check.”

The final event of the week, “Protecting Fashion and Other Designs,” was sponsored by ALA. Marc Misthal and George Gottlieb, partners at Gottlieb, Rackman & Reisman, P.C., and contributors to *Fashion Law: A Guide for Designers, Fashion Executives, and Attorneys*, discussed the various intellectual property rights associated with protecting products with a design element, such as furniture, jewelry, tableware, and other consumer-based goods.

“As practicing attorneys, Gottlieb and Misthal provided important insight into the application of intellectual property law to real-world situations,” said Paul Cossu '11, ALA's co-director. “By learning how administrative agencies interpret and apply intellectual property jurisprudence, I now have a better sense as to how I can help people protect their creative work.”

Fashion Week at the Law School was a great success, bringing many alumni, faculty, and students together for a series of insightful discussions about the legal underpinnings of creating — and protecting — the haute looks that move from runway to rack to closet.

“I was proud to host three terrific events and thrilled with the turnout,” said Professor Kelly. “Clearly, we knew we had significant student interest, but we were also gratified by the practitioners and alumni who participated to make the events successful.” □

Statutory Interpretation: How Much Work Does Language Do?

Legislatures enact laws; judges interpret them. This apparently straightforward directive underlies the relationship between two of our three branches government — and yet, interpreting laws can be anything but simple. On November 19, Brooklyn Law School hosted a symposium titled “Statutory Interpretation: How Much Work Does Language Do?” to explore what Interim Dean Michael Gerber, in his introductory remarks, called “the Bermuda Triangle of statutory construction, where questions abound.” Professor Lawrence Solan put the problem this way: “When a statute does not give clear instructions to a judge by its language alone, courts must come to some kind of decision. Where should they look for guidance? The question has brought vigorous and continued debate, for it engages impor-

“When a statute does not give clear instructions to a judge by its language alone, courts must come to some kind of decision. Where should they look for guidance?”

—Professor Lawrence Solan

tant questions about the appropriate roles to be played by all three branches of government.” Legal scholars from around the country came together to discuss the challenges presented by ambiguity in statutory language and what role the courts should play in construing contested laws.

The day-long program was sponsored by the Center for Law, Language and Cognition and the *Brooklyn Law Review*, and was organized by Professors Solan and Rebecca Kysar. Although Supreme Court Justice Antonin Scalia was not on the panel, he was present in spirit. In his quarter century sitting on the bench, Scalia’s “textualist” approach to statutory interpretation — the belief that the ordinary meaning of a statute should govern its interpretation — has attracted both supporters and opponents among courts and the academic community alike; many of the symposium’s panelists took issue with an unconstrained textualist approach to interpreting statutes.

“Scalia believes that looking to confirmatory legislative history is anti-democratic, where the law is clear and that courts are not allowed to look at intent,” explained James J. Brudney of Ohio State University Moritz College of Law, who argued to the opposite effect. Similarly, Solan argued that courts’ relying on a number of criteria does not unduly expand judicial discretion, as many textualists fear, but actually serves as a further constraint on judicial discretion.

Pointing to cases that, on their face, seem to undermine textualism entirely, Professor Linda D. Jellum of Mercer University School of Law also took aim at Scalia and textualism. In what she called occurrences of “specific” absurdity, Jellum described scenarios in which the facts aligned in such a way that Congress could never have predicted. Jellum used this example from the 1800s: After arresting the postmaster on a murder charge, the sheriff was indicted for violating a law that made interfering with the delivery of the mail an actionable offense. “Crazy, right?” she said. “This is where we need judicial intervention, in these cases of specific absurdity.”

Other panelists spoke on topics ranging from the implications of grammar in the Supreme Court’s interpretation of statutes to what constitutes an “immoral interpretive act” to exploring what relationship should exist between a court’s textual interpretation and its possible policy consequences. Among the distinguished participants were law professors Jane Shachter (Stanford), Anita Krishnakumar (St. John’s), Jonathan Siegel (George Washington), Mathew McCubbins (University of Southern California), and BLS’s Rebecca Kysar and Lawrence Solan. The various subjects and viewpoints presented throughout the day sparked regular discussion and debate among the panelists as they grappled with how best to handle the pitfalls of language in the legal context.

Articles from the symposium will appear in a future issue of the *Brooklyn Law Review*. □

Professor Lawrence Solan leads a discussion about the challenges of ambiguity in statutory language.



Governing Civil Society: NGO Accountability, Legitimacy, and Influence

On October 22, Brooklyn Law School hosted “Governing Civil Society: NGO Accountability, Legitimacy, and Influence,” a symposium co-sponsored by the Dennis J. Block Center for the Study of International Business Law and the *Brooklyn Journal of International Law*. The symposium was organized by Professor Claire Kelly, an expert on international law, and Professor Dana Brakman Reiser, an expert on nonprofit law, with the goal of engaging social scientists and lawyers in a unique conversation about how to enhance the effectiveness of non-governmental agencies (NGOs).

The term “NGO” broadly describes a voluntary, nonprofit group created on the local, national, or international level to pursue a particular goal, such as promoting human rights, providing humanitarian relief, or protecting the environment. “They’re the do-gooders,” as one panelist put it.

Social scientists who study international organizations typically analyze the legitimacy of NGOs as players in the arena of international law, while nonprofit law scholars tend to focus on the internal workings and external regulation of the organizations themselves. Both groups, however, work within overlapping circles. “As colleagues and friends, Claire and I often read each other’s work,” said Brakman Reiser. “We always thought we worked in two different areas, but then we realized that we were talking about a lot of the same issues.”

As the number of NGOs has grown, with an estimated 40,000 organizations already operating internationally, questions surrounding their role in society have become ever more complex. For example, how legitimate is an NGO’s voice in legal decision making? How effective are they in accomplishing their objectives? What happens if an organization suffers from “mission drift” (meaning its professed mission no longer matches its actual activities), or if public opinion on its mission changes? To whom are they accountable? Participants in the symposium addressed these issues and others.

The day’s panelists sought ways to strengthen NGOs by securing accountability through various methods, such as



Professor Dana Brakman Reiser kicks off a day-long symposium on NGO accountability. Professor Claire Kelly is at left.

accreditation, monitoring, and enforcement. Some speakers suggested that more innovation was needed in defining and executing NGO missions. Temple University Professor Sophie Smyth cited the Global Fund as one successful example of such efforts. The Global Fund is a partnership among governments, NGOs, affected communities, and private institutions founded in 2002 to raise funds to fight AIDS, tuberculosis, and malaria. Smyth suggested that this collaborative method, which she called a “bazaar approach” to international health financing,

should be applied to other issues.

Participants agreed that the day-long symposium provided an invigorating exchange of ideas and perspectives. “This is a really challenging area to think about, and we’ve seen an exciting array of contexts and institutional responses,” remarked closing speaker Mary Kay Gugerty, Associate Professor of Public Affairs at the University of Washington.

Papers from the symposium will be published in a future issue of the *Brooklyn Journal of International Law*. □

Treating Mental Disorders in Poor and Vulnerable Children

More than two decades of research have demonstrated that poor and vulnerable children in the United States, including many children in foster care, receive more psychotropic medications than other children their age. These medications may include complex drug combinations that are prescribed off-label and without adequate evidence that the benefits of such regimens outweigh the risks.

Last October, Brooklyn Law School hosted a Theory Practice Seminar co-sponsored by the Center for Health, Science and Public Policy and the Hastings Center, a nonpartisan bioethics research institution, to address the issue of mental health treatment for these marginalized children.

Organized and moderated by Professor Karen Porter, Executive Director of the Center for Health, Science and Public Policy, the seminar brought together distinguished legal advocates, psychiatrists, academicians, and members of local government agencies.

“The program was designed to help participants and other key stakeholders to better understand the significance of this issue and to provide a platform to identify changes in policy and practice that are likely to improve psychopharmacologic prescription practices among poor and vulnerable youth,” Professor Porter said.

The event’s keynote speaker, Julie Zito, Associate Professor of Pharmacy and

Psychiatry at the University of Maryland and a prominent researcher on mental health, pharmacology and vulnerable populations, noted that one in three foster care youth are likely to receive psychotropic medication in a given year. Prescription rates have increased dramatically, and few of the drugs prescribed are approved to be used for the disorders or age groups in question. Children were three times more likely to be prescribed at least three different types of psychotropic medication over a given 60-day period in 2006 than they were in 1997. Furthermore, a University of Chicago study revealed that only 30 percent of medications used by children were approved by the FDA. Zito argued that the government has not invested enough talent, time, or resources to present a workable solution to this troubling status quo.

The panelists agreed that Medicaid reimbursement practices have contributed to the problem, with several panelists noting that psychiatrists are only reimbursed by Medicaid when a child receives a diagnosis. The financial pressure to label children’s mental health and behavioral difficulties means that misdiagnosis is common, treatment is less effective, and mental health practitioners are more likely to overprescribe psychotropic medications without thorough consideration of the potential for adverse side effects.

CUNY Law School Professor Angela Burton, whose article “‘They Use it Like Candy’: How the Prescription of Psychotropic Drugs to State-involved Children Violates International Law,” was recently published in the *Brooklyn Journal of International Law*, found the seminar to be extremely valuable. “I’m so glad to hear from a legal standpoint what to do to mitigate this problem. I’m interested in cross-disciplinary approaches and this seminar allowed lawyers, clinicians, and academics to begin to discuss this important issue,” she said. “It’s obvious the foster care system is broken. We need to create preventative care and this seminar was one step closer to that goal.” □

“Children were three times more likely to be prescribed at least three different types of psychotropic medication over a given 60-day period in 2006 than they were in 1997.”

— Professor Julie Zito



Julie Zito, Associate Professor of Pharmacy and Psychiatry at the University of Maryland, discusses the high prescription rate in foster care youth.

Elizabeth Kane Wins Brooklyn Bar Association Award for Pro Bono Services Work



Elizabeth (Betsy) Kane, the Director of the Law School's Public Service Office, received the Brooklyn Bar Association Volunteer Lawyers Project's Terri and Nick Leticia Award "in recognition of her outstanding commitment to the development and expansion of pro bono legal services" to

poor and low-income residents of Brooklyn. Kane was presented with the coveted award at a gala hosted by TD Bank in Brooklyn Heights on December 8, 2010.

"Kane has been an ardent and influential advocate of pro bono service by law students to serve the diverse and complex civil legal service needs of our New York community," said VLP's Executive Director Jeannie Costello.

Kane was acknowledged not only for her role as an advisor and mentor to students, but also for her work as a founding member of the Civil Legal Advice and Resource Office (CLARO). Kane played an integral role in creating CLARO Kings County, a courthouse clinic in which students assist Brooklyn residents being sued by creditors. The CLARO model is a highly respected, city-wide program, and is now being duplicated in other states.

Along with her in-depth work preparing BLS students for careers in public interest, Kane has a successful track record fostering student commitment to pro bono service. Many of the graduates whom Kane counseled as students are now among the most

active pro bono volunteers at the VLP and at pro bono organizations throughout New York City.

"Brooklyn Law School has a long tradition of educating lawyers who serve the public," said Interim Dean Michael Gerber. "Each year, our students perform some 30,000 hours of pro bono work. Betsy is a wonderful role model for our students. She literally practices what she preaches, and we are proud of her efforts."

Under Kane's steadfast direction, Brooklyn Law School's pro bono program has expanded to include 17 in-house pro bono projects. Students provide guidance in numerous areas of the law to clients, including veterans, low-income tax payers, the elderly, street vendors, tenants at risk of eviction, high-risk teens facing suspension or expulsion from school, and many others.

"The opportunity to have an impact on the quality of somebody else's life and play a part in the education of future public service attorneys — what could be more exhilarating than that?" said Kane. □

Medicare Fraud Summit Brings Washington Leaders to the Law School

U.S. Attorney General Eric Holder and Secretary of Health and Human Services Kathleen Sebelius hosted a conference on Medicare fraud at Brooklyn Law School this past November as part of their ongoing Regional Health Care Fraud Prevention Summit. Attorney General Holder stated that in the three years since he first launched the Medicare Strike Force, Attorney General investigators and prosecutors have identified more than \$2 billion in fraudulent billing and brought nearly 500 cases against more than 800 defendants, securing guilty pleas for most of them. He explained that in the last fiscal year, the government obtained settlements and judgments of more than \$2.5 billion in False Claims Act matters alleging health care fraud, marking a new record. "The good news," he said, "is that health care fraud schemes across this region are being aggressively and permanently shut down. That's in large part because of the great work being led by many of the AUSAs in this room, who work in New York's Eastern and Southern Districts, as well as their counterparts in Connecticut and New Jersey. Their efforts provide proof that we can make measurable, meaningful progress in the fight against health care fraud." □



Secretary of Health and Human Services Kathleen Sebelius and U.S. Attorney General Eric Holder discuss their efforts to combat Medicare fraud.

BLS Student Presents Arguments before the United States Court of Appeals for the Armed Forces



LEFT TO RIGHT: Judge Scott W. Stucky, Anita Aboagye-Agyeman '11, Judge James E. Baker, Chief Judge Andrew S. Effron, Judge Charles E. "Chip" Erdmann, and Judge Margaret A. Ryan.

In November 2010, Anita Aboagye-Agyeman '11 presented an eloquent and forceful argument before the United States Court of Appeals for the Armed Forces, the nation's highest military appellate court. The Court was in session at Brooklyn Law School as part of its Project Outreach program, an annual program in which the Court holds arguments at law schools, military bases, and other public facilities to promote public awareness of the Court and the military criminal justice system.

Oral argument in the case of *United States v. William T. Jones III* was presented in the Law School's Jerome Prince Moot Court Room before a packed audience of students and faculty. The distinguished panel of federal judges included: Chief Judge Andrew S. Effron; Judge James E. Baker; Judge Charles E. "Chip" Erdmann; Judge Scott W. Stucky; and Judge Margaret A. Ryan. While at the Law School, the judges also visited several classes and met with students in a more casual environment, taking questions and offering students insight into their careers on the bench. Chief Judge Effron also spoke to faculty at lunch about some of the inner workings of the Court.

Lieutenant Commander Sergio Sarkany, JAGC, U.S. Navy, represented the government, while Aboagye-Agyeman argued alongside Captain Bow Bottomly of the U.S. Marine Corps, representing Navy Airman William T. Jones III, who was convicted of misusing government property and receiving child pornography. Although Jones initially pled guilty and was convicted in a general court martial, the circumstances of his plea remained in question.

While students ordinarily prepare and present arguments in pairs, Aboagye-Agyeman, a Moot Court champion, prepared and argued singlehandedly, with support from Professor Robert Pitler and Visiting Professor Neil P. Cohen, both experts in criminal law and evidence.

Aboagye-Agyeman argued that even though Jones pled guilty, his plea was not provident, and therefore must be set aside. Specifically, she questioned whether his plea could be characterized as knowing, because he never saw the evidence on which the charges were based. Therefore, she argued, Jones may have pled guilty to possessing child pornography that he never actually possessed.

"I love arguing appeals," she said. "It's a unique opportunity to have a conversation with judges while advocating for your client. I chose to argue on behalf of the defendant because I strongly believed that his plea should not have been accepted by the judge because of the defect." □

Student Organization Spotlight: *Art Law Association*

The Art Law Association (ALA) was founded in 2007 by MJ Williams '09, Kate Fitzpatrick '09, and Derek Kelley '09 to provide a forum for students, faculty, and practitioners to explore the wide range of legal issues associated with the creation, collection, presentation, and preservation of the visual arts.

“We decided to form the ALA to highlight the Law School’s commitment to art law and to support and develop students’ interest in this interdisciplinary area of the law,” said Williams, who is now an associate at Satterlee Stephens Burke & Burke LLP, where she practices intellectual property and trademark litigation.

Under the mentorship of BLS Associate Dean of Student Affairs Beryl Jones-Woodin, a professor of art law, Williams and her co-chairs grew the ALA from a group of 75 into a dynamic 150-member student organization responsible for many social, educational, and networking events.

The ALA has organized several noteworthy events since its inception, including a panel this past fall (see page 7) entitled “A Sit Down with Chanel,” co-hosted with the Intellectual Property Law Association and the Dennis J. Block Center for the Study of International Business Law. The panel featured Stephanie Sandler '02, Director of Skin Care Marketing for Chanel.

The ALA also organized a tour of the Whitney Museum by General Counsel Nick Holmes, who spoke about the complex legal issues associated with the curatorial process and the day-to-day operation of the museum. Holmes also guided students on an intimate tour of the Whitney’s famed Biennial exhibit. In addition to tours of the New Museum, Phillips De Pury, the Brooklyn Museum of Art, and MoMA, the ALA has hosted two BLS Art Shows in which students and faculty displayed their own works of art. An annual alumni dinner held on April 5, co-hosted by the Entertainment and Sports

“The ALA provides unique and valuable opportunities for students who are interested in the growing field of art law.”

—Associate Dean Beryl Jones-Woodin



The ALA has hosted tours of MoMA and other New York City art institutions such as the Whitney and the Brooklyn Museum of Art.

Law Society, honored Judge Barbara Jaffe '84, Civil Court judge of the New York Supreme Court, 1st District, who has handled a number of art law cases.

The highlight of the ALA programs this year was a fascinating yet heartbreaking panel discussion entitled, “Art Restitution Claims: Where Do We Stand, Where Are We Headed?” The panel was moderated by Associate Dean Jones-Woodin and spearheaded by Sarah Gordon '12, Program Coordinator for the ALA, whose grandparents are Holocaust survivors, and who studied the interwar period of 1919 to 1939 as an undergraduate at the University of Michigan. “I hope to be involved in property restitution as the generation originally wronged from the Holocaust continues to disappear,” said Gordon.

“Events such as these, with the general counsels of many of the city’s top museums and auction houses, are examples of the fine programming that the ALA produces here at the Law School,” said Jones-Woodin. “It is precisely these types of cutting-edge events, in combination with networking opportunities and social engagements that have made the ALA such a successful student organization. It provides unique and valuable opportunities for students who are interested in the growing field of art law.” □

Trio of Fellowships Established to Honor Former Board Chairman Paul Windels, Jr.

The Law School's Board of Trustees established three new fellowships in honor of Paul Windels, Jr., who passed away on September 6, 2009, at the age of 88. Windels was best known as the founder of Windels Marx, where he was recognized among his colleagues as a fierce and competitive advocate and a marvelous raconteur. He was also a steadfast and devoted member of the Brooklyn Law School Board of Trustees for 39 years, and Board Chairman from 1983 to 2007.

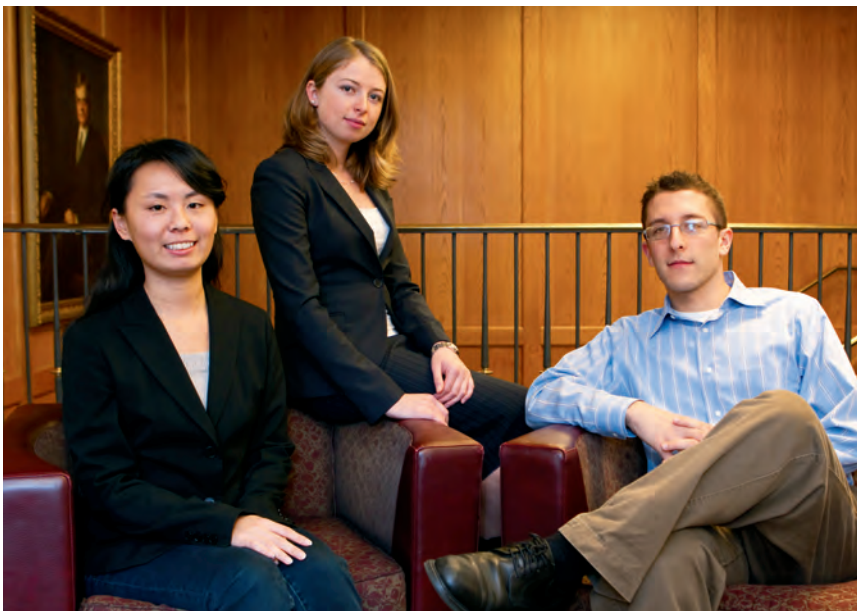
During his tenure on the Board, the Law School added scores of new courses to the curriculum, attracted world-class scholars to the faculty, and greatly expanded the physical plant, with the purchase of eight residence halls, the construction of a major addition to the main building, and the planning of a new 22-story residence hall.

"Paul's role in helping the Law School achieve its highest aspirations was indispensable," said President Joan G. Wexler. "Generations of Brooklyn Law School

trustees, faculty, deans, and students benefited from his thoughtful stewardship and compassion, and I am so pleased that his legacy will live on with these Windels Fellowships."

The Windels Fellows, who will each receive a stipend of \$5000, are chosen by a committee consisting of the Director of Career Services, the Director of Clinical Education, and the Associate Dean for Academic Affairs. Acknowledging Windels' service at the U.S. Securities and Exchange Commission, where he was the New York Regional Administrator, and at the U.S. Attorney's Office for the Eastern District of New York, where he brought the first criminal proceeding under the Securities Act of 1933, the Fellowship recipients are selected from among those who have secured summer internships at the U.S. Attorney's Offices in the Southern and Eastern Districts and at the U.S. Securities and Exchange Commission. In addition, the students chosen are those who best exemplify Windels' character, honor, and integrity and who are poised to follow in his esteemed footsteps. □

“Paul's role in helping the Law School achieve its highest aspirations was indispensable. Generations of Brooklyn Law School trustees, faculty, deans, and students benefited from his thoughtful stewardship and compassion, and his legacy will live on with these Windels Fellowships.” — President Joan G. Wexler



Summer of 2010 Paul Windels, Jr. Fellows

LEFT TO RIGHT:

Priscilla Cheng '11
*U.S. Attorney's Office for the
Southern District of New York*

Eleonora Zlotnikova '11
*U.S. Securities and Exchange
Commission*

George Bauer '11
*U.S. Attorney's Office for the
Eastern District of New York*

President Wexler Delivers Jethro Address at Central Synagogue



On January 21, President Joan G. Wexler delivered the 2011 Jethro Shabbat address at Central Synagogue, one of New York City's most historic synagogues.

Jethro Shabbat, named for Moses' father-in-law, is held every year on the Sabbath during which the Torah portion named for Jethro is read. In honor of this Torah portion, that deals with the topic of law, the Central Synagogue community invites a distinguished speaker from the legal profession as a guest speaker.

Following in the footsteps of previous honorees, including former Governor Mario Cuomo, former U.S. Attorney General Michael Mukasey, former White House Counsel Bernard Nussbaum, and Brooklyn Law School's own Professor William Hellerstein, Wexler spoke to an enthusiastic Friday evening crowd immediately following the Shabbat service. Her address, and a question and answer session, were moderated by Senior Cantor Angela Warnick Buchdahl.

Wexler's talk, entitled "Informed Judgment: How does the quality of our information affect the decisions we make in daily life?" dealt with issues of time management, work-life balance, and the various forces that sway our decisions. She encouraged the audience not to rush to judgment and to refrain from looking at the world in black and white terms. "The media encourages us to see things through rigid, partisan-colored lenses," she said. "What should be a discussion of complex issues, which are more likely to come in shades of gray, devolves into a predictable cacophony that doesn't help us understand or analyze, let

alone solve, in any meaningful way the great (and not so great) issues of the day."

She also suggested that her audience seek to achieve an "intellectual openness" that she says is an antidote to clichéd thinking. "I tell students to open their minds to the power of serendipity," she said, "which is defined as 'the faculty of making happy and unexpected discoveries by accident.'" She continued, "Every lawyer has had the experience of researching a line of cases in the hopes of pinning down a particular legal theory and unexpectedly coming across a less obvious, but nonetheless powerful, legal theory that offered an entirely new approach to solving a client's problems. That's serendipity."

However, "one cannot, of course, just sit back and wait for serendipity to open new ideas for you," she added. "Actively engage with the ideas presented to you," she said. "Think not only out-of-the-box, but around the corner and into the future. Consider ideas or a theory that you may never have thought would interest you or influence you. Be open to changing your mind." □

Loretta Lynch Sworn in as 40th U.S. Attorney at Brooklyn Law School

Brooklyn Law School was proud to host the investiture of Loretta E. Lynch as the 40th United States Attorney for the Eastern District of New York. Joined by family, friends, colleagues, and many of the judges of the Eastern District, Lynch took the oath of office before a standing-room only crowd in the Law School's Moot Court Room.

"Loretta is a dedicated, talented professional, and a perfect choice to lead the Eastern District," said President Joan G. Wexler. "We are proud that the Law School was part of this moment in history."

Judge Raymond Dearie of the Eastern District of New York presided over the ceremony. He pointed out that it was fitting to have the investiture at Brooklyn Law School because of the many close connections between the Court and the Law School. Joining him on the bench were two former Law School Deans, Senior Judges I. Leo Glasser '48 and David G. Trager (now deceased), as well as Senior



Loretta E. Lynch is sworn in as the 40th United States Attorney for the Eastern District of New York.

Judge Edward R. Korman '66. Robert C. Heinemann '76, the Clerk of the Court, read the Presidential Commission.

In his remarks, Attorney General Eric Holder, who grew up in Queens, said, "It's a great comfort to know my hometown is in capable hands." □

Legal Lights

ISABEL GARDOCKI '11 *Reunited a Family Torn Apart*

In March 2007, Fatouma and Mamadou Barry, political asylees from Guinea, fled their country and were forced to leave their three-month-old son, Souleymane, behind. Three years later, thanks to the dedication of Isabel Gardocki '11, the Barry family has finally been reunited.

After her first year of law school, Gardocki began an internship at Lutheran Social Services of New York, a public service organization that, among other things, provides services for immigrants and refugees. In the course of reviewing some of the open immigration cases she discovered the Barrys' plight. Gardocki learned that the couple had been forced to leave their newborn son in Guinea because of a loophole in asylum law. She was compelled to find a way to reunite the family. "It was amazing to me that we could be part of a legal system that would allow parents to be separated from their baby for so long," she commented.

Under the supervision of Wanyong Austin, a staff attorney at Lutheran Social Services, Gardocki began researching the possibility of a humanitarian parole application for Souleymane. She came across a similar case involving Darfuri refugees handled by the firm of Kasowitz, Benson, Torres & Friedman, so she contacted the firm and sought help. They agreed to take the case pro bono.

The firm attorneys met with the Barrys that month and, with Gardocki's help, submitted the application for humanitarian parole in February of 2010. In late September, Homeland Security approved an I-130 immigrant petition for Souleymane, and on

October 7, 2010, It granted the application for humanitarian parole.

In early November, Souleymane's eldest brother, Amadou, flew to Dakar, Senegal to bring him home. Shortly thereafter, both arrived at New York's John F. Kennedy Airport for a tearful reunion between mother, father, and son. "I am in paradise," said Mr. Barry.

"It was surreal, sitting there in the airport watching them reunite with their son, whom they hadn't seen in nearly four years," said Gardocki. "It was great to see the case through to a happy conclusion. Finally, we had justice."

HEATHER MARTONE '11 *Cited by Maryland Appellate Court*

Heather Martone '11, Managing Editor of Brooklyn Law School's *Journal of Law and Policy*, and a member of the Moot Court Honor Society, Trial Advocacy Division, recently celebrated a rare distinction for a law student. Her note, "2.2 Million Children Left Behind: Food Allergies in American Schools — A Study on the Food Allergy and Anaphylaxis Management Act," originally published in the *Journal of Law and Policy*, was cited by the Maryland Court of Special Appeals in *Pace v. Maryland* (2010 WL 3770566, footnote 1).

"I am passionate about the issue of food allergies," Martone said, "because I have severe allergies myself, with anaphylactic reactions to nuts and shellfish." One of the worst episodes occurred at the start of law school, when Martone ate a seemingly harmless croissant and her throat swelled shut. She was rushed to the hospital, where

she remained for several days. She later discovered that although nuts were not listed on the packaging, the croissant had been cross-contaminated with them at the bakery.

"Like all people with anaphylactic food allergies, I must be constantly vigilant," she said, "not only by looking for the allergens in my food, but by trying to find out how my food was prepared and if there is a chance of cross-contamination. Young school children cannot be expected to be so vigilant."

Martone began her note with the story of a fatal incident involving a nine-year-old boy who was known to school personnel as having severe allergic reactions to peanuts. Despite this knowledge, on a school trip he was offered a lunch containing peanuts, which he realized and therefore refused. He later ate a cookie that school personnel gave him, not knowing that it contained peanut butter. When he reacted violently, they did not recognize it as life-threatening and failed to call for medical help in time to save his life.

In her note, Martone urges ratification of a stronger version of The Food Allergy and Anaphylaxis Management Act, which has failed to pass in Congress several times, although it is "relatively innocuous," she said. The revised legislation Martone proposes would mandate that every public school with at least one student with anaphylactic food allergies follow the Act's provisions. The proposed law would also make grants available to aid schools in implementing the Act's guidelines.

The Maryland court cited Martone's note in support of the proposition that there is no uniform federal law to protect school-aged children with severe food allergies. Martone

"It is very much to our credit that BLS is the only law school currently involved in the Town+Gown program along with the City's top urban planning and public policy schools. Our extensive externship program, coupled with our joint degree in law and urban planning, really makes us a great resource for government agencies seeking to involve students in real life research questions and policy challenges."

— PROFESSOR DEBRA BECHTEL

BLS Students Draw Honors Outside the Classroom



Heather Martone '11



Isabel Gardocki '11



Kate Wood '11



Meghan O'Malley '11

said she found out about the court's citation through a Westlaw watch she originally posted in order to receive updates on relevant topics while drafting it. She finished the note and forgot all about the posting — until, that is, she received an alert directing her to a citation of her own work.

This fall, Martone will be clerking for Magistrate Judge Ramon E. Reyes, Jr. '92 in the United States District Court for the Eastern District of New York.

MEGHAN O'MALLEY '11 **Presented at City Hall for** **Town + Gown Project**

Meghan O'Malley '11 was chosen to make a presentation at City Hall on November 22, 2010 as part of her participation in the New York City Department of Design and Construction's (DDC) Town+Gown project. Town+Gown is a program coordinated through DDC that creates partnerships between the academic community and New York City construction agencies to identify practical, data-based research projects. Students participating in the Town+Gown program are supervised by Terri Matthews, DDC's policy analyst and the Director of Town+Gown, and typically come from urban planning schools. Brooklyn Law School is the only law school involved in the program.

O'Malley spent a semester in Professor Debra Bechtel's Transactional and Community Development Externship and a semester of independent study analyzing the State and City Environmental Quality Review Acts and regulations to assess whether they may unduly impede affordable housing development and inappropriately favor low-density development. One of the most compelling points of her research is that increases in density, which have historically been

considered to be a negative environmental impact, should in some instances be encouraged as a way of reducing greenhouse gases.

"It is very much to our credit that BLS is the only law school currently involved in the Town+Gown program along with the City's top urban planning and public policy schools," said Professor Bechtel. "Our extensive externship program coupled with our joint degree in law and urban planning really makes us a great resource for government agencies seeking to involve students in real life research questions and policy challenges."

The paper O'Malley described in the first annual Encore Presentation to city officials on November 22 also appeared in the *Town+Gown Research Review*, a publication highlighting the students' research and recommendations.

KATE WOOD '11 **Received Brennan First** **Amendment Fellowship**

Kate Wood '11 has been awarded the William J. Brennan First Amendment Fellowship to work at the American Civil Liberties Union (ACLU) for one year. The prestigious Fellowship was created for young lawyers at the beginning of their careers to receive training and experience in First Amendment advocacy, and to help the ACLU advance its First Amendment goals. In September, Wood will join the Speech, Privacy and Technology Project, which handles a full docket of First Amendment cases.

This fellowship will mark Wood's return to the organization; she also worked there for three years after earning her B.S. at New York University. The highlight of those years, she recalls, was her participation as a paralegal in a four-week trial that successfully challenged the Child Online Protection Act,

a federal law that would have criminalized certain speech on the Internet.

But it was not her first free speech campaign. "I was a huge First Amendment rights advocate in high school," she said. "I started a group to help give a voice to students who were often silenced."

Wood said she was drawn to Brooklyn Law School by its "many rich resources for public interest law students." She was awarded both an Edward R. Sparer Public Interest Fellowship and a Brooklyn Law Students for the Public Interest (BLSPI) Fellowship. As a Sparer Fellow, she interned at Advocates for Children, working to obtain appropriate educational services for special education students. As a BLSPI Fellow, she interned at Children's Rights, participating in a class action lawsuit challenging aspects of the child welfare system.

In addition to the Fellowships, Wood was also a research assistant to Professor Cynthia Godsoe, an expert on children's rights, juvenile justice, and education issues. She interned at the National Coalition Against Censorship, and was a Notes & Comments Editor of the *Brooklyn Journal of Corporate, Financial and Commercial Law*. Her note, "Credit Card Act of 2009: Protecting Young Consumers or Impinging on Their Financial Freedom?" addresses issues arising from the legislation, including its disproportionate impact on low-income students and failure to protect the privacy of college students.

Of all her law school activities, Wood is especially proud of her work as co-chair of the Suspension Representation Project, a fast-growing law student organization that represents New York City public school students facing long-term suspensions. It has garnered national recognition with an Exemplary Public Service Award for Student Groups from Equal Justice Works. □

Clinic Roundup



LEFT TO RIGHT: Ft. Hamilton Army Base Staff Judge Advocate Kent Reeder, Adjunct Professor Karen Hennigan, students: Leslie Stephenson '12, Dong-Joo Lee '12, Max Sandgrund '12, Peter O'Neil '11, Allison Schill '12, Eric Ma '12, Meredith Picard '11, and Kevin Levine '12.

New Clinic Focuses on Military Legal Practice

Every year, hundreds of Brooklyn Law School students work in judges' chambers, nonprofits, law firms, and government offices as part of the Law School's highly-lauded clinical program. With 25 different clinics and externships, the program is among the most diverse and comprehensive in the country. As part of its commitment to adapt to changes and developments in the legal profession, the Law School adds new opportunities for students continuously to work on cutting-edge legal topics.

This spring, the Military Legal Practice Externship debuted. The externship is the creation of Special Assistant U.S. Attorney Karen Hennigan, a Major in the Air Force Reserve with 10 years of service with the Justice

"The idea behind the clinic is to expose students to a potential career in the military, and to explore the inner workings of the military legal process so that they can be informed citizens when it comes to the military issues being debated in our nation," said Hennigan. "My hope is that participation in the clinic will give BLS students an advantage in the incredibly competitive JAG selection process. But, even if the students don't pursue careers in the military, they will be more informed."

The Military Legal Practice Externship includes several components. First, each student is assigned to represent the government in an area relating to military legal practice. This semester, students

Counsel Veterans Administration in Brooklyn. During their internships, the students are exposed to a wide variety of military legal topics, including preparing for military courts-martial (working with either defense attorneys or prosecutors); assisting active duty, dependent, and retired military members with family law issues; and defending the government in medical malpractice cases, and reviewing government contracts.

In addition to the hands-on training, the clinic includes weekly seminars on federal and military civil and criminal practice. Hennigan also engages students in discussions of the role of being a government lawyer and the ethics involved in such a career.

At the seminar, guest speakers from the Department of Defense, both active duty and civilian, share experiences about practice as a military attorney. This semester has featured an impressive group of speakers, including an Air Force reservist with extensive experience in human rights law, who was defense counsel to inmates at Guantanamo Bay, a reserve Naval intelligence officer, who discussed the role of the JAG in combat, an Air Force Reserve JAG, who discussed his experience trying military courts-martial, a retired US Army Colonel, who offered the perspective of a military judge, and a former Marine Captain.

The clinic is in high demand and Hennigan hopes to expand enrollment in future years.

"The idea behind the clinic is to expose students to a potential career in the military, and to explore the inner workings of the military legal process so that they can be informed citizens when it comes to the military issues being debated in our nation."

—PROFESSOR KAREN HENNIGAN

Advocate General (JAG) Corps. Hennigan's experience includes a tour in the Republic of Korea, a deployment to the Middle East, and service as an expert prosecutor in numerous high-profile courts-martial, including the successful prosecution of an Air Force JAG Officer with conspiracy to murder his wife.

were assigned to the 305th Air Mobility Wing Legal Office at Joint Base McGuire-Dix-Lakehurst NJ (a prosecutor's office), the Office of the Area Defense Counsel at McGuire-Dix-Lakehurst, the Office of the Staff Judge Advocate at the Fort Hamilton Army Base, and the Office of Regional

CORPORATE AND REAL ESTATE CLINIC PREVENTS FORECLOSURE

In the midst of December finals, two student teams from the Corporate and Real Estate Clinic represented low-income cooperatives in closings, which resulted in \$1.3M in loans to prevent foreclosure. Thanks to the efforts of Amy Handler '11 and Steve DeMizio '11, a 51-unit low-income cooperative in the Bronx received \$800,000 to pay delinquent real estate taxes. Also, as a result of the work of Julia Howard-Gibbon '12 and Chris Colon '11, a 20-unit building in Williamsburg received a loan of \$550,000. Both teams negotiated loan documents, drafted opinion letters, resolved title issues, and met with officers to explain the many lengthy documents. The two-month effort began with reviewing by-laws, commercial leases, insurance certificates and other background information, and led to successful closings in December.

"Without the students' careful attention to all the closing issues, the co-op officers would have had great difficulty getting through the process," said Professor Debra Bechtel, Director of the Clinic. "These buildings faced foreclosure if they didn't receive the loans needed to pay their delinquent real estate taxes. Many problems can surface in the closing process, from unregistered boilers to missing commercial leases and problematic by-law language, so the co-ops really benefit from the careful attention given by these students."

MONUMENTAL WIN ON APPEAL AT HONG KONG REFUGEE ADVICE CENTRE

Each year, less than one percent of asylum appeals brought before the United Nations High Commission on Refugees (UNHCR) are granted. Based on the brief researched and written by Lindsay Ryder '10 and Stephanie Staal '10 as part of a Directed Study Program with the Hong Kong Refugee Advice Centre (HKRAC), an Eritrean refugee was among that one percent: he was granted both asylum and international protection.

The HKRAC, under the stewardship of Executive Director Brian Barbour '08, an alumnus of Professor Stacy Caplow's Safe Harbor Project, is an NGO that trains volunteer lawyers, interpreters, and other NGOs in the protection and promotion of refugee rights and provides legal assistance for asylum-seekers who seek refugee status with the UNHCR.

Six students took part in the Directed Study in International Refugee Law, which was taught by Professors Maryellen Fullerton and Stacy Caplow, and Reference Librarian, International Law Specialist, and Adjunct Professor of Law Jean Davis, the Law School's expert in international research.

In addition to researching and writing appeals from the HKRAC docket, students wrote country reports, researched asylum issues from a variety of legal jurisdictions, and wrote advisory memos. While most of the work was done with the assistance and guidance of their BLS professors, Staal and Ryder were also able to brainstorm via Skype with the lawyers at the HKRAC as to the best way to frame their legal arguments.

"This class is a hybrid between a clinic and a research class," said Staal. "It's sort of like a graduate seminar, and it was a terrific experience. Professor Davis gave us these incredible tutorials. It gives you a great grounding in researching international law."

INVESTOR RIGHTS CLINIC RECOVERS COUPLE'S RETIREMENT SAVINGS

In late January, a team of Investor Rights Clinic (IRC) students completed a three-day hearing before an arbitrator at the Financial Industry Regulatory Authority (FINRA), representing a retired couple in claims brought against their broker and the nation's largest broker-dealer. Christopher Amore '11, Alfonso Iriberry '11, and Bailey Somers '11 comprised the three-person team that handled all aspects of the case, including the hearing itself. Two weeks after the hearing, they learned that they had prevailed. Thanks to their efforts — from discovery to motion practice to developing and perfecting their direct and cross-examinations — their clients won back their retirement savings. The win was even more meaningful given that they argued the case against a major Chicago securities law firm, which represented the respondents.



Investor Rights Clinic students Christopher Amore '11, Bailey Somers '11, and Alfonso Iriberry '11 with Professor Karen J. van Ingen.

"Having a case go all the way to arbitration is rare, and afforded us the invaluable opportunity to participate in every step of the arbitration process," said Somers. "This case taught me that with hard work and preparation, it's possible to take on an adversary with many more resources at its disposal and still achieve a positive result for the client."

"The students' ability to work well as a team was gratifying for them and for me," said Professor Karen J. van Ingen, Director of the IRC. "The IRC functions like a small litigation firm, and each student team has both the opportunity to develop lawyering skills and also the responsibility for the progress and successful completion of each step of a real client's case," added van Ingen.

"This process taught me to expect the unexpected," said Iriberry. "Trial and arbitration strategies have to change on the fly, and dealing with the 'behind-the-scenes' matters on the spur of the moment was more unnerving than actually presenting the ready-made portions of my argument to the arbitrator." □



A World of Opportunity

BLS Fellows Work around the Globe,
Gaining Enriching International Experience

By Andrea Strong '94 and Bethany Blankley

Reaching beyond

the borders of both the Law School and the nation, a growing number of BLS students work abroad — for the United States government, for international human rights organizations, for the United Nations, and other NGOs — reflecting the ever-increasing globalization of law practice and the role of U.S. lawyers and law students in shaping it.

BLS students receive support for their summer work from a variety of sources. The International Human Rights Fellowship Program provides a stipend to students who work on freedom speech, international criminal justice, and other human rights issues. The International Law Society's Global Justice Fellowship supports students who work on international or comparative law work abroad through fellowship money this student-run organization raises throughout the academic year. The Edward V. Sparer Public Interest Fellowship program provides support to BLS students who devote their summers to work with public interest organizations in the United States or abroad. And last summer, the Law School jointly sponsored a new clinic with the Hong Kong Refugee Advice Centre in China. The Centre provides pro bono legal services to refugees seeking protection from the United Nations Commission for Refugees in Hong Kong. Notably, the director of the Centre is Brian Barbour '08, who participated in the Law School's Safe Harbor clinic when he was a student.

"Our fellowships provide extraordinary professional and life experience to students who are embarking on long and meaningful careers in international public and private law," said Interim Dean Michael A. Gerber.

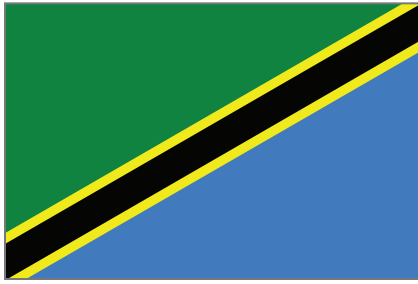
In addition to the opportunities they provide for students to become immersed in diverse cultures, the fellowships allow students who already have a deep commitment to international law to receive meaningful hands-on training in this field. Many fellowship recipients find themselves working on the same complex legal issues that dominate today's international headlines. As a result, these fellowships have become some of the most coveted opportunities at Brooklyn Law School.

"In the last two years, we have seen a dramatic increase in the number of students looking to work abroad," said Julie Sculli, the Law School's Academic Services Coordinator, who advises students interested in working abroad. Sculli and the International Law Society have collaborated to develop a program for students interested in learning more about the Law School's varied international opportunities. The program offers periodic information panels, at which students who have spent time abroad recount their experiences, sharing practical knowledge they gained through their travels and advice on living and working abroad. These accounts are so compelling that many attendees choose to follow in the panelists' footsteps, often working in the very positions the panelists held during their time abroad.

"These fellowships have given the Law School a significant and impressive presence outside the United States," said Maryellen Fullerton, professor of international law and an expert in refugee and asylum law, who helped establish the International Human Rights Fellowship in 2007. "They provide students with incredible international legal experience and — more importantly — with a more nuanced understanding of the incredible good the law can accomplish in an international public interest framework."

The students highlighted on the following pages traveled around the world this past summer under the auspices of the Law School's fellowship programs to work on key issues in the public interest. Whether crusading for the environment in China, representing U.N. employees at the Office of Staff Legal Assistance in Kenya, or prosecuting *genocidaires* in Tanzania, these fellows had the opportunity to perform what many would consider the legal work of a lifetime — and all before receiving their law degrees, no less.

Arusha, Tanzania



LAURA GRETZ '12 & HANNA MORRILL '12

U.N. International Criminal Tribunal for Rwanda

Laura Gretz '12, an International Human Rights Fellow, and Hanna Morrill '12, a Global Justice Fellow, interned in Arusha, Tanzania at the U.N. International Criminal Tribunal for Rwanda (ICTR). The ICTR was established to prosecute individuals responsible for the genocide and other serious violations of international humanitarian law committed in Rwanda in 1994.

Gretz, who is a member of the BLS International Law Society and a co-chair of its Human Rights Committee, worked closely with prosecution teams to convict the *genocidaires* by reviewing witness testimony and writing and editing motions filed with the Trial Chamber. In the process, she was immersed in the world of international criminal procedure and became all too familiar with the bureaucratic and administrative hurdles that must be cleared in order to eventually reach a just end.

"I was able to travel to a total of six countries in East Africa, and this gave me a much clearer perspective on conflicts in this region of the world and the relevance of international law, which will continue to grow throughout this century," said Gretz.

She first became interested in international human rights law while interning in the office of the Suffolk County District Attorney after her freshman year at Trinity College. "I was in court all the time and I was intrigued by the presence of the court-assigned translator

and the impact that he had on the ability of the non-native speakers of English to adequately face the charges against them," she said. "It got me thinking about potential human rights pitfalls and legal injustices, and also inspired me to improve my own foreign language skills in order to communicate better and help others."

After completing her work with the D.A.'s office, Gretz honed her Spanish and spent her junior year abroad in Santiago, Chile. At the University of Santiago, she took a course on International Human Rights Law and joined the Pro-Emancipation Movement of the Chilean Woman Organization, an NGO working to empower women by offering instructional workshops on everything from registering to vote to using the Internet. When she returned to the States, she joined Cravath, Swaine & Moore LLP as a paralegal, where she worked for three years before enrolling in Brooklyn Law School to pursue a career in international human rights law.

Gretz is a candidate for a Certificate in International Law with a focus on human rights. This past fall, she was an intern at Human Rights First in its refugee protection program, and in the spring semester she was an intern at Safe Horizon, the nation's largest provider of services and

internship." She developed an interest in international issues as an undergrad at Macalester College. Morrill worked at the Minnesota International Center, helping to bring international visitors to the United States, and at the Immigrant Legal Advocacy Project, conducting research on client persecution and refugee status.

Morrill is also pursuing a Certificate in International Law, and this summer she will be working at the International Criminal Court in The Hague with the Office of the Prosecutor in the Democratic Republic of the Congo Division.

At the ICTR, Morrill was assigned to the prosecution of one case. To establish a true account of the events in question, she conducted legal research concerning admissibility of witness testimony and hearsay evidence post-trial. She also compiled witness testimony and background information in preparation for the judges' site visits to Rwanda.

For Morrill, the extensive review of witness testimony was the most difficult part of the job. "You're reading transcripts of the most horrific events, and it's extremely tough to process," she said. "Unfortunately, once you read enough of it, you start to get numb to the accounts, which is also very hard to grapple with."

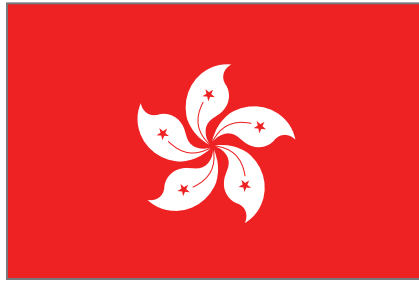
"I came away from the summer resolved to pursue a career in international law and happy knowing I have experience that will help me in the future." —Hanna Morrill '12

programs for victims of domestic violence, child abuse, human trafficking, rape, and sexual assault.

While Gretz worked as a prosecution intern at the ICTR, Hanna Morrill was assigned to its Judicial Chambers, where she assisted in drafting and editing portions of judicial opinions. The position was a natural fit for Morrill. "I have always been interested in international human rights and international criminal law, and the ICTR was my first choice," she said. "It was an ideal

Like Gretz, Morrill said her experience opened her eyes to the bureaucratic challenges of an international prosecution. "Now it's easy for me to spot the obstacles that an international tribunal faces," she said. "It's rather surprising to see the impact that the Tribunal has had on international law given the hurdles it faces. I came away from the summer resolved to pursue a career in international law and happy knowing that I have experience that will help me in the future."

Hong Kong, China



DAVID HATTENDORF '11 & ARI COHEN '11

The Hong Kong Refugee Advice Centre

Ari Cohen '11 and David Hattendorf '11 spent the summer at the HKRAC, the only dedicated provider of pro bono legal aid to refugees seeking the protection of the United Nations High Commissioner for Refugees (UNHCR) in Hong Kong. Stacy Caplow, Director of BLS's Safe Harbor Project, initiated the relationship between the HKRAC and the Law School, and also created a semester-long directed study program with the HKRAC, in addition to these summer clinical opportunities.

Cohen and Hattendorf worked as case-workers, interviewing potential clients, preparing their applications for refugee status, and appearing at proceedings conducted by the UNHCR. Prior to beginning their work, Cohen and Hattendorf went through an intensive two-day training program coordinated by HKRAC staff attorneys along with Professor Caplow. "The training we received was very valuable to the entire experience, and I think it will prove to be valuable in the future, as well," said Hattendorf. "It was also great to have the chance to talk to Brian Barbour about the momentum he is trying to build toward modernizing immigration procedures there."

Hattendorf was assigned to represent a client from West Africa's Togolese Republic who was at the first stage of applying for refugee status. He spent the summer interviewing the client, drafting legal documents for his case, and finding an expert to testify in writing

on his behalf. Under the supervision of staff attorneys, Hattendorf presented his client's story, along with a brief on the background of his country, in support of his application for asylum before the UNHCR. Hattendorf was also assigned to several cases on appeal before the UNHCR, including one on behalf of a Pakistani refugee who had been awaiting a decision for four years when the HKRAC began representing him. Hattendorf, with the help of staff attorney Christine Lin, won the appeal. "I put a lot of hours into that case, and after I left Hong Kong, Christine polished the presentation, prepped the client, and attended the interview," said Hattendorf. "I'm very happy for my client." Hattendorf's most meaningful moments came from interviewing clients and writing briefs on their behalf. "Their stories are often very sad," he said. "So when you win a case, you really feel like you have changed the course of someone's life."

Prior to Law School, Hattendorf studied business at the University of Washington and worked as a Senior Financial Analyst at T-Mobile, but his plan all along was to attend law school and explore international law. During his second and third years at BLS, Hattendorf participated in the Safe Harbor Project, where he successfully represented a Haitian asylum-seeker before an immigration judge. He also spent a semester as Professor Caplow's research assistant, where he summarized circuit court cases on asylum applications predicated on China's forced population control policy. He was drawn to the opportunity at the HKRAC predominantly because it was a chance to receive hands-on experience in refugee law abroad. Hattendorf returned to Hong Kong this spring through the Law School's semester abroad program to study at Hong Kong University. He hopes to move back to Asia permanently after graduation and to practice human rights law.

Unlike Hattendorf, Ari Cohen did not have prior experience in refugee law before interning at the HKRAC. After two years as a fifth-grade teacher

at a Bronx public school, he came to the Law School with a desire to continue to advocate for children. In his first year, he founded the BLS chapter of the Suspension Representation Project ("SRP"), a program that represents New York City public school students at suspension hearings. Under Cohen's leadership, the SRP recruited an eight-member executive board and 70 student advocates who are trained to interview and represent students at suspension hearings. The SRP received the Equal Justice Works Exemplary Public Service Award for 2010.

The transition from child advocacy work to refugee law came about on the recommendation of Professor Caplow, a mentor of Cohen's, who suggested that the opportunity at the HKRAC might suit him. Although Cohen had no experience in refugee law, he was intrigued. "I had worked with students in need and had experience interviewing and representing them at hearings," he said. "I thought it would be a good fit because I could put these skills to good use, and because Hong Kong was a place I had always wanted to live."

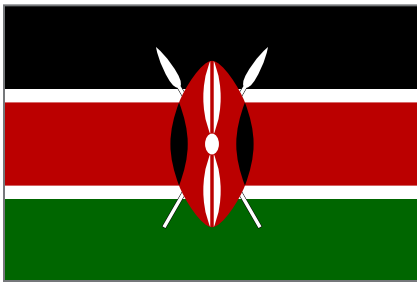
Caplow's instinct was right. Cohen relished both the substantive legal experience and the adventure of living abroad. "It was an extraordinarily rewarding experience," he said. "I loved working one-on-one with my clients." At the HKRAC, Cohen interviewed new clients, including a Sri Lankan Tamil and an Afghan refugee, but spent most of his summer representing two Somalian clients, one who was applying for refugee status and another who was on appeal. While the appeal was denied on credibility grounds, Cohen was successful in representing his other client, who was granted refugee status two weeks after Cohen returned to the States.

"These are situations I read about in the news — the civil war in Somalia, the war in Afghanistan, and the strife in Sri Lanka — and at the HKRAC I had the opportunity to hear the stories first hand," said Cohen. "That was the best part of the experience for me. It brought the real world to life."



L TO R: Roy Anderson '11, Brigitte Hamadey '12, Gillian Cassell-Stiga '11, Anna Ansari '11, Hanna Morrill '12, Megan Hjelle '12, Jane Li '12, and Laura Gretz '12. **NOT PICTURED:** David Hattendorf '11 and Ari Cohen '11, who were in Hong Kong.

Nairobi, Kenya



ROY ANDERSON '11

United Nations Office of Staff Legal Assistance

Roy Anderson '11, an International Human Rights Fellow, spent his summer in Nairobi, Kenya, interning with the United Nations Office of Staff Legal Assistance (OSLA). OSLA is a relatively

new United Nations unit, established in July 2009 to provide legal advice and assistance to U.N. staff in administrative and disciplinary matters. As an intern with OSLA, Anderson assisted the OSLA legal officer who is effectively the sole advocate representing U.N. staff on the continent of Africa. He was responsible for drafting and filing motions, assisting at U.N. hearings, and representing U.N. employees.

"It was the equivalent of being a Legal Aid lawyer for U.N. employees," he said. "In fact, that's how they describe the position. I was interviewing clients, taking testimony, and filing motions. It was a phenomenal experience."

For Anderson, the opportunity was not only a great legal experience, but also a way to return to a continent to which he had developed strong ties over the years. Anderson first visited Africa on a safari

as a youngster. He later returned as part of Fordham University's Global Outreach Program in South Africa, where he was part of a competitively selected team of ten volunteers conducting a month-long immersion study of the South African AIDS pandemic. He climbed Mount Kilimanjaro with his father in 2002, traveled throughout East Africa with a friend after graduating from college, and summited Mount Kenya during his summer with OSLA.

Between college and law school, Anderson spent a year as a member of the Jesuit Volunteer Corps and worked at a high school in South Central Los Angeles coordinating a work-study program designed to subsidize the school tuitions of at-risk African-American and Latino youths through employment opportunities.

“I was privy to the inner workings of United Nations administrative law. The fellowship also provided me with the opportunity to live and work in one of the most culturally rich and awe-inspiring countries on Earth. Without a doubt, those were the most amazing three months of my life.” —Roy Anderson ’11

Anderson continued to pursue his interest in international studies at the Law School. He participated in the Safe Harbor Project and interned at the African Services Committee in Harlem, where he provided legal services to immigrants, refugees, and asylees from the African Diaspora. He was also an extern with the Legal Aid Society’s Criminal Defense Division and at the New York State Attorney General’s office Civil Rights Bureau.

“The experience at OSLA was unforgettable,” said Anderson. “I was privy to the inner workings of United Nations administrative law. The fellowship also provided me with the opportunity to live and work in one of the most culturally rich and awe-inspiring countries on Earth. Without a doubt, those were the most amazing three months of my life.”

Beijing, China



JANE LI ’12

National Resources Defense Council

Jane Li ’12, who studied international politics as an undergraduate at Georgetown University, has always been drawn to issues of international human rights. While in college, she became involved in the movement to stop the genocide in Darfur, Sudan, working as a conference

organizer for Students Taking Action Now: Darfur. After college, she began working at Save Darfur as a field organizer and then joined the Open Society Institute’s Public Health Program where she contributed to the development of a one million dollar funding strategy for an Access to Medicines initiative aimed at increasing access to essential medicines on a global scale.

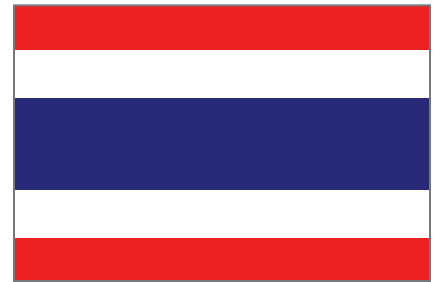
As a Sparer Public Interest Law Fellow, Li spent her summer as an intern at the Beijing office of the National Resources Defense Council (NRDC). The NRDC is an environmental action organization based in the U.S., working with local partners in China to address some of the world’s greatest environmental challenges and help craft innovative solutions that create a cleaner and healthier environment.

At the NRDC, Li was asked to draft a memo detailing citizens’ private rights of action, an environmental law enforcement mechanism available in the United States. She was tasked with analyzing Taiwan’s experience with citizen suits, as well as challenges to introducing citizen suits to China. Her memo will be used to inform Chinese judges and policymakers about the importance of citizen suits to the process of increased environmental governance. She also worked on several side projects including conducting research and writing blog posts for the NRDC’s China Greenlaw blog.

Li found her work in Beijing to be incredibly rewarding. “I was excited to be a part of building a rule of law and a culture of compliance in China,” she said. “It was interesting to observe how the office worked with the Chinese government on social justice and environmental issues, while still respecting the government’s policies. It was fascinating to see the diplomacy involved in

taking incremental steps to get to where the NRDC wants to be in the long term. I also learned how to work outside my comfort zone, in a different country, with a different language. And the fellowship underscored my desire to work on international issues.”

Bangkok, Thailand



BRIGITTE HAMADEY ’12

United Nations Inter-Agency Project on Human Trafficking (UNIAP)

Well before Brigitte Hamadey ’12 set foot in her first law school class, the seeds of her future as an international human rights advocate were already sown. As an undergraduate at Boston College, she managed to talk her way into an internship at Boston College Law School’s Immigration and Asylum Clinic, where she spent a year interviewing asylum seekers and drafting country condition reports. She spent one summer interning at the Coalition for the International Criminal Court (CICC), and another summer living in Santiago, Chile, interning for a human rights organization processing claims on behalf of victims of the Pinochet dictatorship. After graduating with a degree in International Studies in 2006, she returned to the CICC for three more years, becoming a program and outreach associate.

At Brooklyn Law School, Hamadey's interest in international human rights law, and specifically in criminal prosecutions, has remained strong. She is the co-chair of the Human Rights Committee of the International Law Society, and as an International Human Rights Fellow, she spent last summer working at the United Nations Inter-Agency Project on Human Trafficking (UNIAP), a position that offered her a chance to work on policy and legislative issues.

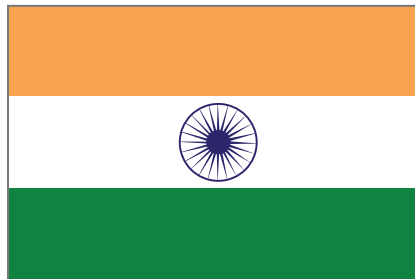
Hamadey worked with the UNIAP team that focused exclusively on the Mekong sub-region, assisting its efforts to combat human trafficking, the third most profitable criminal industry in the world. Specifically, Hamadey participated in campaigns to monitor and prevent trafficking in the Thai fishing sector and analyzed the effectiveness of the U.N. Palermo Protocol to Prevent, Suppress, and Punish Trafficking in Persons in the region. As part of her internship, she wrote a comprehensive report on cross-border cooperation between governments, with an emphasis on prosecutions. Her report was presented to more than 30 U.N. members.

"This uphill battle requires tremendous dedication by the public interest sector, such as NGOs and IOs, in addition to government actors," said Hamadey. "Progress will likely be stagnant without improved implementation and prosecutions in this field of law. The role of UNIAP is also increasingly important in eradicating the very grave and prevalent international crime of human trafficking."

Now in her second year of law school, Hamadey is working at the Open Society Justice Initiative, where she provides legal analysis on international human rights cases in Central Asia involving torture, and is conducting legal research on remedies and implementation for international human rights cases. This summer, she will use her Sparer Fellowship to fund an internship at the Special Tribunal for Lebanon, a U.N. tribunal mandated to prosecute those responsible for the February, 2005 attack on Beirut in which

former Prime Minister Rafiq Hariri was killed. As for the future, she hopes to continue to do more of the same. "I feel very lucky to have found my passion in international criminal human rights law," she said.

Bangalore, India



MEGAN HJELLE '12

The Alternative Law Forum

Megan Hjelle '12, a Sparer Public Interest Law Fellow, spent her summer researching Indian policy and legislative reform for the Alternative Law Forum (ALF) in Bangalore, India. Hjelle chose to work with ALF, a collective of lawyers working on a range of social justice and advocacy issues, because of its unique approach to lawyering.

"ALF's lawyers practice what they've called 'insurgent jurisprudence' with a broad human rights foundation," said Hjelle. "Its lawyers litigate cases, including a recent case in which the Delhi High Court struck down the law that made homosexual sex illegal. They also compile international policy reports on a variety of

issues, teach courses at the National Law School, sit on boards, head social action committees, hold community conferences, and engage in community and national advocacy, among other things. I wanted to experience working under such a unique, intensive model of lawyering."

At ALF, Hjelle researched the rape law reform movement in several countries and compiled her findings in a report recommending a change in India's rape law to allow men to be characterized as victims of sexual assault. "I've always been interested in different cultures and in considering issues within different cultural contexts," said Hjelle, who had already been fighting for the rights of survivors of human trafficking before entering law school. A cultural anthropology major at the University of California at Berkeley, Hjelle worked at the Coalition to Abolish Slavery and Trafficking, and then spent several years at the Safe Horizon Anti-Trafficking Program. "It was impossible to ignore the forces enabling trafficking in both the source countries and the destination countries," she recalled.

Hjelle, who interned this spring at the U.N. Office of Staff Legal Assistance, said her experience at ALF was meaningful on many levels. "I lived and worked in Bangalore, which is an amazing city, and I did a lot of travelling," she said. "I was able to work with some of the most well-rounded and tireless advocates I've ever met. Perhaps most importantly, I was able to observe a unique way of conceiving of a lawyer's role in the community, which I know will shape my own goals as a lawyer."

"I was able to work with some of the most well-rounded and tireless advocates I've ever met. Perhaps most importantly, I was able to observe a unique way of conceiving of a lawyer's role in the community, which I know will shape my own goals as a lawyer."

—Megan Hjelle '12

Quito, Ecuador



GILLIAN CASSELL-STIGA '11

International Rights Advocates

As an International Human Rights Fellow, Gillian Cassell-Stiga spent the summer in Quito, Ecuador, interning at International Rights Advocates (IRAdvocates), the litigation arm of the International Labor Rights Fund, which was formed to pursue innovative legal mechanisms to hold corporations and governments accountable for human rights violations worldwide. The job was a perfect fit for Cassell-Stiga, who lived in Latin America after college, and who has always had an interest in corporate accountability for violations of human rights.

As an undergraduate at the University of Pennsylvania's Wharton School of Business, Cassell-Stiga worked for the Kensington Welfare Rights Union, travelling across the United States with the Poor People's Economic Human Rights Campaign, organizing education programs and working on food stamp enrollment and outreach. A fluent Spanish speaker with a passion for Latin America, Cassell-Stiga moved to Cusco, Peru after graduating from college. While in Peru, she became the program coordinator for GirlSportWorks, a social and educational program for girls in underserved Andean communities.

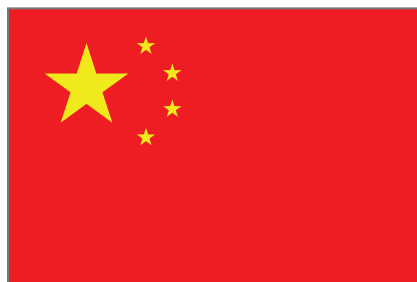
After returning to the States, Cassell-Stiga moved to Washington, D.C. and took a position at Competition Policy Associates as a research analyst, providing economic reports for scholars and government agencies, including the Federal Trade Commission and the Department

of Justice. She also pursued her interest in public service by initiating and coordinating a volunteer program to provide math tutoring at a local elementary school.

At the Law School, Cassell-Stiga has continued to excel, earning not only the International Human Rights Fellowship, but the Sparer Public Interest Law Fellowship and the International Business Law Fellowship as well.

The position at IRAdvocates offered her the opportunity to combine her love of Latin American culture with her desire to advocate for marginalized groups. In Quito, Cassell-Stiga worked directly with victims and worked on human rights litigation brought in U.S. federal courts by foreign plaintiffs under the Alien Tort Statute (ATS). "I felt as though I was making a significant difference in the lives of victims whose appeals for help had often gone unanswered," she said. "I decided to attend law school because of my desire to contribute to corporate accountability in human rights, and this summer furthered my commitment to the legal profession."

Beijing, China



ANNA ANSARI '11

U.S. Department of Commerce, U.S. Embassy

Anna Ansari '11, co-president of the International Law Society, spent the summer at the U.S. Department of Commerce in Beijing with the support of a BLS Public Service Grant. For Ansari, the placement was ideal. Her interest in China dates back to 1997, when she was only 15 years old and first studied

in China as part of her high school's year abroad program. "Since then, every career and academic move I have made has pushed me further toward my goals of working in China," said Ansari, who speaks fluent Mandarin and holds an undergraduate degree from Barnard and a master's degree in East Asian Studies from Yale University.

Ansari, who is studying at the University of Hong Kong for the semester as part of the Law School's exchange program, came to BLS with the intention of pursuing a career in law that would allow her to further explore her interest in China; it was at BLS, however, that she realized that she wanted to pursue international trade and customs law. Her internship at the Department of Commerce has helped to develop her skills and knowledge base in this field.

With her unique background and skill set, she was able to research and analyze Chinese legal developments and their effect on U.S. business interests in China for the Foreign Commercial Service, and review and analyze Chinese development plans for WTO-level subsidy issues for the Import Administration. Most significantly, she represented the Department of Commerce at a meeting with the president of the American Bar Association, Carolyn Lamm, in a discussion about market access for U.S. law firms, and met with the current U.S. Ambassador, Jon Huntsmann, to discuss the role of the rule of law in China.

She was also able to explore her interest in international trade law, researching potential future subsidy issues in conjunction with the U.S. International Trade Association and American investment strengths and weaknesses in China for the U.S. Commercial Service. "This internship was unparalleled and truly a dream come true," she said. "I've wanted to work at the U.S. Embassy in Beijing for over a decade. I am so grateful that my BLS career advisor found the listing for me and helped me realize that dream." □

An Era of Transformation: Strategic Leadership Fosters Exceptional Growth



When Associate Dean Joan G. Wexler became Dean of Brooklyn Law School in 1994, it was in some respects the best of times, and in other respects the worst of times.

The Law School that her predecessor, the late David G. Trager, had left to her was newly thriving and in excellent condition, and, early in Wexler's tenure, the U.S. and New York economies began one of their longest boom periods in history. Not every circumstance, however, was favorable. For example, during the early years of Wexler's deanship, the legal market was severely depressed and applications to law schools plummeted nationwide.

Applicants who would have been happy to enroll at BLS were discouraged by the high cost of housing, and the Law School, for the first time, had a mortgage to service. The annual debt service on the Dormitory Authority bonds issued to finance the 1994 addition to the main building was \$2.4 million, which, at the time, was close to 10% of the budget. Increasing income by increasing the size of the student body was not an option. Nevertheless, thanks to Dean Wexler's prudent but creative management and successful fund raising, the Law School not only endured but thrived during this challenging period. And the Law School's financial profile improved dramatically from when she first became Dean until she stepped down: its assets grew from \$46 million to \$140 million, and the endowment grew from \$20 million to \$76 million.

Over the course of Dean Wexler's 16-year deanship, the Law School achieved new heights in every key area. The record is a textbook example of how, through strong leadership, progress in one area results in progress in another area, producing synergies that strengthen the entire institution.

1993

ASSETS
\$46 MILLION

ENDOWMENT
\$20 MILLION

2010

ASSETS
\$140 MILLION

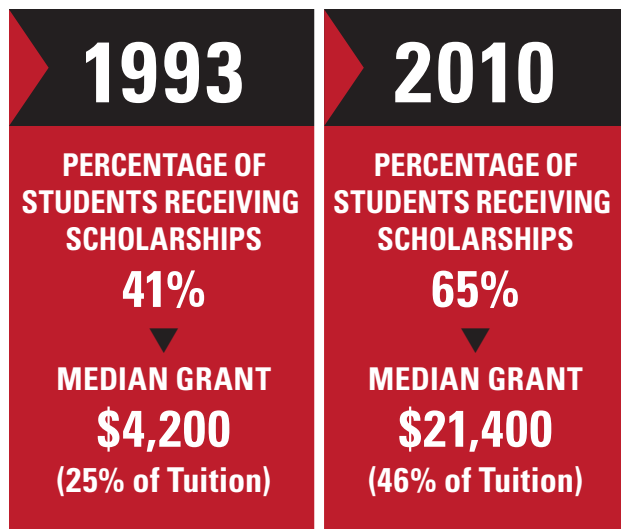
ENDOWMENT
\$76 MILLION



Admissions and Financial Aid

For example, the class that entered the Law School in the fall of 2010 was dramatically different from the class that entered in the fall of 1993. In 1993, the median LSAT score of entering students was 157. In 2010, it was 163. During this same period, the number of minority students increased from 15.5% in 1993 to 24.9% in 2010. Last October, the influential *Leiter Report* ranked Brooklyn Law School 41st in the nation for student quality.

The percentage of students receiving grants increased from 41% to 65% and the median grant amount increased from \$4,200 (or 25% of tuition) to \$21,400 (46% of tuition). Dean Wexler introduced two new aid programs for African-American and Hispanic students. She created the Public Service Grant Program, which provides support to students who serve as interns with courts, government agencies, or public interest law offices. Two other fellowship programs were established: the Zaretsky Bankruptcy and Commercial Fellowship and the International Human Rights Fellowship Program (see page 20 in this issue of *LawNotes*). In addition, graduates benefitted from her support of the Loan Repayment and Assistance Program. Since 1994, approximately \$2.5 million has been given out to graduates working in the public interest.



Over the course of Dean Wexler's 16-year deanship, the Law School achieved new heights in every key area. The record is a textbook example of how, through strong leadership, progress in one area results in progress in another area, producing synergies that strengthen the entire institution.

Alumni Relations and Communications

The ability to give increased aid to students is due in no small part to Dean Wexler's ability to elicit alumni support. During the 93-year history of the Law School from 1901 to 1993, 69 endowed scholarships were created. During the Wexler deanship, 61 new endowed scholarships were created, and Annual Fund giving increased by 147%. During this same period of time, major gifts would enable BLS to build Feil Hall (named in honor of Jeffrey J. Feil '73 and the Feil Family Foundation), which includes the Forchelli Conference Center (named in honor of Jeffrey D. Forchelli '69) and Geraldo's, the student café (named in honor of Geraldo Rivera '69). A major gift from Irwin B. Cohen '58 supported the renovation of the main building lobby, which is named in honor of Irwin B. Cohen and his wife, Jill Cohen.

Renewing and strengthening alumni ties were among Wexler's key agendas as Dean and it continues to be a critical focus of her work as President. This spring, she inaugurated the President's Advisory Council, an advisory board of distinguished graduates and friends of the Law School. This is only the most recent example of her alumni outreach efforts. Understanding that two of the Law School's greatest strengths are its distinguished alumni network and its talented student body, she made a mission out of bringing both constituencies together. She introduced the Dean's Roundtable Lunch series, which continues to attract prominent alumni to the Law School each year to meet students in a small informal setting. She

NOTEWORTHY ACHIEVEMENTS

- ▶ 11 named faculty chairs
- ▶ 100 new courses
- ▶ Two new Centers
- ▶ Two new Journals
- ▶ 69 new endowed scholarships
- ▶ Four named lecture and symposia series
- ▶ Visiting Assistant Professor Program
- ▶ Seven International Study Programs

created the Annual Career Conversations Fair, bringing alumni back to the school to provide career advice to students.

She started the tradition of taking graduates to Washington, D.C. and sponsoring their admission to the Bar of the Supreme Court, an event that typically ended with a breakfast attended by Justice Ginsberg and Justice Thomas. She took alumni events “On the Road,” to reconnect with alumni in other U.S. cities and abroad. She initiated an alumni online directory, enabling BLS graduates to connect with one another quickly and easily. Even the most recent graduates did not escape her notice. She created a tradition of Recent Graduate Receptions to enable them to keep in touch with one another and the school.

Part and parcel of Dean Wexler’s alumni outreach was the intense communications campaign that she launched. *BLS LawNotes* regularly reaches an audience of 20,000 alumni to keep them informed about the accomplishments of students, faculty, and fellow graduates. She established a Web presence that enables BLS to engage alumni, recruit top students, and maintain its visibility in the legal community. She expanded online communications with a monthly email newsletter, *The Bridge*, and developed an alumni presence on Facebook and LinkedIn.

Faculty and Administration

The quality of BLS students and the financial support of graduates have helped make BLS an attractive place to teach. Under Dean Wexler’s leadership, the Law School appointed more than 25 distinguished tenured and tenure-track faculty members. In a recent *Leiter Report*, BLS ranked 38th nationwide for faculty quality based

on scholarly impact. The School’s ability to attract and retain top faculty members was also strengthened by the 11 faculty chairs that Wexler established, the first in the Law School’s history. With the goal of helping promising young scholars launch their careers, she created the Visiting Assistant Professor Program to enable them to break into law school teaching by spending two years at Brooklyn Law School.

As Dean, Wexler doubled the number of professional career counselors and appointed two staff members to focus exclusively on job development, one in the private sector and the other in the public sector. Drawing on her own personal and professional contacts, she dramatically increased the number of BLS students appointed to distinguished clerkships.

She also never lost sight of the day-to-day need of students and she expanded the Law School’s administrative services with that in mind. She created the new position of Associate Dean for Student Affairs. She also established the Public Service Office to assist students pursuing careers in the public and nonprofit sectors. She expanded the Admissions, Career Center, Financial Aid, and Registrar’s Offices and staffed them with highly skilled professionals. During her tenure as Dean, the IT Department grew from one staff member to nearly 20, and she created an External Affairs Office.

Academic Programs and Intellectual Life

Extraordinary faculty members produce extraordinary academic programs and, while Wexler was Dean, she created an environment in which these programs flourished. She added more than 100 new courses to the curriculum, including seven new clinical programs. Two new joint-degree programs with Pratt Institute (in City and Regional Planning and Library and Information Science) were inaugurated, as was a new LL.M. program for Foreign-Trained Lawyers. Two new Centers of Excellence — the Center for Health, Science & Public Policy and the Center for Law,

1993

APPLICATIONS

4,160

2010

APPLICATIONS

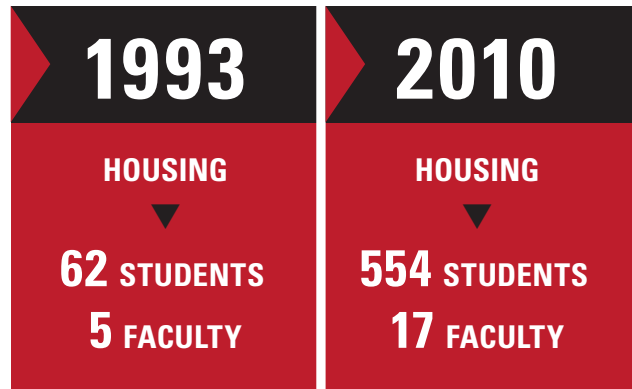
6,000

Language and Cognition — and two new student journals — the *Journal of Law and Policy*, and the *Brooklyn Journal of Corporate, Financial & Commercial Law* — were established. She also supported the development of significant opportunities for students to study abroad, including the first semester exchange and summer programs.

Dean Wexler created an enduring legacy of programs to honor two members of the BLS family. She initiated the annual Barry L. Zaretsky Roundtable, one of the nation’s premier events for bankruptcy lawyers and judges, and she established the David G. Trager Public Policy Symposium. She also created the Ira M. Belfer Lecture Series to honor a long-time member of the Board of Trustees and the Media & Society Lecture Series.

Student Housing and other Capital Projects

At the time she became Dean, the Law School owned residential buildings that housed 62 students and five faculty members. In 2010, the Law School housed 554 students and 17 faculty members. Dean Wexler doubled the number of residential buildings, including Feil Hall, the 22-story residence hall designed by architect Robert A.M. Stern that opened its doors in 2005. Feil Hall itself has had a transformative effect on the Law School. It has enabled the School to attract students and faculty from all over the country and around the world. It has provided a campus atmosphere that did not exist in 1993.

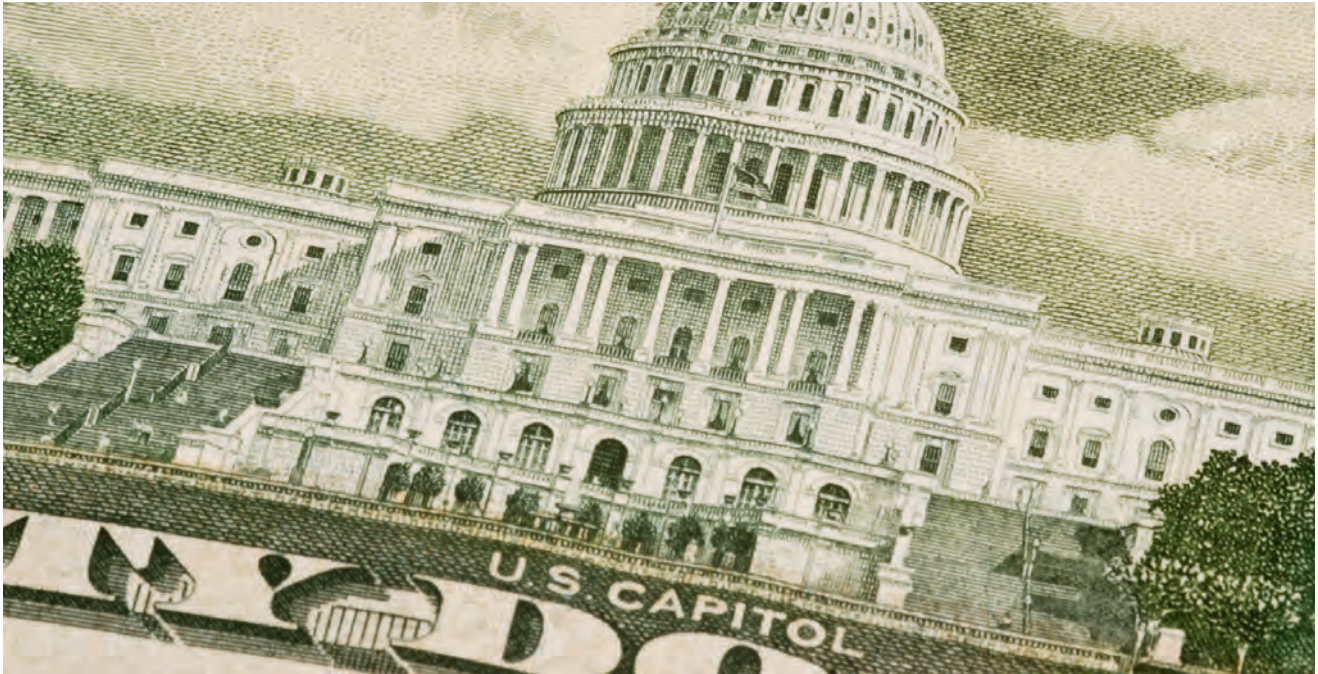


Smaller capital projects undertaken by Dean Wexler — the renovation of all classrooms, the expansion and improvement of the lower level of the Law Library, the renovation of the Student Lounge, the addition of faculty and administrative offices and two new computer labs — have also transformed the School.

Dean Wexler brought immense energy, creativity, and 24/7 dedication to the Law School and to all members of the BLS family. From the look of the Law School, to the richness of the academic program, to the caliber of the faculty and students, her imprint is everywhere. In her new role as President she will continue to build on this legacy. □



Ribbon-cutting ceremony for Feil Hall in 2005. LEFT TO RIGHT: Jeffrey Feil '73, and his mother Gertrude Feil, Paul Windels, Jr., President Joan G. Wexler, Board of Trustees Chairman Stuart Subotnick '68, Jeffrey Forchelli '69, Robert A.M. Stern, Geraldo Rivera '69, Hon. David G. Trager, SBA President Jodi Siegal-Stein '06.



LASTING LEGISLATION: BANISHING THE TEMPORARY TAX CODE

By Professor Rebecca M. Kysar

An old adage insists that “the only things certain in life are death and taxes.” But the rise of sunset clauses—clauses by which a law automatically expires at a certain date—renders more than 200 provisions in the current U.S. tax code quite uncertain. Sunset clauses pervade our current tax code, making the tax system essentially temporary, with Congress renewing its provisions year after year. Several of the largest tax cuts in American history, including not only the estate tax repeal, but also the tax rate cuts of dividends and capital gains, collectively referred to in the media as the “Bush tax cuts,” have included sunset clauses, and it was the impending expiration of the Bush tax cuts that provoked the legislative brinkmanship last year. Just days before the end of the year, the cuts were renewed by Congress—but for only two more years.

This essay summarizes Professor Kysar’s article, *Lasting Legislation*, published in 159 U. PA. L. REV. 1007 (2011).

To compare, in the early 1990s, fewer than two-dozen tax provisions were temporary. Even a decade ago, the notion of a temporary tax code would have seemed implausible. But why does Congress pass temporary legislation and constantly renew it? Why doesn't it simply make these provisions permanent if they have effectively become so? Essentially, complex interaction among legislative rules, budgetary pressures, intense lobbying, and taxpayer expectations has created an American tax system that is permanently expiring.

Surprisingly, some recent scholarship applauds this development as positive, chiefly arguing that temporary legislation provides more reliable budget estimates and an opportunity for Congress to review obsolete or misguided policies. I disagree. Instead, I contend that temporary tax provisions not only lack the benefits advanced by their proponents, but also increase interest group activity, prevent a future Congress from pursuing its own agenda, and produce planning conundrums for public and private actors alike. Accordingly, for nearly all tax law, I advance a policy presumption against temporary legislation and in favor of legislation that does not expire by its own terms, which I call "lasting legislation" instead of "permanent legislation" to highlight that all legislation can still be repealed or amended by a future Congress.

The History of Sunset Provisions

Sunset provisions have a long history in American lawmaking, dating back to the Founding Era. Since then, Congress and state legislatures have applied sunset provisions both narrowly and widely to legislation, government programs, and agency actions. Thomas Jefferson went so far as to propose that all laws, including the Constitution, expire after 19 years. Madison, in response, warned of violent struggles that would occur upon each sunset date. Many decades later, SEC Commissioner William O. Douglas would argue that sunset provisions provided a means to dislodge entrenched interest groups. Advocacy groups pushed for reform in state law, enacting widespread periodic review of laws and agencies in some 35 states. The vast majority of these broad sunset provisions were eventually abandoned after lobbying pressures produced reviews that were costly and of questionable utility.

Since the 1970s, Congress has applied sunset provisions to certain relatively narrow tax provisions, collectively known as "extenders." Congress renews the vast majority of extenders upon the sunset date or shortly thereafter on a retroactive basis. Beginning in 2001, however, Congress began to sunset large pieces of tax legislation in whole, specifically the Bush tax cuts as referred to above. The proliferation of temporary legislation reflects both process (i.e., budgetary rules) and substance (i.e., fiscal pressures). Sunset provisions reduce the official cost of revenue-decreasing legislation and, in this manner, require smaller offsets and, in some cases, bare simple majority in the Senate, under congressional rules.

The Budget Process and Temporary Tax Legislation

Critics have said that sunseting the Bush tax cuts was gimmickry—that no one expected the Bush tax cuts to expire, and therefore their costs were massively underestimated. As we witnessed last December, however, the sunsets carried actual legal consequences that threatened the continued existence of the Bush tax cuts. They are different from other pure budget gimmicks played by Congress.

More recently, it has been argued that temporary legislation produces *more* reliable budgetary cost numbers for Congress than lasting legislation. This is because legislation is scored only through the congressional budget window period. Because extension of temporary legislation requires affirmative action by Congress, at such point of action, Congress must account for the full cost of the temporary program within overall budget constraints. When enacting lasting legislation, on the other hand, Congress typically only confronts the estimated costs generated during the budget window. Because the legislation need not be considered for its effects to continue, Congress does not consider costs outside of this period. For this reason, the argument goes, the official costs of lasting legislation underestimate its full costs since legislators will ignore any forgone revenues beyond the budget window.

There are several problems with this view, however. First, it suffers due to its reliance on the baseline estimate, which ties into the official cost of the legislation. The official cost is simply the difference between the amount of government revenues that occur with the legislation and the baseline (or the amount that would occur without the legislation). For the pro-temporary legislation thesis to be true, baseline estimates must assume that permanent laws will continue but that temporary laws will expire as scheduled.

Although this seems like a reasonable treatment of the baseline, there is nothing to tie Congress's hand to this treatment, and indeed Congress has already assumed most expiring tax cuts within its baseline calculations for purposes of its revenue offset rules. This means it does not have to pay for the extension of expiring tax cuts. Also, both the Bush and Obama presidential budgets manipulate the baseline such that the cost of extending temporary legislation is zero. That is, they assume that the legislation will remain in place even though it will expire by its own terms. For instance, President Obama's 2010 budget assumed within its baseline the continuation of all of the 2001 and 2003 tax cuts. In so doing, the administration's failure to support Bush tax cuts for high-income individuals was counted as *raising* revenue.

In these cases, temporary legislation has no advantage over lasting legislation from a budgetary perspective. The baseline has simply shifted such that there are unaccounted-for costs when reenacting sunsets. This is because the baseline estimate employs an accounting fiction whereby temporary legislation is assumed to have already been renewed *even at the time of renewal*. This is a result so absurd that one would think that the budget estimators have joined Alice "down the rabbit hole." Simply letting cuts expire is a political nonstarter; taxpayers get used to temporary tax cuts, viewing expiration as a tax increase, so Congress and the President manipulate the budget process to accommodate extension.

The Information-Producing and Flexibility Functions of Temporary Tax Legislation

In addition to the theory that sunset provisions enhance fiscal responsibility, pro-sunset scholars also tout sunset provisions' information-producing functions, as well as the flexibility they offer to legislators when dealing with temporary or uncertain problems. Both theory and experience with sunset provisions call into question these purported benefits.

First, lasting legislation, of course, need not be permanent. Congress can repeal or amend lasting legislation that had been enacted based upon poor information, thereby providing Congress with flexibility. To provide a recent example, Congress enacted non-sunsetted legislation in 1993, as part of the Immigration and Nationality Act (INA), codifying the Department of Health and Human Services' travel ban upon HIV-positive foreign nationals. Subsequently, in 2008, Congress amended the INA to lift the ban, reflecting a new scientific consensus about the lack of health risks associated with such travel.

“Temporary tax provisions not only lack the benefits advanced by their proponents, but also increase interest group activity, prevent a future Congress from pursuing its own agenda, and produce planning conundrums for public and private actors alike.”

Additionally, if the initial policy is correct, then lasting legislation is the appropriate course of action. Otherwise, Congress will expend unnecessary energy in an effort to simply maintain the status quo by reenacting the legislation at sunset. Accordingly, to use sunset provisions optimally, the legislature must foresee whether faulty information underlies the legislation or whether intervening events will occur that would necessitate revised policy. It is unlikely, however, that Congress will be able to set the appropriate scope, not to mention the length, of the sunset.

In many cases where sunset provisions are hypothesized to be useful—that is, when incorrect policy influences legislation—legislators may ignore superior information that arises before or at the sunset date and instead succumb to preformed policy preferences. Such willful ignorance of superior information may result from the failure of deliberation to sway congressional members. This lack of success may in turn be due to the influence of interest groups. As mentioned above, the experience at the state level in the 1970s and with extenders suggests that sunset provisions do not function as an effective means of policy review. Instead, interest groups continue to coalesce at each sunset date in order to advance their interests. This arrangement proves lucrative to lobbyists and congressional members, who benefit from the repeated provision of rents upon each sunset.

Disadvantages of Temporary Tax Legislation

INCREASED INTEREST GROUP ACTIVITY

The above discussion has questioned the purported advantages of sunset provisions in producing fiscal prudence, better information, and legislative flexibility. Lasting legislation lacks many of these characteristics as well; however, it is also free of significant disadvantages caused by sunset provisions.

First, temporary legislation likely increases interest-group activity. Interest groups compensate legislators for their efforts toward enactment of the favored policy through campaign contributions, votes, and other benefits. Temporary legislation, through continual threats of expiration, allows congressional members to extract more of the benefits from interest groups than does lasting legislation. The effectiveness of recurring threats for temporary provisions is supported by anecdotal evidence from a lobbyist:

Who wants to lose a client?... With [temporary tax provisions], you know you always have someone who will help pay the mortgage. You go to the client, tell them you're going to fight like hell for permanent extension, but tell them it's a real long shot and that we'll really be lucky just to get a six-month extension. Then you go to the Hill and strike a deal for a one-year extension. In the end, your client thinks you're a hero and they sign on for another year.¹

To be sure, it does seem reasonable to conclude that interest groups will value temporary legislation less than lasting legislation due to its shorter duration. However, campaign finance laws, which limit the amount of contributions a legislator can receive at a given time, cause legislators to push their constituents toward temporary legislation, the smoothing effect of which allows for greater contributions. Additionally, interest groups may value the recurrent short-term deals of temporary legislation more than the long-term bargains of lasting legislation.

AGENDA CONTROL OF A FUTURE CONGRESS

A maxim in constitutional law holds that “one legislature may not bind the legislative authority of its successors”—that is to say, legislatures may not entrench their statutes. To the extent that sunset provisions allow an earlier legislature to terminate a statute, causing the law to revert to its prior incarnation (when the legislature at that time may not wish it to terminate), sunset provisions can fairly be characterized as entrenchment mechanisms. This is because they bind future majorities by crowding out the legislative agendas of future Congresses. For instance, one study undertaken even prior to the dramatic increase in the use of sunset provisions concluded that temporary legislation significantly constrained the agendas of 56 percent of committee chairs.²

Specifically, temporary legislation may interfere with the future majority's ability to set its own agenda in the following manner: if the current legislature passes temporary laws, then the future legislature must consider those it wishes to continue and perhaps devote legislative resources to debating those it

would like to let lapse. If instead the current legislature had passed lasting legislation, the future legislature would need to consider seriously only those provisions it wishes to repeal or amend. In this manner, the default result of lasting legislation is simply continued legislation. By contrast, the default result of temporary legislation is “delegislation,” an arguably more disruptive consequence. This is because a sunset provision causes the law to return to its pre-sunset state—that is, to return to the policy choices of prior “generations” of lawmakers. It is plausible that a future majority would favor the policies of the most recent generation of lawmakers over the policies of past generations. If so, then sunset provisions may more deeply entrench the current majority than lasting legislation by flooding the legislative calendar with bills to reenact the expiring legislation.

PLANNING DIFFICULTIES

Finally, and perhaps most obviously, temporary legislation also complicates planning activities. First, temporary legislation disrupts the planning activities of those it impacts. Although citizens should always expect some turmoil in the law, sunset provisions—unlike repeal or amendment of laws—do not require affirmative action by Congress for the law to change. They thus decrease the durability of the law and increase compliance burdens. For instance, they may incentivize taxpayers to obtain costly tax advice to shift income and deductions between years in avoidance of a sunset date. Moreover, the timing and content of temporary provisions has become largely driven by budgetary process and pressures, therefore taxpayers will find these changes in the law more and more arbitrary and unpredictable. As a result, temporary provisions distort investment decisions. Some publicly traded corporations even identify sunset tax provisions as material risks to their business in their public filings.

Additionally, temporary legislation indicates that Congress is not committed to the durability of its policies. Lasting legislation, on the other hand, may function to commit legislators to future obligations, such as Social Security. This ability to signal commitment is vital to planning the organization of a complex economy and culture such as our own, over a number of years. The coordination of broad social policies—such as Social Security, health care, and employment—across the economy requires a degree of stability, which varying sunset provisions could disrupt.

Recommendation

In light of the critiques of temporary legislation presented here, lasting legislation should be the statutory norm in the tax code. At times, however, it may be necessary to employ temporary legislation. In crisis situations, for example in enacting tax credits for disaster victims, temporary legislation will likely help to build coalitions quickly, to provide a check on a legislature in dealing with hurriedly drafted and enacted legislation, and to return automatically the statutory scheme to the status quo once the emergency has dissipated. Additionally, when Congress intends to legislate in an experimental manner, such as designing an untested investment credit, temporary legislation may be appropriate.

To summarize, contrary to recent claims by scholars, temporary legislation does not enhance fiscal responsibility or provide lawmakers with better information or flexibility. In addition to lacking these purported advantages, sunset provisions have deleterious effects on the public and private sectors. Specifically, their use increases the offer and extraction of campaign contributions from interest groups, entrenches current congressional preferences at the expense of future ones, and complicates the planning activities of those affected. For these reasons, I argue for a policy presumption against temporary legislation and in favor of lasting legislation for the majority of tax law. Doing so necessarily places trust in the constitutional process by which our legislature can amend or repeal a law in a deliberative manner. This architecture has ensured a statutory scheme that has adapted over time to remarkably dynamic environs. It has created lasting, yet living, legislation. □

- 1 Pat Jones, *New Day May Dawn for Sunset Tax Provisions*, 66 TAX NOTES 1587, 1587 (1995) (internal quotation marks omitted).
- 2 See Christine DeGregorio, *Leadership Approaches in Congressional Committee Hearings*, 45 W. POL. Q. 971, 978 (1992) (reporting that committee chairs in the study felt that the review of expiring legislation, or the “reauthorization imperative,” detracted from the time dedicated to other matters in hearings).



Rebecca Kysar teaches and researches in the areas of federal income tax, international tax, legislation, and statutory interpretation. Her recent scholarship examines the tax legislative process and has appeared in the *Cornell Law Review*, the *Georgia Law Review*, and the *University of Pennsylvania Law Review*. She has pre-

sented her scholarship at various forums, including the Columbia Tax Policy Colloquium, McGill University Tax Policy Workshop, the Loyola–LA Tax Policy Colloquium, the NYU Tax Policy Colloquium, and the UCLA Tax Policy and Public Finance Colloquium.

Prior to joining Brooklyn Law School in 2008, Professor Kysar practiced at Cravath, Swaine & Moore, where she was responsible for the tax aspects of complex domestic and international transactions. She also served as a law clerk to Judge Richard Cardamone of the U.S. Court of Appeals for the Second Circuit. In law school, she was a senior editor of the Yale Law Journal and a Coker Teaching Fellow.

Presumed Innocent: Professor Hellerstein Retires

William E. Hellerstein, who retired after 25 years of service to the Law School, was 10 years old when he took on his first case. He was living with his parents in the Bronx, and had a summer job as a delivery boy at Harry's, the local dry cleaner. One morning, Harry called young Hellerstein over with a mission. "I want you to go to the courthouse, and pay this ticket," he instructed. Hellerstein was happy to help, but before he left, he asked Harry why he was ticketed. "Littering," Harry replied. "You know that cat that I leave milk for? The cops ticketed me for that." On the bus down to the courthouse, Hellerstein recalled, "something was gnawing at me."

By the time Hellerstein arrived at the courthouse, he had decided to plead not guilty. The judge informed him that the morning session was for guilty pleas only. He would have to return at two. Hellerstein waited on the steps of the courthouse and returned at two o'clock to tell his story. "I said, 'Judge, it can't be wrong to put milk out for a kitten.' And the judge said, 'That's what this is about? Well, sonny, you're not guilty.'" That was the beginning of everything for me."

Hellerstein went from disputing a littering ticket to arguing before the United States Supreme Court.

After graduating from Brooklyn College, Hellerstein attended Harvard Law School, and then joined the United States Commission on Civil Rights as a staff attorney in the employment and voting rights departments. After one year working undercover in the South, he returned to New York to work as an associate at a civil liberties firm. One year later, he received a call from the Chief of Appeals at the Legal Aid Society. "They offered me half of what I was being paid, but I knew I would argue cases," he said. "So I took the job."

At Legal Aid, Hellerstein was finally in his element. Arguing cases before the New York State Court of Appeals, the Second Circuit, and the United States Supreme Court, he

moved up from staff attorney to Attorney-in-Charge in just five years, and along the way founded the Society's Prisoners' Rights Project and Parole Revocation Defense Unit.

After 21 years with the Legal Aid Society, Hellerstein joined the BLS faculty, initially teaching evidence, constitutional law, and a seminar in constitutional litigation. "At first, I wasn't sure I made the right decision,"



said Hellerstein. "I had been in the pits a long time and I loved it there," he said. "But it was not a mistake. I never had second thoughts about it."

To be sure, Hellerstein never gave up the "pits." Throughout his teaching career he remained connected to practice. He took on pro bono cases assigned by Court of Appeals Chief Judge Wachtler, and in 1990, he became pro bono counsel to Proskauer Rose. The position placed him as chief counsel on many high-profile criminal cases before the Court of Appeals and the Second Circuit. In 1999, he took on the case of Golden Gloves boxer Gerald Harris, who was sentenced to 9 to 18 years for an armed robbery Hellerstein believed he did not commit. Eight years into his sentence, Hellerstein won Harris his

freedom, a victory that planted the seeds for Brooklyn Law School's Second Look Clinic, which Hellerstein started in 2001. It was the only clinic in New York City focused exclusively on non-DNA innocence cases. "The notion that an innocent person might be convicted is an issue Will cares very deeply about," said Professor Ursula Bentele who worked with Hellerstein at Legal Aid. "He is a man of principle."

Over the Clinic's nine-year history, there were several monumental victories, in particular that of David Wong who spent 18 years in prison, wrongfully convicted of murder, before Hellerstein proved his innocence in 2004, and that of Stephen Schulz, who served 9 years for a robbery he did not commit and was freed in 2009.

Hellerstein's devotion to justice, in particular to exonerating those wrongfully convicted, has led to many awards and honors. The New York State Bar Association has honored him twice with awards for "Outstanding Contribution to the Delivery of Defense Services" and "Outstanding Contribution to the Field of Criminal Law Education," and the New York Civil Liberties Union has honored him for his contribution to the cause of civil liberties. He is a Permanent Member of the New York State Justice Task Force established to investigate and identify recurring weaknesses in the criminal justice system that lead to false convictions.

"Will has always stood out as a public interest lawyer almost without equal," said Professor Joel Gora, who befriended Hellerstein early in his legal career. "His unparalleled work as a lawyer and institution-builder at Legal Aid, his teaching and embodying and inspiring the values of public interest law to a generation of BLS students, as well as his creation of the Second Look Clinic, the pro bono work at Proskauer, and the various blue ribbon commissions he has chaired and served — all of these accomplishments represent a singular and pioneering career." □

FACULTY Notes

William Araiza

PUBLICATIONS

- CONSTITUTIONAL LAW: CASES, HISTORY AND PRACTICE (LexisNexis 4th ed. forthcoming 2011) (with M. Medina)
- *The Public Trust Doctrine as an Interpretive Canon* [Symposium article], 44 U.C. DAVIS. L. REV. __ (forthcoming 2011)
- *Justice Stevens and Constitutional Adjudication: The Law Beyond the Rules* [Symposium article], 44 LOY. L.A. L. REV. __ (forthcoming 2011)
- *Citizens United, Stevens and Humanitarian Law Project: First Amendment Rules and Standards in Three Acts* [Symposium article], 40 STETSON L. REV. __ (forthcoming 2011)

PROGRAMS & PRESENTATIONS

- Presenter, "The Roberts Court at Age Five," Supreme Court Review, New York State Bar Association Annual Meeting, New York City
- Panelist, "The Supreme Court: Obama v. Roberts?," John Jay College of Criminal Justice, New York City
- Presenter, "How Democratic is the Constitution?," Loyola University Law School, Chicago
- Presenter, Constitutional Law Professors Roundtable, University of Louisville Brandeis School of Law, Louisville, KY

APPOINTMENTS

- Member, LexisNexis Law School Publishing Advisory Board

MEDIA

- *The Repeal of Don't Ask, Don't Tell*, REUTERS, January 2010

Jonathan Askin

PROGRAMS & PRESENTATIONS

- Judge, "Brooklyn PowerUP" Business Plan Competition, Brooklyn
- Panelist, "4GWE Presents: Net Neutrality," Webinar
- Presenter, "Growing Dollars and Sense—Financial Empowerment Fair," Brooklyn Public Library
- Presenter, "BigHook2010," Woods Hole, MA
- Panelist, "Morons in a Hurry: The dark side of Google, who Paul Allen isn't suing, music lawsuits & rights, shedding more light on net neutrality," This Week in LAW, Webinar
- Numerous lectures at NYC-based incubators on the role of lawyers in enabling tech start-ups

MEDIA

January '11

- *Anonymous on UK Arrests: This Means War*, TECHNEWSWORLD.COM
- *New Jobs Web Sites Elbow In On Job Advertising Industry*, THE HUFFINGTON POST
- *US DoJ's on a Collision Course with Google*, INTERNETEVOLUTION.COM
- *Comcast OK with Fed's Conditions for NBC Merger*, ECOMMERCE TIMES
- *Comcast-NBC Universal deal: Can a company now crush its rivals?* THE CHRISTIAN SCIENCE MONITOR

December '10

- Op-Ed: *Something Wiki'ed This Way Comes*, THE HUFFINGTON POST, Dec. 6, 2010
- Op-Ed: *Do Not Call Registry*, N.Y. TIMES ROOM FOR DEBATE, Dec. 2, 2010
- *Court Ruling Grants Email the Cloak of Privacy, and Winklevosses' Legal Lobs Won't Leave Much Egg on Facebook*, TECHNEWSWORLD.COM

November '10

- *Wikileaks Wrangling May Be Escalating Into Cyberwar*, ECOMMERCE TIMES
- *Google Adds a Little Magic to Earth*, TECHNOLOGY.COM

October '10

- *Wikileaks-Spill-Catalyst-for-New-More-Open-Style-of-Governing*, TECHNEWSWORLD.COM
- *Google Adds a Little Magic to Earth*, ECOMMERCE TIMES
- *Will the Beck and Colbert-Stewart rallies rock the vote? and Obama on MTV: Can he recapture a bit of his 2008 magic?* THE CHRISTIAN SCIENCE MONITOR
- *Don't Be Like Facebook: Make Your Privacy Policies Clear and Respectful*, MSNBC.COM
- *Verizon Tries to Stuff \$90M Worth of Worms Back into the Can*, ECOMMERCE TIMES

September '10

- *Game Consumers ask U.S. Supreme Court to Reject California's Unconstitutional Restrictions on Video Games Depicting Violence*, GAMERTAG RADIO
- *Chances for Net Neutrality Action Seen Waning*, TR DAILY
- *Election tech: Upstarts like 'tea party' have an edge, and Potent tool for 'tea party' political campaigns: the 'attack tweet'*, THE CHRISTIAN SCIENCE MONITOR
- *Tea Party Allies with Telecom Industry to Dump Net Neutrality*, THE DAILY BEAST
- *Rabid Consumer Watchdog Attacks Google CEO*, TECHNEWSWORLD.COM

IN COURT/BEFORE LEGISLATURES & AGENCIES

- U.S. Supreme Court Amicus Brief on behalf of the Entertainment Consumer Association in *EMA v. Schwarzenegger*



Professor Jonathan Askin

Miriam Baer

PUBLICATIONS

- *Organizational Liability and the Tension between Corporate and Criminal Law*, 19 J.L. & POL'Y 1 (forthcoming 2011)

PROGRAMS & PRESENTATIONS

- Presenter, "Punishment and Discipline in Corporate Law," Prawfsfest Workshop, Arizona State University

Derek Bambauer

PUBLICATIONS

- *Rules, Standards, and Geeks* [Symposium article], 5 BROOK. J. CORP. FIN. & COMM. L. 49 (2010)
- *Consider the Censor*, __ WAKE FOREST J.L. & POL'Y __ (forthcoming 2011) (Invited article)

PROGRAMS & PRESENTATIONS

- Panelist, "WikiLeaks and the Archives & Records Profession," Archivists Roundtable of Metropolitan New York and the Metro NYC Chapter of ARMA, New York City
- Speaker, "The Good, The Bad, The Ugly, Open Source and Free Software 2010: Pitfalls and Challenges," PLI, New York City
- Speaker, "Border Security," Bits Without Borders, Michigan State University College of Law

MEDIA

- *Breaking China*, ABA JOURNAL MAGAZINE, NOV. 1, 2010

Anita Bernstein

PUBLICATIONS

- *Reparations, Microfinance, Gender: A Plan, With Strategies for Implementation*, 44 CORNELL INT'L L.J. 77 (2011) (with H. D. Seibel)
- *Distributive Justice Through Tort (And Why Legal Sociologists Should Care)*, 35 LAW & SOC. INQUIRY 1099 (2010)
- *A Little Happier*, 43 LOY. L.A. L. REV. 727 (2010) (with D. Leonard)

PROGRAMS & PRESENTATIONS

- Panelist, "Online Remedies for Online Defamation," AALS Annual Meeting, San Francisco
- "Gender Bias in Litigation," Continuing Legal Education Lecture, Latham & Watkins, Continuing Legal Education Webinar, Littler Mendelson, San Francisco
- "More Parsimony and Transparency for the 'Essentials of Marriage,'" Conference on E-Marriage, Michigan State University College of Law

Bradley Borden

PUBLICATIONS

- TAX-FREE LIKE-KIND EXCHANGES (Civic Research Institute, 2011 Cum. Supp. forthcoming)
- *Tax Issues for Real Estate Investors Considering a Mortgage Defeasance as Part of a Section 1031 Exchange*, 28 J. TAX'N INV. 3 (Winter 2011)

PROGRAMS & PRESENTATIONS

- "Equity, Efficiency, and Electivity in Line-Drawing Analysis," Faculty Workshop, Charleston School of Law
- "Section 1031 Developments," American Bar Association Section of Taxation, Sales, Exchanges & Basis Committee Meeting, Boca Raton
- "The Effect of Like-Kind Property on the Section 704(c) Anti-Mixing Bowl Rules," BNA Tax Management Advisory Board Meeting, New York City
- "The Inequity Function in Line-Drawing Analysis," 2010 Meetings of the Canadian Law and Economics Association, Toronto
- Moderator, "Like-Kind Exchange Current Developments," American Bar Association Section of Taxation and Section of Real Property, Probate and Trust Law Joint Meeting, Sales, Exchanges & Basis Committee Meeting, Toronto

MEDIA

- Op-Ed: *The Prince and the Paupers: A Tax Fable*, THE HUFFINGTON POST, DEC. 14, 2010

Dana Brakman Reiser

PUBLICATIONS

- *Linking NGO Accountability and the Legitimacy of Global Governance*, __ BROOK. J. INT'L L. __ (2011)
- *Self-Regulatory Club Goods: Filling the Gaps in Nonprofit Accountability Enforcement*, in NGO ACCOUNTABILITY CLUBS: VOLUNTARY REGULATION OF NONPROFIT AND NONGOVERNMENTAL ORGANIZATIONS (Cambridge University Press 2010) (M. K. Gugerty & A. Prakash eds.)
- *Blended Enterprise and the Dual Mission Dilemma*, 35 VERMONT L. REV. 105 (2010)
- *Governing and Financing Blended Enterprises*, 85 CHI-KENT L. REV. 619 (2010)

PROGRAMS & PRESENTATIONS

- Presenter, "Charity Law's Essentials," Faculty Colloquium, Pace Law School
- Presenter, "Linking NGO Accountability and the Legitimacy of Global Governance," Symposium: Governing Civil Society: NGO Accountability, Legitimacy and Influence, Brooklyn Law School
- Presenter, "Linking NGO Accountability and the Legitimacy of Global Governance," the Annual Meeting of the Association for Research on Nonprofit Organizations and Voluntary Action, Alexandria, VA

Michael Cahill

PUBLICATIONS

- *Competing Theories of Blackmail: An Empirical Research Critique of Criminal Law Theory*, 89 TEX. L. REV. 291 (2010) (with P. Robinson and D. Bartels)

MEDIA

- *Man accused of killing Woodmere man skipping his trial*, NEWSDAY, OCT. 24, 2010

Stacy Caplow**PUBLICATIONS**

- *Changes to the Culture of Adversarialness: Endorsing Candor, Cooperation and Civility in Relationships Between Prosecutors and Defense Counsel*, 4 HASTINGS CONST. L. Q. __ (forthcoming 2011) (with L.Griffin)
- *The Activity-Based Seminar*, in TECHNIQUES FOR TEACHING LAW II (forthcoming 2011) (Hess et al. eds.)

PROGRAMS & PRESENTATIONS

- Presenter, “ABA Roundtable on Proposed Revised Prosecution and Defense Function Standards of the ABA Standards for Criminal Justice,” Boston College Law School & Pace University Law School
- Presenter, “The Future of Clinical Legal Education,” 25th Anniversary Conference in Honor of the New York Law School Clinical Theory Workshop

Neil B. Cohen**PUBLICATIONS**

- SELECTIONS FOR CONTRACTS (Foundation Press, 2010 edition)(with Farnsworth, Young, Sanger, and Brooks)
- *Should UNCITRAL Prepare a Model Law on Secured Transactions?* XV UNIFORM LAW REVIEW/REVUE DE DROIT UNIFORME 325, 2010
- *Freedom of Contract vs. Free Alienability: An Old Struggle Emerges in a New Context*, 46 GONZAGA L. REV. __ (forthcoming 2011) (with W. Henning)
- *Resolving the Dilemma of Nonjusticiable Causation in Failure-to-Warn Litigation*, 84 S. CAL. L. REV. 125 (2010) (with A. Twerski)

PROGRAMS & PRESENTATIONS

- Hague Conference on Private International Law, Working Group on Choice of Law in International Commercial Contracts, The Hague, (The Netherlands); National Conference of Bar Examiners, Multistate Essay Examination Drafting Committee, Miami Beach
- “Secured Transactions Reform in UNCITRAL,” Secretary of State’s Advisory Committee on Private International Law, Washington D.C.
- “Proposed Reversion of Official Text of Uniform Commercial Code Articles 2 and 2A to pre-2003 Versions,” Council of the American Law Institute, Philadelphia
- “UCC Article 9 Amendments,” Webinar, American Bar Association Business Law Section and the ABA Center for Continuing Legal Education, Brooklyn
- “Suretyship Discharge Defenses as Post-Honor Claims,” Letter of Credit Law Summit of the Institute of International Banking Law & Practice, New York City
- AALS Section on Commercial and Related Consumer Law; National Conference of Bar Examiners, Multistate Essay Examination Drafting Committee, Santa Monica, CA

APPOINTMENTS

- Appointed as Permanent Editorial Board Advisor to the Drafting Committee for a Uniform Manufactured Housing Act of the Uniform Law Commission
- Reappointed as Research Director of the Permanent Editorial Board for the Uniform Commercial Code for a new three-year term
- Elected as Chair of AALS Section on Commercial and Related Consumer Law

IN COURT/BEFORE LEGISLATURES & AGENCIES

- His article *Striking the Balance: The Evolving Nature of Suretyship Defenses*, 34 WM. & MARY L.REV. 1025 (1993) was cited by the Supreme Court of Wisconsin in *Bank Mutual v. S.J. Boyer Construction*, 326 Wis.2d 521, 785 N.W.2d 462 (Wisc. 2010).
- His book (co-authored with Frederick H. Miller) HAWKLAND’S UCC SERIES: ARTICLE 9 SECURED TRANSACTIONS (2001) was cited by the United States Bankruptcy Court for the Southern District of Ohio in *In re Hatfield 7 Dairy, Inc.*, 425 B.R. 444, 71 UCC Rep.Serv.2d 225 (Bankr. S.D. Ohio 2010).

Steven Dean**PROGRAMS & PRESENTATIONS**

- “Neither Rules nor Standards,” New York State Bar Association Tax Section Annual Meeting, New York City
- “Rules, Standards and Principles in International Taxation,” Faculty Colloquy Series, University of Richmond School of Law

APPOINTMENTS

- Elected member of Executive Committee of the New York State Bar Association Tax Section

Robin Effron**PROGRAMS & PRESENTATIONS**

- “The Shadow Rules of Joinder,” Works in Progress Panel, The Federalist Society Faculty Conference, San Francisco; The Legal Scholarship Workshop, The University of Chicago School of Law

Elizabeth Fajans**PUBLICATIONS**

- *Legal Writing in the Time of Recession: Developing Cognitive Skills for Complex Legal Tasks*, __ DUQ. L. REV. __ (forthcoming 2011)

PROGRAMS & PRESENTATIONS

- Presenter, “How a Writing Specialist Can Save You,” Legal Writing Institute Workshop for New Teachers, St. Johns University School of Law

APPOINTMENTS

- Recipient of the 2010 AALS Section on Legal Writing, Research and Reasoning Award

James Fanto**PUBLICATIONS**

- DIRECTORS’ AND OFFICERS’ LIABILITY (Practicing Law Institute Supp. 2010)
- BROKER-DEALER LAW AND REGULATION (Aspen Publishers Supp. 2010) (with N. Poser)

PROGRAMS & PRESENTATIONS

- Speaker, “Compliance NOW—Myth vs. Reality,” sponsored by Frontline Compliance, New York City



Professor Joel Gora

APPOINTMENTS

- Working group member, Institute for International Finance, for report, *Compensation Reform in Wholesale Banking 2010: Progress in Implementing Global Standards*
- Continued as Co-Editor-in-Chief, PRACTICAL COMPLIANCE AND RISK MANAGEMENT FOR THE SECURITIES INDUSTRY (Wolters Kluwer)

MEDIA

- Four Arrested on Insider Trading Charges, DEALBREAKER.COM, Dec. 17, 2010
- *Insider Trading Arrests Point Prosecutors to Hedge Funds*, BLOOMBERG, OPENING BELL, Dec. 17, 2010
- *A Threat of Regulation May Be Enough*, N.Y. TIMES, Dec. 2, 2010
- *EX-US car czar sued, settles with SEC*, REUTERS, NPR, story ran in numerous outlets, Nov. 18, 2010
- *How Countrywide Covered the Cracks*, N.Y. TIMES, Oct. 16, 2010

IN COURT/BEFORE LEGISLATURES & AGENCIES

- U.S. District Court Judge Laura Taylor Swain, Southern District of New York, cited Professors James Fanto and Norman Poser's case book, *BROKER-DEALER LAW AND REGULATION* (4 ed. 2009) in her opinion in the case of *Wachovia Bank N.A. v. VCG Special Opportunities Master Fund, Ltd.*

Maryellen Fullerton

PUBLICATIONS

- Terrorism, Torture, and Refugee Protection in the United States, 29 REFUGEE SURVEY Q. 4 (2011)

APPOINTMENTS

- Named as Editor-in-Chief, REFUGEE LAW READER, www.refugeelawreader.org

Cynthia Godsoe

PUBLICATIONS

- All in the Family: Towards A New Representational Model for Parents and Children, __ GEO. J. LEGAL ETHICS __ (forthcoming 2011)

PROGRAMS & PRESENTATIONS

- Roundtable participant, "Treating Mental Disorders in Poor and Vulnerable Children" Center for Health, Science and Public Policy Theory-Practice Seminar, Brooklyn Law School

Joel Gora

PROGRAMS & PRESENTATIONS

- Panelist, "An Intersection of Laws: Citizens United v. FEC Symposium," Georgia State University School of Law
- "The Supreme Court's Citizen United Decision: A victory for the First Amendment – and for democracy," Constitution Day, Center for the Study of Citizenship, Wayne State University School of Law

MEDIA

- Op-Ed: *A Free Speech Anniversary*, THE WALL STREET JOURNAL, Jan. 21, 2011
- Op-Ed: *The Roberts Court and The First Amendment*, Supreme Court Roundtable, MEDIA RESOURCES LAW CENTER, Jan. 21, 2011
- Op-Ed: *Beware of Little Exceptions*, N.Y. TIMES ROOM FOR DEBATE, Oct. 6, 2010

Susan Herman

PROGRAMS & PRESENTATIONS

- Speaker, "Myths about the ACLU," Rueben Clark Law School, Brigham Young University
- Panelist, "Crime and Punishment," Sundance Film Festival
- Panelist, "The Courts, Public Safety and Civil Liberties," Guggenheim Conference on Crime in America, John Jay College of Criminal Justice
- "The Constitution in 2020: The Future of Criminal Justice," Panel on National Security, Florida State University Law School
- Speech to Cadets, U.S. Military Academy, West Point
- Speaker, My Daily Constitution, Reading the Constitution on the Lower East Side
- ACLU 90th Anniversary events: Ellis Island – Master of Ceremonies; Union Station in Washington, D.C. – speaker and presenter of awards to Rep. John Conyers, Jr., et al.

MEDIA

- *The Defense Refuses to Rest*, UTNE READER, Jan.–Feb. 2011
- *Are TSA pat-downs and full-body scans unconstitutional?*, THE CHRISTIAN SCIENCE MONITOR, story ran in numerous news outlets, Nov. 18, 2010
- *Hear This! Fetes of Freedom*, NEW YORK POST, Oct. 26, 2010

Edward Janger**PUBLICATIONS**

- *Virtual Territoriality*, 48 COLUMB. J. TRANSN. L. 401 (2010)
- *Locating Data Privacy and Data Security*, 5 BROOK. J. CORP., FIN. & COMM. L. 97 (2010)
- *Reciprocal Comity*, __ TEXAS INTERN'L L. J. __ (forthcoming 2011)
- *Reforming the Market for Home Mortgages*, __ FORDHAM URB. L. J. __ (forthcoming 2011) (with S. Block-Lieb)

PROGRAMS & PRESENTATIONS

- "Reforming the Mortgage for Home Loans," Cooper-Walsh Colloquium, Fordham University Law School
- "Reforming the Mortgage for Home Loans," Behavior and Business Law Conference, Clayton Center for Entrepreneurial Law, University of Tennessee College of Law
- "Reciprocal Comity," Faculty Workshop, Yale Law School
- Moderator, "Civil Rights and Discrimination IV: Bankruptcy and Bail," Conference on Empirical Legal Studies, Yale Law School
- Presenter, "The Use of the Plain Language Canon in Bankruptcy Appellate Decisions," Eastern District of Pennsylvania Bankruptcy Workshop
- Presenter, "The Empty Creditor Hypothesis," The World Bank Insolvency and Creditor/Debtor Regimes Task Force Meeting

Patricia Judd**PROGRAMS & PRESENTATIONS**

- Commentator, "TRIPS and TRIPS-Plus Enforcement," 15 Years of TRIPS Implementation, Intellectual Property Protection from a Global Perspective Symposium, University of Georgia School of Law, with Drake University Intellectual Property Law Center, Athens, GA
- "Toward a TRIPS Truce," Aspiring Law Professors Conference, Arizona State University, Sandra Day O'Connor College of Law

APPOINTMENTS

- Appointed Associate Professor of Law, Washburn University School of Law, commencing fall 2011

Aliza Kaplan**PUBLICATIONS**

- *Think [and Practice] Like a Lawyer: Research for the New Millennials*, __ ASS'N. LEGAL WRITING DIRECTORS __ (forthcoming 2011) (with K. Darvil)

PROGRAMS & PRESENTATIONS

- Presenter, "Social Justice Lawyering," Brooklyn Technical High School

APPOINTMENTS

- Named a member of the Legal Writing Institute Public Interest Committee

Margo Kaplan**PUBLICATIONS**

- *A Special Class of Persons: Pregnant Women's Right to Refuse Medical Treatment After Gonzales v. Carhart*, 13 U. PA. J. CONST. L. 145 (2010)

Roberta Karmel**PUBLICATIONS**

- *A New Regulatory World for Hedge Funds*, 43 REV. SEC. & COMMOD. REG. 295 (Dec. 15, 2010)
- *The Controversy Over Systemic Risk Regulation*, 35 BROOK. J. INT'L L. 823 (2010)
- *A Retrospective on the Unfixing of Rates and Related Deregulation*, in REGULATED EXCHANGES: DYNAMIC AGENTS OF ECONOMIC GROWTH (Oxford University Press 2010) (L. Harris ed.)

PROGRAMS & PRESENTATIONS

- Panelist, "Financial Regulatory Reform — It's Here So What Can You Expect?" 2010 ABA Administrative Law Conference
- "SEC Regulation of Hedge Funds," 4th Annual Hedge Fund General Counsel Summit
- Moderator, "IFRS — Will U.S. Control Over Accounting Go Overseas?" Morgan Lewis and Brooklyn Law School

HONORS

- Received 2011 DirectWomen's Sandra Day O'Connor Board of Excellence Award

APPOINTMENTS

- Selected as member of Regulatory Innovation Award Committee of Morrison & Foerster/Burton Foundation

MEDIA**Columns:**

- *The SEC's Budget and Organization*, N.Y. LAW JOURNAL, Dec. 16, 2010
- *Hedge Funds After Dodd-Frank*, N.Y. LAW JOURNAL, Oct. 21, 2010
- CORPORATE COUNSEL: *What If* sections for cover story about Lehman failure, October Issue

IN COURT/BEFORE LEGISLATURES & AGENCIES

- Professor Karmel's scholarship was referenced in *Securities and Exchange Commission v. Obus*, S.D.N.Y.

Claire Kelly**PUBLICATIONS**

- *Linking NGO Accountability and the Legitimacy of Global Governance*, __ BROOK. J. INT'L L. __ (2011)
- *Financial Crisis and Civil Society*, 11 CHI. J. INT'L L. __ (2011)

PROGRAMS & PRESENTATIONS

- Commentator, "The Turn to Regional Trade Agreements," International Law Colloquium, Temple University – Beasley School of Law
- Moderator, "International Economic Law and Development," The American Society of International Law, International Economic Law Interest Group Biennial Meeting; International Economic Law in a Time of Change: Reassessing Legal Theory, Doctrine, Methodology and Policy Prescriptions, Minneapolis
- Panelist/Moderator, Symposium: Governing Civil Society: Linking IO Legitimacy and Nonprofit Accountability, Brooklyn Law School
- Presenter, "The Role of the G20 in WTO Governance: Opportunities for Collaboration," WTO Public Forum, Geneva
- Presenter, "Promises and Perils of New Global Governance: Examining the New Role of the G20," the NCCR Research Series Lecture, World Trade Institute, Bern, Switzerland

Faculty in the News

Brooklyn Law School faculty regularly comment in the news and shape public discourse on a variety of issues. From tort law to credit ratings and mortgage lending trends, to crime, securities regulation, and Internet policy, our professors are at the forefront offering insight on the leading issues of our day.



Breaking China

Professor Derek Bambauer comments on Chinese censorship of the Internet and the General Agreement on Trade in Services, a WTO treaty. He explains that the public order exception applies only against threats to a “fundamental interest of society. It is hard to argue that one-party rule is a fundamental interest of society.”

The New York Times

Change to divorce law could recall a TV quiz show: “To Tell the Truth”

Marsha Garrison, a Brooklyn Law School professor, who has studied the way New York divorce laws affect people, said that aside from streamlining the process, one of the most important aspects of a new law would be eliminating the winking and the white lies in cases where there are no separation agreements. “We want people to respect the law,” she said, “not to engage in that kind of scamming.”



What if Lehman would have failed today?

Professor Roberta Karmel said, “even after the many warnings prior to the collapse of Lehman Brothers — the 1987 and the 1989 stock market crashes, the Long-Term Capital Management crisis, the Asian financial crisis of the late 1990s, the bursting of the technology bubble in 2000 — Congress and the financial regulators took no steps to rein in stock market speculation and the leverage made possible by unregulated derivatives. So While Dodd-Frank is an improvement over the regulatory system that preceded it, this statute represents only incremental reform to financial regulation.”

The Washington Times

‘Don’t ask’ case gains traction from ‘03 ruling

Professor Jason Mazzone commented on a recent decision made by U.S. District Court Judge Virginia Phillips in California who declared that “don’t ask, don’t tell” was unconstitutional after a trial that included arguments attacking the policy in the *Lawrence v. Texas* case. He said, “If the 9th Circuit affirms the decision by Judge Phillips, then you have a circuit conflict, which is very likely to provide a review by the Supreme Court.”



Questions raised in Ohio gunpoint abortion case

Legal experts are split over whether the prosecution is likely to succeed over an Ohio case in which a man is accused of trying to force his pregnant girlfriend at gunpoint to have an abortion. In response to whether or not the perpetrator could be charged with attempted murder of her unborn child, **Professor Lisa Smith** said, “It would be highly unlikely that anyone could reasonably think there would be a completed act here, as he would have had to convince someone at the clinic to then complete the abortion.”



Ex-car czar Rattner sued by Cuomo, settles with SEC

James Fanto, a corporate and securities law professor at Brooklyn Law School, said it is “no surprise Mr. Cuomo is pressing ahead even as the SEC settles, given that the latter is still seen as too close to the financial services industry, particularly when it deals with big-time targets.”

“It’s also that this case involved the New York pension system and Mr. Cuomo has vowed to clean up Albany,” Mr. Fanto added, referring to the state capital. “The two-year ban that the SEC imposed is not significant for someone of Mr. Rattner’s stature.”



Rankings still key in choosing law schools, survey shows

Authors Richard Sander, a professor at the University of California at Los Angeles School of Law, and **Jane Yakowitz**, a professor at Brooklyn Law School, concluded in their research paper, “The Secret of My Success: How Status, Prestige and School Performance Shape Legal Careers” that law school grades were the best predictor of career success, not law school prestige. Student who “trade up” to more elite schools may take a career hit if they earn lower grades there, the researchers found.



Crowdsourcing: learning from the herd

As more companies turn to “crowdsourcing” for business feedback, the customer may not always be right but they’re definitely becoming more influential.

Professor Jonathan Askin explains that the legal lines around crowdsourcing aren’t as simple as they might seem.

“Copyright law hasn’t evolved as quickly as the Internet,” said Askin. “We don’t have the right structure to protect information that has been crowdsourced by a large group of people to a company that aggregates it.” (AUGUST 2010)



A free speech anniversary

Joel Gora’s op-ed explores the impact of *Citizens United v. Federal Election Commission*. The Court’s ruling of the case determined that under the First Amendment, corporations have the same rights as individuals to promote or criticize political candidates. Although the decision itself has been widely denounced, Professor Gora argues that it “affirmed that individuals don’t lose their rights when they organize as a corporation.”



Top ten cities for foreclosures

The nation’s economic recession does not seem to be nearing an end, with the studies showing that the foreclosure rate is up 25% since August 2009. ABC News covered the top 10 cities in the country with the highest rates of foreclosures and warned buyers interested in this real estate. “A town can have stunningly beautiful houses and they’re only worth \$100K because there are no real jobs,” said **Professor David Reiss** in an interview with ABC. “People can’t live [in certain towns] because there are no jobs. A home’s real value is related to the local economy.”



Are TSA pat-downs and full-body scans unconstitutional?

A growing chorus of critics is asserting that electronic imaging scans and “enhanced pat-downs” both represent an unconstitutional violation of the Fourth Amendment, which protects against unreasonable searches. **Professor Susan Herman** said, “Some of these technological responses to terrorism really start to seem like placebos. To the extent that people understand what the benefits are, and the invasion of privacies are, they can make more informed decisions about giving up their privacy for machines that make them feel better, but don’t do the job of preventing any terrorist device from getting on an airplane.”



NASA report makes life tougher for lawyers suing Toyota

With NASA and the U.S. Department of Transportation’s revelation that Toyota vehicles did not have electrical flaws causing more car accidents, **Aaron Twerski** says that plaintiff lawyers will have a much more difficult time suing the company. “It’s going to be much harder on the class-action side,” he said. “In an individual case someone can be a damned fool and still recover. It’s much more tricky on a class basis. You have to say the car is worth less because of the possibility of some idiot doing something. It’s a much harder sell.”



Is a middle class movement destroying the middle class?

Bradley Borden’s op-ed, “Getting What You Ask For: How a Middle-Class Movement May Destroy the Middle Class,” explored how the primarily middle-class Tea Party may be fighting on an economic platform that is self-destructive. Professor Borden compares two hypothetical families — one with assets valuing in the millions, one with a combined annual income of just over \$100,000 — and describes the various ways middle class families will lose.



- Panelist/Presenter, “The Promises and Perils of Global Governance: A Case of the G20,” The American Society of International Law, International Economic Law Interest Group Biennial Meeting

APPOINTMENTS

- Elected Co-Chair, American Society of International Law, International Economic Law Group, 2011–2013 term

Adam Kolber

PUBLICATIONS

- *Alternative Burdens on Freedom of Conscience* [Symposium article], 47 SAN DIEGO L. REV. 919 (2010)

PROGRAMS & PRESENTATIONS

- “The Experiential Future of the Law,” The Petrie-Flom Center for Health Law Policy, Biotechnology, and Bioethics, Health Law Workshop, Harvard Law School
- “Freedom of Memory,” Student Association for Law and the Mind Sciences, Harvard Law School



Professor James Park

Rebecca Kysar

PROGRAMS & PRESENTATIONS

- Moderator, “Tax Policy Responses to the Current Economic Climate and the Long-Term Fiscal Crisis,” ABA Section of Taxation Winter 2011 Meeting, Boca Raton
- “Penalty Default Interpretive Canons,” Legislation and Law of the Political Process Section Panel, AALS Annual Meeting, San Francisco
- “Lasting Legislation,” Young Legal Scholars Panel, Federalist Society Conference, San Francisco (competitively chosen paper); New York City Junior Faculty Colloquium, Fordham Law School
- “Penalty Default Interpretive Canons,” Symposium: Statutory Interpretation: How Much Work Does Language Do?, Brooklyn Law School
- Panelist, “Sunsetting Legislation,” University of Connecticut Faculty Workshop

Brian Lee

PROGRAMS & PRESENTATIONS

- Commentator, Property, Tort and Private Law Theory Conference, the University of Southern California Gould School of Law

Gregg Macey

PUBLICATIONS

- THE INFORMATION COMMONS OF DISASTER LAW, (Yale University Press forthcoming)
- *Environmental Law and the Management of Crisis*, __ BYU L. REV. __ (forthcoming 2011)

PROGRAMS & PRESENTATIONS

- “The Social and Environmental Impacts of the Gulf Oil Spill,” American Bar Association Section of Individual Rights and Responsibilities Semi-Annual Conference, Memphis
- “The Deepwater Horizon Oil Spill: A Failure of Oversight?” American Bar Association Teleconference/Webcast

MEDIA

- *Aftermath of Gulf of Mexico oil spill continues*, DIGITAL JOURNAL, Dec. 19, 2010

Samuel Marumba

PRESENTATIONS

- Keynote Speaker, “Human Rights and Intellectual Property: Dysfunctional Union or Marriage Made in Heaven?,” International Intellectual Property Society’s 2011 Reception, New York City

Jason Mazzone

PUBLICATIONS

- *The Case for Returning Politicians to the Supreme Court*, 61 HASTINGS L.J. 1353 (2010) (with R.M. Alleman)
- *When the Supreme Court is Not Supreme*, 104 Nw. U. L. REV. 979 (2010)

PROGRAMS & PRESENTATIONS

- Presenter, “The Roberts Court at Age Five,” Supreme Court Review, New York State Bar Association Annual Meeting, New York City
- “Politically Incorrect?: Fair Use and Copyright for Songs in Political Campaigns,” Copyright Society of the USA, New York City
- “The Roberts Court,” Fordham University, Department of History
- Panelist, Tri-State Conference on Intellectual Property, Fordham University School of Law

MEDIA

- Op-Ed: *Can Congress Force You To Be Healthy*, N.Y. TIMES, Dec. 16, 2010
- Interviewed on The Patt Morrison Show, Southern California Public Radio, Dec. 17, 2010
- *SAP Likely to Weather Tomorrow Now Storm Despite Record \$1.3B Damages*, CRM BUYER, ECOMMERCE TIMES, Nov. 24, 2010
- *Don’t Ask Case Gains Traction from ‘03 Ruling*, THE WASHINGTON TIMES, Oct. 24, 2010
- *More Controversy for Virginia Thomas: First Anita Hill, Now Health Reform Law*, ABCNEWS.COM, Oct. 21, 2010

- *What's In a Name*, THE PROVIDENCE JOURNAL, POLITIFACT.COM, Oct. 15, 2010
- *For the Roberts Court, a different kind of federalism*, THE NATIONAL LAW JOURNAL, Sept. 2010
- NY Times *Court Clerks Story Misses Broader Shift in Judiciary*, FORBES, Sept. 2010

IN COURT/BEFORE LEGISLATURES & AGENCIES

- Professor Mazonne's article, *Freedom's Associations*, 77 WASH. L. REV. 639 (2002), was cited by Justice Antonin Scalia in *John Doe No. 1 v. Reed*, 130 S.Ct. 2811, 2834 (2010).
- Professor Mazonne's article, *The Bill of Rights in the Early State Courts*, 92 MINN. L. REV. 1 (2007) was cited by the Minnesota Supreme Court in *State v. Lessley*, 779 N.W.2d 825, 834 (Minn. 2010).

Gary Minda

PUBLICATIONS

- *The New Arbitral Paradigm in the Law of Work and Roberts Court* __ MICHIGAN STATE L. REV. __ (2010)

MEDIA

- *Unions Perplexed: State Jobs, No-Layoff Pact Are Expiring Together*, THE CHIEF LEADER, NOV. 23, 2010

Minor Myers

PROGRAMS & PRESENTATIONS

- Presenter, "The Perils of Shareholder Voting on Executive Compensation," Works-in-Progress Panel, Federalist Society Faculty Convention, San Francisco
- Presenter, "The Underwhelming Influence of the ALI's Principles of Corporate Governance," Midwest Law & Economics Association Annual Meeting, Boulder

James Park

PUBLICATIONS

- *Assessing the Materiality of Financial Misstatements*, 42 SEC. L. REV. 406 (2010) (reprint of 34 J. CORP. L. 513 (2009))

PROGRAMS & PRESENTATIONS

- Presenter, "Securities Class Actions Involving Bankrupt Companies," Seminar on Topics in US and Global Business Regulation, New York University School of Law
- Presenter, "Securities Class Actions Against Bankrupt Companies," Conference on Empirical Legal Studies, Poster Presentation
- Presenter, "Rules, Principles, and the Competition to Enforce the Securities Laws," Faculty Workshop, Vanderbilt University School of Law

Arthur Pinto

PUBLICATIONS

- *The Role of Shareholders in Publicly Traded Corporations in the United States*, in THE PUBLIC COMPANIES AND THE ROLE OF SHAREHOLDERS: NATIONAL MODELS TOWARDS GLOBAL INTEGRATION (Kluwer Law International 2011) (E. Ruggiero & S. Bruno eds.)

David Reiss

PUBLICATIONS

- *Fannie & Freddie Mac: Implications for Credit Unions*, report prepared for the FILENE RES. INST. (2011)
- Book Review, __ ENV'T & PLAN. A __ (forthcoming 2011) (reviewing Kathleen Engel & Patricia McCoy, THE SUBPRIME VIRUS (2011))

PROGRAMS & PRESENTATIONS

- Invited Participant, Color of Credit Conference, sponsored by the Federal Reserve Bank of Richmond, the Open Society Institute and the National Consumer Law Center
- Presenter, "The Future of Federal Housing Finance," Credit Union Executive Society Michigan Council Economic Summit
- Presenter, "The Role of Community Benefits Agreements in Community Development," Neighborhood Preservation Coalition of New York State Conference, New York Law School
- Presenter, "The Future of Fannie and Freddie," Filene Conference, University of California, Berkeley
- Panelist, "Future Directions of Clinical Scholarship," Clinical Theory Workshop 25th Anniversary Conference, New York Law School
- Moderator, "Economic Development: A Lawyer's Role," Brooklyn Law School

MEDIA

- *Officials fear rising cost of pension and health care costs*, NPR, MARKETWATCH, Oct. 22, 2010
- *Banks Restart Foreclosures Even as Inquiries Loom*, and *Capital Markets Eye Latest Foreclosure Mess with Dismay*, GLOBEST.COM, Oct. 20, 2010, Oct. 7, 2010
- *MI Side Deals Raw for GSEs*, NATIONAL MORTGAGE NEWS, Sept. 23, 2010
- *American Nightmare: Top 10 Cities for Foreclosures*, ABC NEWS, Sept. 2010
- *Settlements Raw deals for the GSEs*, AMERICAN BANKER, Sept. 22, 2010
- *Mortgage Insurer Side Deals Raw Ones for Fannie and Freddie*, INSURANCE NETWORKING NEWS, Sept. 22, 2010
- *Five Tips for Surviving Dodd-Frank Reform*, GLOBEST.COM; also ran in the September Issue of DISTRESSED ASSETS INVESTOR MAGAZINE, Sept. 15, 2010

APPOINTMENTS

- Elected Treasurer, AALS, Real Property Section
- Chair, Governance Committee of the Brooklyn Bridge Park Citizens Advisory Committee
- Member, Packer Collegiate Institute Affordability Task Force

IN COURT/BEFORE LEGISLATURES & AGENCIES

- Professor Reiss' article, *Subprime Standardization: How Rating Agencies Allow Predatory Lending to Flourish in the Secondary Mortgage Market*, 33 FLA. ST. U.L. REV. 985, 1001-05 (2006) was cited in *Squires Golf Club v. Bank Of America*, 2010 WL 2813340 (E.D. Pa., July 14, 2010).

Elizabeth Schneider

PUBLICATIONS

- *WOMEN AND THE LAW STORIES* (Foundation Press 2010) (co-ed. S. Wildman)

PROGRAMS & PRESENTATIONS

- Panelist, “Law Professors, Storytelling and the Academy,” Section on Law and Humanities Program, co-sponsored with the Sections on Minority Groups and Women in Legal Education, AALS Annual Meeting, San Francisco
- Moderator, “The Importance of Student Assessment: Why Student Assessment Matters,” AALS Standing Committee on Curriculum Issues Program, AALS Annual Meeting, San Francisco
- Panelist, “Litigating Claims after *Iqbal* and *Twombly*” Teleseminar, American Association for Justice
- Panelist, “Challenging Boundaries in Legal Education: A Symposium Honoring Clare Dalton’s Contributions as a Scholar and Advocate,” Northeastern University Law School
- Panelist, “Summary Judgment in Employment Cases: Exploring the Problem Doctrines,” Webinar, National Employment Lawyers Association
- Speaker, “Gender and Education,” Bryn Mawr and Women’s History, Bryn Mawr College class (via Skype)
- Panelist, “The Role of Bryn Mawr in Educating Women Leaders,” Harvard Club, New York City

APPOINTMENTS

- Co-Reporter, ABA Presidential Task Force on Federal Pleading Standards

IN COURT/BEFORE LEGISLATURES & AGENCIES

- Professor Schneider’s article, *The Dangers of Summary Judgment: Gender and Federal Civil Litigation*, 59 RUTGERS L. REV. 705 (2007), was cited by Judge Nancy Gertner of the United States District Court for the District of Massachusetts in her Memorandum and Order *Re: Motion for Summary Judgment in Diaz v. Jiten Hotel Management*, Case 1:08-cv-10143-NG.

Christopher Serkin

PUBLICATIONS

- *Public Entrenchment Through Private Law: Binding Local Government*, __ U. CHI. L. REV. __ (forthcoming 2011)
- *Condemning the Decisions of the Past: Eminent Domain and Democratic Accountability* [Symposium article], __ FORDHAM URB. L.J. __ (forthcoming 2011)
- *Land Use — Regulation and Zoning*, in THE ENCYCLOPEDIA OF SUSTAINABILITY, VOL. 3: THE LAW AND POLITICS OF SUSTAINABILITY (Berkshire Publishing 2011) (K. Bosselmann, D. Fogel, & J.B. Ruhl eds.)

PROGRAMS & PRESENTATIONS

- Presenter, “Public Entrenchment Through Private Law,” Faculty Workshop, Brooklyn Law School; Faculty Workshop, Cornell Law School

Gerald Shargel

PROGRAMS & PRESENTATIONS

- Panelist, “Cooperation and Plea Agreements,” The Philip D. Reed Lecture Series, Judicial Conference Privacy Subcommittee, Conference on Privacy and Internet Access to Court Files, Fordham Law School

MEDIA

- Op-Ed: *Is Jared Loughner Crazy?* THE DAILY BEAST, Jan. 29, 2011
- Op-Ed: *How Will Judy Clarke Defend Jared Lee Loughner?* THE DAILY BEAST, Jan. 11, 2011

Lisa Smith

PROGRAMS & PRESENTATIONS

- Organized panel on “Substantive Law and Technology,” ABA Criminal Justice Section Conference, Washington, D.C.
- Speaker, “Overview of Successful Reentry Programs”—Veterans Courts, the ABA Criminal Justice Section Conference, Washington, D.C.

APPOINTMENTS

- Reappointed to the Executive Board of the Fulton Mall Association

MEDIA

- *For Los Angeles, fewest homicides since 1967. Why the drop?*, THE CHRISTIAN SCIENCE MONITOR, Jan. 15, 2011
- *Prosecutors Mull Next Step In Cop-Killer Death Case*, THE CHIEF LEADER, Oct. 26, 2010
- *Questions raised in Ohio gunpoint abortion case*, ASSOCIATED PRESS, which ran in print, online, radio and television outlets, Oct. 22, 2010
- *Settling Bell Lawsuit Made Sense, Say Legal Experts*, THE CHIEF LEADER, Sept. 6, 2010

Lawrence Solan

PUBLICATIONS

- THE LANGUAGE OF STATUTES: LAWS AND THEIR INTERPRETATION (University of Chicago Press 2010)

PROGRAMS & PRESENTATIONS

- Moderator and Commentator, “Statutory Interpretation: How Much Work Does Language Do?” AALS Legislation Section Panel, San Francisco
- Presenter, “Statutory Interpretation, Morality and the Text,” Brooklyn Law School Symposium on Statutory Interpretation
- Presenter, “When Contracts Mean Different Things to Different People,” University of Amsterdam
- Presenter, “Construing Laws: Language or Intent?” Heinrich Heine University, Düsseldorf; John Jay College of Criminal Justice
- Presenter, “Lawyers as Insincere Actors,” Law & Philosophy Institute, Freiburg University; Columbia Law School Legal Theory Workshop
- Presenter, “Creating Harm without Doing Wrong,” Princeton University Law & Public Affairs Program (with John Darley)

APPOINTMENTS

- Member, Improving Courtroom Communication Working Group, project sponsored by the National Judicial College and the Center for Court Innovation

BEFORE COURTS/LEGISLATURES & AGENCIES

- Professor Solan was cited in *State v. Hicks*, a decision of the Supreme Court of Iowa. The court referred to his article written with Peter Tiersma, *Cops and Robbers: Selective Literalism in American Criminal Law*, 38 LAW & SOC'Y REV. 229, 249, 255 (2004).

Yane Svetiev

PROGRAMS & PRESENTATIONS

- “Through the Lens of Competition Law: An EU Model for Global Administrative Law,” the Law Department Seminar Series, European University Institute, Fiesole, Italy
- “Intellectual Property at the Firm’s Boundary,” Workshop: Ronald Coase’s Contribution to Law and Economics, the Italian Society of Law and Economics, Free University of Bozen–Bolzano, Italy
- “Beyond Law versus Economics: Competition Policy as a Learning Platform,” the Annual Meeting of the Italian Society of Law and Economics, Free University of Bolzano–Bozen, Italy
- “Two Competition Networks,” Rule-Making in the EU and Global Governance Colloquium, Straus Institute for the Advanced Study of Law and Justice, New York University School of Law

Nelson Tebbe

PUBLICATIONS

- *Nonbelievers*, 97 VA. L. REV. ___ (forthcoming 2011)
- *The Argument for Same-Sex Marriage*, 159 U. PA. L. REV. PENUMBRA 21 (2010) (with D. Widiss & S. Gilreath) <http://www.penumbra.com/debates/pdfs/Marriage.pdf>

PROGRAMS & PRESENTATIONS

- “Nonbelievers,” Faculty Workshop, Fordham University School of Law; Faculty Workshop, University of Virginia School of Law; Religious Legal Theory Conference: Religion in Law, Law in Religion, St. John’s University School of Law; Faculty Workshop, University of Georgia Law School
- “Smith in Theory and Practice,” Twenty Years After Employment Division v. Smith Symposium, Floersheimer Center for Constitutional Democracy, Cardozo School of Law

APPOINTMENTS

- Chair, Section on Law and Religion, American Association of Law Schools

Aaron Twerski

PUBLICATIONS

- PRODUCTS LIABILITY: PROBLEMS AND PROCESS (Aspen Publishers 7th Ed. 2011) (with J. Henderson, Jr.)
- *Reaching Equilibrium in Tobacco Litigation*, 62 S.C. L. REV. 67 (2010) (with J. Henderson, Jr.)
- *Resolving the Dilemma of Nonjusticiable Causation in Failure to Warn Litigation*, 84 S. CAL. L. REV. 125 (2010) (with N.B. Cohen)

IN COURT/BEFORE LEGISLATURES & AGENCIES

- In *Aly v Fed. Express Inc.*, a federal district court in New Jersey cited Professor Twerski’s article, *The Many Faces of Misuse*, 29 MERCER L. REV. 403, 421 (1978).

- In *Caronia v. Phillip Morris, USA*, the Eastern District of New York cited an article co-authored by Professors Twerski and James A. Henderson, Jr., *Asbestos Litigation Gone Mad: Exposure-Based Recovery for Increased Risk, Mental Distress and Medical Monitoring*, 53 SOUTH CAROLINA L. REV. 815 (2002)
- In *Schmidt v. Boardman*, decided by the Pennsylvania Supreme Court on January, 25, 2011, the court cited an article co-authored by Professors Twerski and James A. Henderson Jr., *Achieving Consensus on Defective Product Design*, 83 CORNELL LAW REV. 867, 897 (1998)
- In *Pannu v. Land Rover North America Inc.*, a California appellate court, 191 Cal. App.4th 1298, cited an article co-authored by Professors Twerski and James A. Henderson, Jr., *Achieving Consensus on Defective Product Design*, 83 CORNELL L. REV. 867, 899-900 (1998).

Karen van Ingen

PROGRAMS & PRESENTATIONS

- Panel Chair and Speaker, “Discovery in Arbitration,” 2010 Public Investors Arbitration Bar Association Annual Meeting, Ponte Vedra, FL

APPOINTMENTS

- Member 2010 PIABA Annual Meeting Committee

Marilyn Walter

PUBLICATIONS

- *Writing as Conversation: Using Peer Review to Teach Legal Writing*, 16 LEGAL WRITING 413 (2010)

Joan Wexler

PROGRAMS & PRESENTATIONS

- Keynote speaker, “Informed Judgments,” Central Synagogue Jethro Shabbat, New York City

MEDIA

- Great Things are Happening at BLS, BCAT, Nov. 11, 2010

APPOINTMENTS

- Board of Directors of the American Judicature Society

Jane Yakowitz

PROGRAMS & PRESENTATIONS

- Presenter, “Secret of My Success: How Law School Prestige, Performance, and Status Shape Legal Careers,” Conference on Empirical Legal Studies, Yale Law School

MEDIA

- *Rankings Still Key in Choosing Law Schools, Survey Shows*, THE NATIONAL LAW JOURNAL, NOV. 1, 2010
- *GPA Determines Your Career Success, Study Finds*, THE NATIONAL JURIST, SEPT. 9, 2010
- *Study: Don’t Sweat your School’s Status*, THE AMERICAN LAWYER, Fall 2010

Alumni Association Luncheon Honors Alumni of the Year

This past November, more than 300 alumni attended the Brooklyn Law School Alumni Association's Annual Luncheon at New York's Plaza Hotel to pay tribute to three highly distinguished graduates — Hon. Dorothy T. Eisenberg '50, Howard S. Finkelstein '59, and David M. Barse '87.



LEFT TO RIGHT: Howard S. Finkelstein '59, Dorothy T. Eisenberg '50, Interim Dean Michael Gerber, Scott Hazen '73, and David M. Barse '87.

As attendees renewed ties with former classmates in the hotel's Grand Ballroom, newly sworn-in Alumni Association President Robert T. Schmidt '89 provided introductory remarks. Schmidt thanked outgoing President Scott L. Hazan '73 for his strong leadership, cultivating the growth of the Luncheon, and also creating a tradition of smaller, more intimate gatherings at alumni homes and other smaller locations. These gatherings have proven to be highly effective for professional networking. Hazan was an avid participant in the 2010 Law Firm Challenge, achieving 100 percent firm participation at his firm, and he continues to serve on the Barry L. Zaretsky Roundtable Steering Committee. Hazan said that it was especially meaningful for him to present one of the Alumni of the Year awards to Judge Dorothy Eisenberg, who began her legal career at Otterbourg, Steindler, Houston & Rosen, the firm where he is now a bankruptcy partner.

Hon. Dorothy T. Eisenberg '50

The Honorable Dorothy T. Eisenberg was only 20 years old when she received her L.L.B. degree from Brooklyn Law School. Too young to sit for the bar exam, she had to wait to take it. After several years at her first job at the Otterbourg firm, she took a leave to raise her four children (among them Leslie A. Eisenberg '92). In 1970, Eisenberg returned to practice at the Mineola firm of Goldman Horowitz & Chernoff in the then-fledgling field of bankruptcy law. She went on to become the first woman partner in the firm of Shaw, Licitra, Eisenberg, Esernio & Schwartz, P.C. of Garden City.

During her years at Shaw Licitra, Eisenberg became an active and highly respected member of the bankruptcy bar and was appointed as a Panel Trustee for the United States Bankruptcy Courts for the Eastern and Southern Districts of New York. With two decades of bankruptcy expertise behind her, Eisenberg was appointed as a United States Bankruptcy Judge in the Eastern District of New York in 1989. Since then, she has presided over many noteworthy cases including the \$26 million sale of Ohio-based newspaper chain Brown Publishing Co. in 2010 to Brown Media Corp., a group of company insiders.

Eisenberg is active in the legal community. She is a fellow of the American Bar Foundation, a member of the National Association of Women Judges, the Women's Bar Association of the State of New York, and the American Bankruptcy Institute. She is also a member of the Advisory Committee of the Federal Bar Council at Central Islip. She is a former member of the National Committee for Court Administration of the United States and a past President of the Nassau County Women's Bar Association and The Theodore Roosevelt American Inn of Court.

Judge Eisenberg has served as a member of the Brooklyn Law School Barry L. Zaretsky Roundtable Steering Committee since its inception.

Howard S. Finkelstein '59

Howard S. Finkelstein was born and raised in Brooklyn, earning his B.A. at Brooklyn College. A Korean War veteran, he attended Brooklyn Law School with the help of the G.I. Bill. Just two years out of law school, he founded Finkelstein & Partners, LLP, which specializes in personal injury litigation. It has grown from one office in Newburgh, New York to multiple offices in New York and New Jersey.

Finkelstein has served as President of the Greater Newburgh Bar Association, President of the Orange County Bar Association, President of B'nai B'rith, and Governor of the New York State Association of Plaintiffs Trial Lawyers. He has also been on the Board of Directors of the New York State Trial Lawyers Association, the Advisory Board of the Bank of New York, and he served as an Arbitrator for the American Arbitration Association.

A loyal supporter of the Law School, Finkelstein has endowed two scholarships: the Howard S. Finkelstein Scholarship; and the 1959 Scholarship for classmate Ronald Jacobson '59. His philanthropy extends beyond the Law School as well. He created a scholarship at the Culinary Institute of America in Hyde Park, founded the Diane Finkelstein Fund for Families in Crisis, and was the exclusive sponsor of the Times Herald Record's Orange County Classic Wheelchair Race.

Finkelstein was also the honoree of the year at the NAACP of the Hudson Valley's 2008 annual gala, and he was recently honored with the Lifetime Achievement Award from the Orange County Bar Association.



Hon. Dorothy Eisenberg '50 celebrates with family and friends.

David M. Barse '87

David M. Barse is President and Chief Executive Officer of Third Avenue Management LLC, an investment fund he has led for two decades, overseeing a roster of alternative strategies, mutual funds, separate accounts and sub-advised portfolios with \$16 billion under management. In addition to growing Third Avenue from a one-fund boutique into a multi-platform asset manager, Barse has overseen Third Avenue's expansion into investments outside of the U.S., including developed markets in Europe and Asia, as well as emerging and frontier markets worldwide. Over the years, Barse has participated in numerous distressed investments, including Kmart, USG, Covanta Energy, and Collins and Aikman.

In addition to his work with Third Avenue, Barse currently serves on the board of Covanta Holdings Corporation, a market leader in



Scott Hazen '73 with honoree David M. Barse '87.

energy-from-waste technology. He has been a member of the World Economic Forum since 2008, and the press frequently seeks his input on a variety of financial matters. He has appeared on CNBC, Fox Business News, and Bloomberg, and in *The Wall Street Journal*, *Forbes*, *Fortune*, and *Business Week*.

Barse has had strong ties to the Brooklyn Law School community, through both his professional expertise and his generous philanthropy. He is a member of the Brooklyn Law School Board of Trustees, and has endowed the Barse Family Scholarship to honor the memory of his late father, Lawrence P. Barse '58. He also endowed the David M. Barse Chair, currently held by Professor Edward Janger. Each year, he addresses students in Interim Dean Gerber's Business Reorganizations class, and he has been a participant in the Dean's Roundtable Luncheon series. He is also a member of the Barry L. Zaretsky Roundtable Steering Committee. □

Recent Graduates Network at Art Gallery



Mark Sattinger '06 and Andrea Chan '06.

This past December, recent graduates and faculty members gathered for an evening of wine and food, and art and conversation at the lofty Muriel Guepin Art Gallery in Cobble Hill, Brooklyn. Since many recent BLS graduates have chosen to live in Brooklyn after



Professor Dana Brakman-Reiser with Joe Roy '10 and Josefina Colomar '10.

graduation, the Cobble Hill locale made perfect sense. Proving that Brooklyn is the place to be, several attendees even commuted from Manhattan for the evening! The next recent graduate event will be at The Little Cheese Pub in Chelsea this June.

Mix & Mingle: Alumni Host Receptions

This past summer and fall several of our graduates graciously opened their homes, firms, or country clubs to host various alumni receptions. At these intimate gatherings, guests enjoyed mingling, reconnecting with old friends, and learning about the current news and events at the Law School.

Andrew Perel '86 and his wife, Sabrina, hosted a reception at their home in Quogue, New York in July.

Scott Hazan '73, Past-President of the BLS Alumni Association, and his wife, Lorraine, hosted a reception at the Paramount Country Club in New City, New York in September.

Joy Weber '89, a director of the BLS Alumni Association, and her husband, **Jeffrey Burke '00**, hosted a reception at their home in Plainfield, New Jersey in October.

In addition to these alumni receptions, **Robert Schmidt '89**, President of the Brooklyn Law School Alumni Association, and his firm, Kramer Levin Naftalis & Frankel, LLP, hosted this year's Mentor Program Kick-off Reception, where over 100 student-alumni matched pairs were given the opportunity to meet and begin their mentor-mentee relationships.

The Law School is grateful for the time and support of these graduates in organizing and hosting these events. Their generosity allows us to increase our programming and networking opportunities for all of our graduates. □

If you would like to host an alumni reception, please contact our Director of Alumni Relations, **Caitlin Monck-Marcellino '02**, at 718-780-0322 or Caitlin.monck-marcellino@brooklaw.edu.



Sabrina and Andrew Perel '86.



Interim Dean Michael Gerber, Michael Burke '02, President Joan G. Wexler, Joy Weber '89, and Jeffrey Burke '00.

MENTOR PROGRAM RECEPTION



Louis Trotta '89 with his mentee Christina Rim '12.



Robert Schmidt '89 (center) with graduates and President Joan G. Wexler.

The Dream Court

This past fall, Brooklyn Law School received a special bronze sculpture by world-renowned Italian-American artist Lorenzo Ghiglieri, whose work appears in numerous museums and public places, including the Vatican Museum in Rome and the Presidential Museum in Washington, D.C.

The sculpture, entitled the “Dream Court,” is on display in the main floor entrance of the library, and was a gift from **Michael DuBoff ’70**. The sculpture was conceptualized by his brother **Leonard DuBoff ’71** to honor their

younger sister, Candise DuBoff-Jones, an attorney who was murdered while representing her client in the Multnomah County Oregon Circuit Court by the client’s estranged husband.

The Dream Court is a stirring work of art that is rich in legal symbolism. Its foundation is an open book with the Bill of Rights on the right-hand page and the preamble to the Constitution on the left. Overlooking the book are nine “dream” justices, a group selected by lawyers, judges, and national

scholars as the most significant justices in the history of the United States Supreme Court. The list includes John Marshall, Joseph Story, Oliver Wendell Holmes, Roger B. Taney, Charles Evan Hughes, Louis D. Brandeis, Benjamin N. Cardozo, Hugo Black, and Earl Warren. Behind the justices is a blindfolded Lady Justice standing below an arch on which is perched an American eagle with the American flag displayed on the right. At the podium, facing the Court and positioned on the right-hand page of the book, stands Ms. DuBoff-Jones.

“The piece symbolizes art and law, so it speaks to the field of art law, which is one I pioneered,” said Leonard DuBoff, who is a partner specializing in intellectual property law and complex business litigation in the Duboff Law Group LLC, in Portland, Oregon. “It is also meant to celebrate the memory of our late sister, who is portrayed arguing her case before the ‘Dream Court.’ The only place she could have met these justices would have been in Heaven.”

“My brother and I felt that the Law School was the perfect venue for this magnificent piece of art,” said Michael DuBoff, a partner at Ballou Stoll Bader & Nadler, P.C. in New York City. “We knew that future lawyers would have a special appreciation for it, and I am so pleased that it is on display at our alma mater.” □



M



Jason Jia '11 with his mentor Timothy Oberweger '05.



Interim Dean Michael Gerber (right) speaks to some of the mentors.



The Music Man: Charles Ortner '71

Pay a visit to Charles B. Ortner '71, the charismatic co-head of the Entertainment Industry Group at the firm of Proskauer Rose, and you can't help but notice the guitar. It's partially crushed, it's scribbled on, and it's hanging on the wall beside his desk. Naturally, the guitar has a story. It once belonged to Ortner's client Trent Reznor, the legendary Nine Inch Nails leading man who just won an Oscar for his delicate and haunting musical score to *The Social Network*, the suspenseful account of the genesis of Facebook.

Almost a decade ago, Reznor was sued in a copyright case (*D'Onofrio v. Reznor*), and Ortner, one of the country's leading entertainment lawyers, set out to defend him. To get inside the artist's process and better serve his client, Ortner spent a week with Reznor at his New Orleans music studio while he composed.

"It was a fascinating time," recalled Ortner, who won the case on appeal, vindicating Reznor's name. Reznor learned of the victory as he was about to perform. "He was so thrilled," said Ortner, "that he took his guitar, went onstage, smashed it and autographed it to me." The inscription reads: "Thank you for everything, Chuck! Trent Reznor."

Reznor is but one of the many celebrity musicians who have benefitted from Ortner's skill as a litigator and an advocate. Madonna, U2, Green Day, Sting, Michael Jackson, and Lady Gaga have also counted on him to tackle their legal woes.

Ortner, who is also the National Legal Counsel to the National Academy of Recording Arts & Sciences, Inc. (the GRAMMY® Award organization), has influenced nearly every corner of the entertainment and media legal and business landscapes. *Chambers USA*, a leading independent lawyer rating service, has described him as a "legendary music expert [and] one of the premier lawyers in the copyright world." Ortner is also listed in *Best Lawyers in America*, *Expert Guides to the World's Leading Lawyers for Technology, Media and Telecommunications Law*, *New York Super Lawyers* and *Lawdragon*.

His talent has not gone unnoticed. In September, President Obama named Ortner to the Board of Trustees of the John F. Kennedy Center for the Performing Arts. "These impressive men and women will bring a wealth of experience to their new roles," said Obama in announcing the appointment of Ortner and the three other new trustees.

LawNotes Managing Editor Andrea Strong '94 caught up with Ortner early this spring to learn more about his role at the Kennedy Center, his early days with Carly Simon, and why copyright law needs to change.



You were recently appointed to the Kennedy Center Board of Trustees and charged with a very specific mission. Tell me more about it.

I am very proud to be on the Kennedy Board. I've been asked to help encourage younger artists to appear in various contexts at the Center and to attract the interest and attention of people in their 20s and 30s to supplement the current programming, which is by and large geared to a somewhat older demographic. It's important to use this platform to encourage younger people to focus on the arts. I think that with the trend toward cutbacks in funding for the arts, it's more challenging than ever to support young people in this field. We are looking at how we can expand our sphere of influence and get attention from people who haven't been as involved in the past.

We are developing a series of programs to appeal to younger audiences and we have already curated a number of very cool artists from different genres who are very enthusiastic about this project. The concept is to offer free concerts and the kind of engaging programming you might find at the 92nd Street Y: unplugged performances, and intimate interviews so you can get into the artists' heads.

When did you realize you wanted to be a lawyer?

It took a while. At first, I was very interested in science and biology, but when I went to college at Washington University of St. Louis

I was forced to take all these humanities classes in addition to my science classes. As it turned out, I became very interested in history, and as the civil rights movement grew in the 1960s, and issues of poverty were on the forefront, and the Vietnam War protests were heating up, I developed an interest in being an advocate. Going to law school seemed like a natural fit.

How did you become interested in entertainment law?

I was working at my second firm out of law school, a small litigation boutique called Gold Farrell & Marks, and I was assigned to defend Carly Simon. As I began to work with her, I found it just fascinating to be with creative people. Although my father was a business man, he was also a classically trained pianist and I grew up with music. I played three instruments — clarinet, bass violin, and piano. Practicing entertainment law was an opportunity to be with music people and do interesting legal work.

Tell me about your first meeting with Madonna.

It was quite unexpected. I was representing a number of artists and record companies at the time. A mutual friend sent me a demo tape by an unknown singer named Madonna and asked me to represent her in a dispute with her former manager. I was not impressed and turned down a meeting. But, as I soon learned, Madonna does not take “no” for an answer. So I relented, and lo and behold a young woman with wild blonde hair and a lot of crosses came to my office. My firm did not encourage me to take on the representation of unknowns. But I decided to take her case, and I have been representing Madonna since 1984. Since then, I’ve been told the decision was “genius.”

(Note to readers: Another BLS alumnus, Allen Grubman ’67, featured on page six is Madonna’s transactional lawyer, while Ortnor and his colleagues handle other legal matters, including litigation, intellectual property, and a wide range of personal matters).

Take us through a typical day for you.

I travel back and forth to LA and Washington, D.C. quite often. I am usually reviewing litigation, helping to develop strategy, drafting and revising litigation papers, preparing for depositions. I also spend a fair amount of time on the phone with the GRAMMY people and my other clients all over the country. All sorts of issues present themselves, whether it’s business strategy, employment law, or by-laws issues. We are currently working on a deal to bring a GRAMMY presence to China. I am also very active with cancer research charities, in particular the Multiple Myeloma Research Foundation, so I spend a fair amount of time on that. I also devote a lot of time to the Kennedy Center and Democratic politics.

You work with the GRAMMY awards, which sounds very glamorous.

I do attend the GRAMMYS every year and all the parties, too, which are a lot of fun, but there are a lot of challenges that the GRAMMY Awards currently face. I am involved with advocacy and public policy. We do “GRAMMYS on the Hill,” where I meet with members of the

House and Senate to talk about legislative support, particularly for copyright issues and the impact that funding reductions have on non-for-profit art organizations. I have also assisted with the corporate restructuring of the GRAMMY organization itself, and was involved in the negotiation and creation of the GRAMMY Museum in Los Angeles.

What are the challenges facing the music industry at the moment?

The first is the continuing problem of massive copyright infringement because of free downloads, music sharing, and piracy, which obviously affect artists tremendously. Their earnings are being hit hard. The second issue is the way copyright law is structured. At the moment, when a song is played on the radio, the recording artist gets nothing and the record company gets nothing. Only the songwriter and the music publisher receive a royalty. We have been working with tremendous opposition from radio stations to change the law, which applies only to terrestrial broadcasts not to satellite radio. We have been trying to overturn the legislation from the beginning of time. It’s a very big deal.

What about the future of music?

The future is obviously very digital. In some ways Jon Bon Jovi was right when he said that Steve Jobs ruined the music industry. I think the way I would say it is that “Steve Jobs ruined the music industry as it used to be.” It’s not the way it used to be, where artists recorded a whole album, and received multimillion dollar advances. It’s more about singles, which means less revenue. Artists are more dependent on touring and on finding new outlets and product endorsements. But ultimately, music is about hits. It’s about Lady Gaga. Look what she has done! If you have great artists, there is still a way to sell records.

If you were speaking to a classroom of law students aspiring to work in entertainment law, what advice would you give them?

I know this makes me sound like an old fuddy duddy, but I’d tell them to get training in general legal practice. I would advise against immediately going into a boutique firm. I would suggest that they work at a large firm where they would be assigned to big deals and where they would become sensitive to sophisticated issues. Bottom line: seek depth of knowledge.

My reputation was enhanced by my training at Rosenman and Colin, the first firm I joined out of law school. Later on, when I was handed a file with a record company trying to sue the band The GoGos, knowing what I knew from litigating at Rosenman, I was able to get an injunction, and the case settled. The success of that case was based on my experience as a litigator, not an entertainment lawyer. I’d also recommend taking intellectual property courses. These classes are critically important.

You are working at what would be a dream job for many.

What would you do if you weren’t doing this?

[Long pause.] It’s hard for me to envision me doing anything other than what I do now. □

ClassNotes

1954

Herman Badillo joined the Long Island office of Parker Waichman Alonso LLP as Senior Counsel, focusing on personal injury, product liability, and other significant litigation. Badillo is a member of the Brooklyn Law School Board of Trustees. He is a former Bronx Borough President, U.S. Congressman, Deputy Mayor of New York City, and Chairman of the Board of Trustees of the City University of New York.

1955

Lawrence J. Holt has joined New York firm of Gilberti Stinziano Heintz & Smith P.C. as Of counsel. His practice focuses on environmental and land use law, litigation, government relations, real estate, and corporate and business law.

1957

Stuart Kessler joined the New York office of the accounting and consulting firm, J.H. Cohn LLP. Kessler practices in the area of estate and personnel financial planning. He also chairs the International Standards Organization Technical Committee that recently established International Personnel Financial Planning Standards.

1959

Marvin Simms, Vice President and Counsel of Fidelity National Title Insurance Company, was presented with a Lifetime Achievement Award by the New York State Land Title Association at its 2010 annual convention.

1964

James T. Byrne, Jr. was re-elected to the Board of Directors of Deutsche Bank Trust Corporation and Deutsche Bank Trust Company Americas.

1967

Victor A. Huggard was elected Chairman of the Board and Chief Executive Officer of

the Wilton Emergency Squad, Inc. providing services within the Town of Wilton, NY. Since his retirement in 1996, Huggard has been a volunteer with the Wilton Emergency Squad and the Maple Avenue Fire Company of the Greenfield Fire District.

1968

Maury D. Locke, retired Senior Counsel – International for United States Steel Corp., was awarded a Shofar Award by the National Jewish Committee on Scouting. The award was established to recognize outstanding service by adults in the promotion of Scouting among Jewish youth.

Sanford A. Pomerantz joined the Mineola, Long Island firm of Schroder & Strom LLP as Of Counsel. His practice concentrates on tax certiorari matters.

1969

Claude J. Litton retired as the President and CEO of Manhattan Properties Company, LLC, having spent 32 years in this position. The company owns and runs the textile industry's major New York showroom building.

Fredric D. Rosen, former CEO of Ticketmaster, was appointed CEO of Outbox Enterprises, the U.S. arm of Montreal-based ticketing firm Outbox Technology. Rosen directs the company's North American business operations in tandem with the firm's founder.

1970

Peter M. Weinstein was elected Chief Judge of the 17th Judicial Circuit Court of Florida, the second largest circuit court in the state. Prior to his appointment to the bench in 1998, he served as a Florida State Senator for 14 years.

1971

Leonard D. DuBoff, founding partner of the Portland, OR firm, The DuBoff Law Group, LLC, recently had two of his books published,

The Law (in Plain English) for Photographers, 3rd Edition (Allworth Press 2010) and *Art Law: Cases and Materials*, 2nd Edition (Aspen Publishers 2010). DuBoff practices in the areas of business, art, intellectual property, corporate, real estate and high-tech law, and commercial litigation.

Stanley B. Green, Acting Justice of the NYS Supreme Court, Bronx County, was presented with The Harlan Fiske Stone Memorial Award by the NYC Trial Lawyers Association at its 76th Annual Banquet in October 2010.

Gary B. Pillersdorf, founder of the Pillersdorf Law Firm, was presented with a Lifetime Achievement Award by the NYC Trial Lawyers Association at its 76th Annual Banquet in October 2010. The Pillersdorf law firm is one of the nation's most highly regarded personal injury firms.

1973

Stephen M. Flatow, who has been providing title insurance services to attorneys, lenders, and homeowners for over three decades, formed his own title agency, Stephen's Title Agency, LLC, in Fairfield, NJ.

Martin R. Press, an equity shareholder in the Fort Lauderdale, FL office of Gunster, Florida's Law Firm for Business, was appointed to the Board of Trustees of Nova Southeastern University. Press focuses his practice on federal and state tax controversies, taxation law, international tax law, and estate planning.

1974

Michael S. Sackheim, a partner in the New York office of Sidley Austin LLP, co-chaired a program at Columbia Law School in January 2011 on "Title VII of Dodd-Frank: The New Derivatives Regime." Sackheim focuses his practice on futures and derivatives regulatory, transactional, and enforcement matters. He is also the Managing Editor of *Futures and Derivatives Law Report*, and is a frequent speaker on derivatives and legal ethics.

Harriet Cohen '74: *The Marriage Broker*



It's a Tuesday in early March and Harriet Cohen '74, one of New York City's most revered matrimonial lawyers, is gazing out her window. Actually, it's more than a window. It's a wall of glass that wraps her corner office at Seven Times Square in morning light. From her bird's perch, she is afforded one of the most coveted views of the City. Central Park and Times Square frame the view to the North, the Hudson River opens up the West, and directly below, several window cleaners hang tethered to the 38th floor by a clamp and a long, twisted muscle of rope. "Oh dear!" she gasps. "I thought my work was hard!"

While Cohen is not out on a literal ledge dangling stories above Times Square, in many instances over her three-decade career, she has rescued clients at the proverbial end of their rope. Known for her skill as a compassionate yet steely negotiator, Cohen has a high-profile client list — including the likes of Andrew Cuomo, Laurence Fishburne, Linda Lavin, and Ronald Perleman's ex, Patricia Duff — that is a testament to her experience and reputation.

Cohen has been called a "formidable divorce force" by the *New York Observer*, and has been regularly named to the NY Metro Super Lawyers list in the field of Family Law. Outside the courtroom, she has been called upon by the Governor to serve on the Child Support Commission of the State of New York and by the Mayor to serve on the Foster Care Commission. A regular contributor to the *New York Law Journal*, she is the author of the book, *The Divorce Book for Men and Women: A Step-by-Step Guide to Earning your Freedom Without Losing Everything Else* (Avon 1994).

But Cohen is not only a mediator of others' marital splits. She was 40 years old and heading into her second-year exams at Brooklyn Law School when her husband of 21 years walked out. "I had four daughters at home, and he just left," she recalled. The painful divorce, which she personally handled when she graduated from BLS, was among the factors that led her to devote her career to the practice of family and matrimonial law.

Cohen, who grew up in Providence, Rhode Island, is the eldest daughter of four children born to Eastern European immigrants. Her father made Hula Hoops while her mother stayed home with the kids and made a point of imbuing them with a sense that anything was possible, especially with an education. Cohen excelled academically and skipped grades in grade school and high school, enrolling in college at Barnard at the age of 16 and graduating at 19 with a degree in classics.

One week after graduation, she married her high school sweetheart. By the time she turned 30, she had four children, a Masters Degree in Latin from Bryn Mawr, and was working as a math teacher at a Brooklyn junior high school. But she had a gnawing desire to do more. "When I was home with my children I became active with the League of Women Voters and it seemed to me that we were powerless. I thought, I have got to do something that gives me some credibility. So I went to law school."

Mentored by professors such as I. Leo Glasser, Cohen flourished at Brooklyn Law School, and found support from a group of women with whom she served on the *Brooklyn Law Review*: the late Joan Koven, Helen Neuborne, and Gail Alpern (now Schneider). "We had a study group, and we were such brainiacs," she said. "I remember our lunches at this greasy spoon around the corner where we never talked about anything other than the law."

Cohen graduated at the top of her class in 1974, and she started out as a generalist, but moved on to focus on matrimonial matters. "I was advised to stay away from matrimonial law because it was considered "women's work," but I found myself drawn to it. It was helpful to have lived through a complicated matrimonial situation myself, but I really just loved the field. You are constantly learning, and no case is the same as the one before."

Cohen joined the Phillips Nizer firm, where she was mentored by Louis Nizer, considered one of the most outstanding trial lawyers of the twentieth century. She went on to run the matrimonial and family law practices of several prominent Manhattan law firms before starting a firm of her own, Cohen Hennessey Bienstock & Rabin, in 1994. In early 2011, she dissolved her previous firm, moving 13 employees, including seven lawyers over to Seven Times Square to form Cohen Rabin Stine Schumann LLP.

For all of her expertise in matters of divorce, Cohen has not soured on the idea of a good marriage. "It is very complicated, and it takes a lot of luck and a lot of hard work. But I still believe in marriage for everyone," she said, pointing to the framed photograph of her late second husband, Arthur Feinberg, a medical doctor, with whom she spent 32 blissfully happy years. "He proposed after a nine-year courtship. He was the love of my life." □

Barbara Stein became an associate professor at Ryukoku University in Shiga, Japan. She was formerly the Administrative Coordinator for Long Island University Global College's Japan Center in Kyoto, Japan.

1975

Carl S. Koerner, counsel in the Business Department of White and Williams LLP, was a guest on the radio show, *Winning Strategies*, where he discussed the recent Wall Street Market Rigging FBI Investigation. Koerner is head of the firm's New York Business Practice and he advises clients in business formation, debt and equity financing through public offerings and private placement transactions, lending transactions, SEC regulatory compliance, acquisitions, mergers, and sales.

Ira Schreger joined the New York office of Vinson & Elkins LLP as a partner in its Intellectual Property Practice Group. His practice focuses on the structuring, preparation, and negotiation of agreements for a broad range of intellectual property and technology-centered transactions, including license, technology, transfer, transnational joint venture, complex partnering, and mergers and acquisitions.

1976

Robert G. Cohen, formerly Senior Deputy General Counsel and Head of Litigation for Ernst & Young LLP, joined the New York office of Orrick, Herrington & Sutcliffe LLP as a partner in its Securities Litigation and Regulatory Enforcement Practice. He specializes in the representation of accounting firms.

1977

Vivian Shevitz returned her law practice to Brooklyn Heights, where she focuses on federal criminal defense and appeals and defense of forfeiture. She is an expert in forfeiture law and advises other attorneys on sophisticated criminal and forfeiture matters.

Martin D. Singer, founding partner of the talent-side entertainment litigation firm, Lavelly & Singer, was featured on CNN.com in September 2010 in its *Lawyers to the Stars* series. His firm's practice encompasses entertainment and business litigation, including intellectual property, media law, right of publicity, privacy law, defamation, contract disputes, and business torts.

1978

Andrea C. Levine, Director of the National Advertising Division (NAD) and Senior Vice President of the Council of Better Business Bureaus, gave an address at Syracuse University's S.I. Newhouse School of Public Communications in fall 2010. The NAD reviews national advertising for truthfulness and accuracy and fosters public confidence in the credibility of advertising.

Robert D. Schmicker was promoted to Counsel in the Energy and Project Finance Group of Hunton & Williams LLP. His practice is focused on the development and financing of electric power generation and transmission facilities, gas pipelines, transportation projects, and other infrastructure facilities. He represents project developers and private equity and other investors in project development, portfolio investments, mergers and acquisitions, and restructurings of energy companies.

William H. Schrag, a partner in the New York office of Duane Morris LLP, was elected Vice Chair for Internship Programs of the NYSBA's International Section. Schrag also chairs a committee charged with implementing an agreement between the NYSBA and Singapore Management University that will promote legal internships. Schrag practices in the areas of bankruptcy, commercial litigation, and creditor's rights.

1979

Robert Loewenstein joined Amneal Pharmaceuticals, LLC as General Counsel and Senior Vice President. Headquartered in Hauppauge, NY, Amneal develops, manufactures, and distributes generic

pharmaceuticals. Prior to joining the company, Loewenstein was a member of the Short Hills, NJ firm of Budd Lerner, P.C., where he was head of its corporate generic pharmaceuticals practice.

Bradley S. Keller, founding partner of the Seattle, WA litigation firm, Byrnes Keller Cromwell LLP, was inducted into the International Academy of Trial Lawyers. Keller focuses his practice on business and tort litigation, including RICO, securities fraud, products liability, Consumer Protection Act, professional liability, dealer-termination, and class action cases. He is also a Fellow in the American College of Trial Lawyers.

1980

Maxine Frank was promoted to Executive Senior Vice President, Chief Legal Officer and General Counsel of New York Presbyterian Hospital, the largest academic medical center and system in New York State. She has been with the Hospital for over 11 years and serves as the Chief Legal Advisor to the President and Board of Trustees and is the supervisor of the Office of Legal Affairs and Risk Management.

Anne J. Swern, First Assistant District Attorney in the Kings County District Attorney's Office, was presented in February 2011 with a Robert M. Morgenthau Award by the District Attorney's Association of the State of New York in recognition of her "professional accomplishments, honesty, integrity, and commitment to justice."

1981

Ira Cohen formed a new law firm, Henkel & Cohen, P.A. in Miami, Florida. The firm handles complex litigation and corporate transactional matters. Cohen specializes in patent, trademark, and entertainment law. He is also a member of the faculty of the University of Phoenix, South Florida Campus, where he teaches undergraduate and graduate courses in business law, constitutional law, and American history.

Katherine R. O'Brien was promoted to Senior Vice President and Deputy General Counsel in the Office of the General Counsel of New York Life Insurance Company. O'Brien is responsible for managing the employment, litigation, ERISA, contracts, intellectual property, corporate transactions and administrative units of the company.

1982

Vivian A. Maese, formerly general counsel and corporate secretary of BIDS Trading LP, joined Morgan Stanley as a Managing Director and Global Head of the company's Workforce Strategy and Solutions Team. She was also named to the DirectWomen Board Institute Class of 2011, a program designed to identify, develop, and support a select group of accomplished women attorneys as directors needed by the boards of U.S. companies.

Richard I. Shapiro, Senior Executive with the Major League Baseball Players Association, spoke on the topics of the business of sports, career entry and paths, labor-management relations, and the professional athlete at Skidmore College in fall 2010. Shapiro heads the union's efforts to support individual contract negotiations and contributes his expertise to other areas of union activity.

1983

Susanna Molina Rojas was appointed Clerk of the NYS Supreme Court, Appellate Division, First Department, where she manages approximately 350 non-judicial employees. She joined the First Department in 1999 and has held positions of successive authority, most recently as Chief Court Appellate Attorney.

1984

Thomas R. Kilfoyle recently retired as Chief Clerk of the Civil Term of the NYS Supreme Court, Kings County after serving in the courts in various positions for over 40 years.

Charles A. Small '06 was appointed the new Chief Clerk of the Civil Term.

Joyce M. Rosenberg became the Money & Markets editor of *AP Business News*.

Rosenberg has been with the AP for 33 years and has covered retailing, mergers and markets as a reporter. She also writes *Small Talk*, the AP's small business column.

Gregory J. Rupert, previously a partner at Patton Boggs LLP, joined the Falls Church, VA office of Reed Smith as a partner in the firm's Tax, Benefits and Wealth Planning Practice. Rupert counsels individuals and closely held businesses on matters involving federal tax issues, with a focus on estate and business succession planning. He also advises clients on general business issues and international tax matters.

1985

Steven G. Scheinfeld, a partner in the New York office of Fried, Frank, Harris, Shriver & Jacobson LLP and co-head of the firm's Real Estate Transactions Group, was appointed Vice-chairman of the firm's Corporate Department. He represents financial institutions and real estate companies in connection with public and private securities offerings, mergers and acquisitions, fund formations, corporate governance matters and financings.

1986

David N. Wechsler, a partner in the Garden City, New York office of Moritt Hock & Hamroff LLP, was elected to the Board of Directors of the United Way of Long Island. Wechsler concentrates his practice in all phases of estates and trust law, including the drafting of estate planning documents and the representation of fiduciaries in the administration of trust and estates.

1987

Paul F. Slater, Senior Counsel of Corporate Environmental Programs for the General Electric Company, was a panelist in a LexisNexis Web event, "Early Case Assessment & Resolution for In-House Counsel & Outside Law Firms." Slater presides over GE's strategy in a number of its most complex toxic tort litigations. He also counsels GE regarding general internal environmental liability and risk issues, including product liability.

1988

Jill D. Block, previously a partner of Orrick, Herrington & Sutcliffe LLP, joined the New York office of Pillsbury Winthrop Shaw Pittman LLP in the firm's Real Estate Department. Her practice includes representing institutional and private lenders, investors, developers, and servicers in the acquisition, sale, financing, and development of real estate.

Jodi F. Krieger was elected a partner of Kleinberg, Kaplan, Wolff & Cohen, P.C. Krieger practices in the area of estate planning and wealth management for high-net worth individuals. She represents clients in all phases of complex estate and trust administration, including income, gift, estate and generation-skipping transfer tax matters.

Richard O. Toscano, who runs his own firm focusing on criminal, immigration, and international matters, was presented with a 2010 Beacon of Justice Award from The National Legal Aid & Defender Association in October 2010. The award honored his firm's "significant contribution to pro bono representation in the area of immigration law."

Enrique M. Vassallo is now Of Counsel at the Century City, CA-based firm of Orbach Huff & Suarez LLC. He represents public entities, primarily public school districts and community colleges, in a wide range of matters, including disputes involving violations of California Education Code, the Ralph M. Brown Act, the Public Records Act, the False Claims Act, and conflict of interest laws applicable to public officials and employees.

1989

Naomi K. McLaurin joined the Philadelphia Bar Association as its Director of Diversity, responsible for leading the 12,000 member Association's Office of Diversity. McLaurin previously served as a diversity consultant in Atlanta, GA, where she advised clients on diversity initiatives and best practices, educational programming, mentoring programs, and professional and business development.

Nelson S. Roman, Associate Justice of the NYS Supreme Court, Appellate Division, First Department, was featured in the cover article, "Hispanic Power Couples," in the September/October 2010 issue of *Diversity & The Bar*, a publication of the Minority Corporate Counsel Association.

Michael A. Scotto was appointed Chief of the Rackets Bureau in the New York County District Attorney's Office. Scotto also serves as a Deputy Chief of the Investigation Division.

1990

Amanda Haines, an Assistant United States Attorney in the U.S. Attorney's Office, District of Columbia, was featured in a *Washington Post* (Oct. 2010) article regarding her role as the lead prosecutor in the high-profile murder trial of former federal intern Chandra Levy, in which the defendant was found guilty.

Valorie J. Stefanelli, previously a no-fault arbitrator in New York, was appointed an Administrative Law Judge for the Social Security Administration in Hattiesburg, MS.

1991

Andrew J. Lauer, Vice President for Legal Affairs, Secretary, and General Counsel of Yeshiva University, was featured in *Inside Counsel* (Aug. 2010) after his office was named to the "Inside Counsel 10," a national listing of the top ten most innovative Offices of General Counsel. Among the innovations noted, was his creation of the Yeshiva University General Counsel's Council, an advisory board of both general counsel and law firm attorneys who help retain pro bono counsel for the university.

1992

Jeffrey Berkowitz, former senior vice president of global market access for Merck & Company, Inc., joined Walgreens Co. as Senior Vice President of Pharmaceutical Development and Market Access. He is responsible for the overall pharmacy contracting strategy for the company.

Robert S. Gershon was sworn in as the President of the Kings County Criminal Bar Association in January 2011. He maintains a private practice in Brooklyn Heights, concentrating in the areas of criminal defense and family law.

Michael J. Monahan was appointed Executive Director of Grant Thornton, LLP, a global audit, tax, and advisory organization. He was also named the Practice Leader for the company's Metro-NY/Northeast Region and National Not-for-Profit and Higher Education Compensation and Benefits Consulting Practices. Monahan is also scheduled to receive a master's degree in Pastoral Studies in May 2011 in conjunction with his Ordination to the Permanent Diaconate for the Diocese of Rockville Center.

1993

Jewell L. Esposito joined the Fairfax, VA office of the national labor and employment firm, Constangy, Brooks & Smith, LLP. Esposito concentrates her practice in the area of employee benefits and tax law with an emphasis on fiduciary compliance, tax qualification of retirement plans, executive compensation, and payroll taxes for public, tax-exempt and government contractor clients on employee benefits matters.

Maura A. Healy was appointed Senior Attorney, Contracts for Ascena Retail Group, Inc. Located in Suffern, NY, Ascena is the parent company of women's retail stores Dress Barn and Maurices, and tween girl shop, Justice.

Lawrence E. Teitelbaum joined the U.S. Marketing Team of Prudential Real Estate Investors (PREI) as a principal. PREI is the real estate investment management and advisory business of Prudential Financial, Inc. Teitelbaum is responsible for raising capital, marketing, and client services primarily in the Midwest.

1994

Kristian J.F. Bornemann joined the San Francisco, CA office of Bryan Cave LLP as counsel in the firm's Real Estate Capital Markets Group. His practice includes all aspects of commercial real estate and lending, with an emphasis on commercial mortgage-backed securities origination and loan servicing matters.

Lisa M. Brauner, previously with Littler Mendelson, P.C., joined the law firm of FSB FisherBroyles LLP as a partner to launch its employment law practice in New York. Brauner represents private and public-sector employers in a broad range of employment matters.

Deborah Epstein Henry, founder of Flex-Time Lawyers LLC, released her first book, *Law & Reorder: Legal Industry Solutions for Restructure, Retention, Promotion and Work/Life Balance* (ABA 2010), in October. Her national book tour has drawn a roster of esteemed participants including Deans of Harvard Law, University of Chicago, University of Miami and University of San Francisco, the general counsels of DuPont, Sony, General Electric, Motorola, Goodyear, CIGNA, Lubrizol, and Genentech, as well as significant news personalities including Claire Shipman of *Good Morning America* and Lisa Belkin of *The New York Times*.

Carolyn Pokorny was named Chief of the General Crimes Section of the U.S. Attorney's Office for the Eastern District of New York. Pokorny has served as a prosecutor in the office since 1999. She is also a member of the adjunct faculty of Brooklyn Law School, where she teaches in the Prosecutors Clinic.

1995

Julia P. Herd, Principal Law Clerk to Justice Paul G. Feinman of the NYS Supreme Court, Civil Term, New York County, was elected to serve on the Executive Committee of the Association of Law Secretaries to the Justices of the Supreme and Surrogate's Courts in New York City.

Matthew Swaya '81: *Serving Starbucks*

For the past 20 years, Matthew E. Swaya '81 has started every morning with a cup of Starbucks coffee — a tall Americano, to be precise. “I have at least one, sometimes more,” he said. As Starbucks’ newly appointed Chief Ethics and Compliance Officer, Swaya now leads the company’s Global Business Ethics and Compliance, Global Labor and Employment, and Global EEO Initiatives (Affirmative Action Compliance) functions. It’s no wonder he occasionally needs more than one.

Swaya developed an early interest in labor law as a student of industrial and labor relations while an undergraduate at Cornell University. “I found the topic fascinating,” he recalled. “I was intrigued by the diplomacy and fairness, and finding a fair balance in the employment relationship. The ability to effect positive change in the work environment was really exciting for me.”

At Brooklyn Law School, that interest grew into a passion. Swaya found a mentor in then BLS Adjunct Professor Sam Kaynard, who was the Regional Director of the National Labor Relations Board. “I thought when I started law school that I wanted to be a labor lawyer, but my classes with Sam really convinced me to pursue this area,” said Swaya. “He was a force in the field. He was the person who wrote the labor laws and enforced them, and we were learning not only the substantive work, but also the practical side, too.”

After graduating from Brooklyn Law School in 1981, Swaya held several in-house positions before landing at PanAm and then TWA as a labor lawyer focused on union issues related to flight attendants, mechanics, pilots, baggage handlers, flight dispatchers, and reservations agents. “I worked with the unions, negotiating agreements and resolving disputes, and in that context you learn that your word is your bond,” said Swaya. “You could be on the right side of an issue one day and not the next, so it was important to develop a relationship of collaboration and trust not only with your team but also with the unions across the table.”

In 1990, Swaya moved out to Seattle for an opportunity to work with Lane Powell, LLP as a partner in their labor law department. He joined Starbucks in 1997 and quickly rose through the legal ranks to become vice president and assistant general counsel. In December, he was appointed Chief Ethics and Compliance Officer.

In this role, Swaya adds several new responsibilities to his already full roster of duties as vice president and assistant general counsel. He now oversees legal and regulatory compliance throughout the company, and is tasked with managing the Partner Help Line (Starbucks employees are called partners) where the employees can register complaints or concerns about the workplace (anonymously if they like). He also vets potential conflicts of interest, invitations for board service, and spends a good deal of time training his team on compliance issues.

A typical day might include solving a difficult employment problem, coaching his staff, meeting with senior leaders, and mentoring younger lawyers and company leaders, which Swaya says



is the most rewarding part of his job. “I like to challenge lawyers all the time, and help them see issues from different sides,” he said. “Hopefully that helps them be better lawyers. I am constantly trying to help my team grow and thrive as leaders, too.”

Swaya himself is well-known for his skills as a negotiator and advocate, as well as his effectiveness as a leader. He is an elected Fellow of the College of Labor and Employment Lawyers; Election as a Fellow is the highest recognition by one’s colleagues of sustained outstanding performance in the profession, exemplifying integrity, dedication, and excellence.

His approach to the law, he explained, is very much informed by Starbucks’ core values of fairness, respect, and integrity. “As a legal advisor, it’s very easy to say that the law allows us to do this or doesn’t allow us to do that. The harder part is you have to look at your legal role through a lens of respect, dignity, and support. The law may say you can do “X”, but I may say “maybe not” if that means not treating someone well. That matters a lot.” Probably just as much as that perfect cup of coffee. □

Julie Kay '95: Fighting for Choice



In 2000, Julie F. Kay '95, a revered staff attorney with the Center for Reproductive Rights in New York City, made a rather unusual decision. She moved to Ireland. The reason, she explained, was simple: "I needed a change of pace, and I wanted to live somewhere different." When Kay arrived in Dublin, and she and her husband (Thomas Fergus '95) had settled in, she decided to look around for lawyering work. "I figured, worst comes to worst, I'd work in a pub," she recalled. But instead of pouring pints, she changed Ireland's decades-old abortion law.

Shortly after arriving in Ireland, Kay began working as a legal consultant to the Irish Family Planning Association (IFPA) where she was charged with coordinating a new initiative to advance women's legal rights. Working with the IFPA, she developed, researched, briefed, and filed a case on behalf of three women in 2005, *ABC v. Ireland*, challenging Ireland's ban on abortion before the European Court of Human Rights. Four years later — and eight and a half months pregnant with her second child — Kay flew to Strasbourg, France to argue the case before the Court's full 17-judge panel, the Grand Chamber.

"The experience was amazing," said Kay, who enlisted the help of several well-known international legal professors and barristers in

preparing for her day in court. "To argue before judges from all over the world, well, that's my idea of a good time."

It took almost a full year after arguments were concluded for the Court to reach a decision. Two of the women had their claims dismissed, but the Court ruled against Ireland in the case of Miss C., a cancer survivor who had been forced to travel abroad to obtain an abortion when doctors in Ireland would not discuss whether her life was at risk if she continued the pregnancy.

The landmark ruling declared that Ireland's abortion law violates women's rights and found that Ireland must make life-saving abortion services available. The Irish government, for the first time in history, must now enact legislation setting out how, and in what circumstances, women with life-threatening conditions can have abortions. "I am thrilled with the Court's decision," said Kay. "I think it bodes very well for significantly reforming Irish abortion law."

Kay, who holds a B.A. in Women's Studies and Social Studies at Harvard, has had a long-standing interest in reproductive rights. "I was always interested in issues of social justice and discrimination, and in how the law can provide a solution to these inequalities," she said. "Quite frankly, I see law as a powerful way of changing things about the world that I think are unfair."

After college, Kay moved to New York City, where she worked for a child advocacy organization. When she decided to apply to law school, she was drawn to Brooklyn Law School because of its commitment to public interest work, its renowned clinical programs, and because of professors like Elizabeth Schneider and Susan Herman, known for their work on women's issues. "I came from a college that was often impersonal, and at Brooklyn Law School I was so impressed with how involved and accessible the teachers were and how they helped with placements," said Kay. At BLS, she was an Edward V. Sparer Public Interest Fellow and an Executive Articles & Research Editor of the *Brooklyn Law Review*, and she wrote the note, "If Men Could Get Pregnant: An Equal Protection Model for Federal Funding of Abortion under a National Health Care Plan."

Kay worked at the Center for Reproductive Rights as a Sparer Fellow her first summer, and was sponsored for an in-house fellowship at the Center after her clerkship with United States District Judge Mark Wolf in Boston. She spent four years at the Center for Reproductive Rights before moving to Ireland. In 2005, she returned to New York to work for Legal Momentum, the country's oldest legal defense and education group for women and girls, where she rose to senior staff attorney, launching the organization's Sexuality and Family Rights Program. She left Legal Momentum in April 2009 to continue her work with *ABC v. Ireland*.

With the historic victory in *ABC v. Ireland* behind her, Kay is reflecting on her career and her next steps. "This case was definitely the highlight of my career so far," she said. "Now I just need to figure out what comes next." There's always pouring pints. □

Anna-Sigga Nicolazzi, an Assistant District Attorney in Kings County, was featured in an article on *NY Magazine's* blog, *Daily Intel* (10/18/10), about her work as a prosecutor, including her stellar trial record — 36 homicide trials without an acquittal. Her latest high-profile murder trial was of a teenager charged with killing a freelance journalist for *ABC News Radio*.

Mark F. Radom joined Blue Sphere Corp. as its Chief Carbon Project Developer. Headquartered in London, England, the company is an Emission Reduction Project Integrator, developing projects for greenhouse gas emission reduction and renewable energy production. Radom handles all the legal work in structuring and advising on Blue Sphere's Kyoto Protocol and other transactions, as well as U.S. securities and corporate issues.

Jennifer S. Zucker, formerly a partner in the Washington D.C. office of Patton Boggs LLP, joined Wiley Rein as a partner in its Government Contracts and Litigation Practice Groups. Zucker represents clients on all aspects of federal procurement law. She is also a Lieutenant Colonel in the U.S. Army Reserves, and Vice Chair and Professor in the Contract and Fiscal Law Department of The Judge Advocate General's Legal Center and School in Charlottesville, VA.

1996

Christie L. McEvoy-Derrico was elected as a Village Justice for the Village of Mamaroneck in November 2010. She also maintains her own firm, Law Offices of Christie L. McEvoy-Derrico, P.C., where she focuses on litigation, real estate transactions, and trusts and estates.

1997

Robert B. Acton, former Executive Director of Cabrini Green Legal Aid in Chicago, IL, became Executive Director of the New York City Office of the Taproot Foundation. Taproot is a national nonprofit organization that makes pro bono talent available to organizations working to improve society. In his new position, Acton will create strong

partnerships with NYC-based foundations and corporations to effectively support and serve over 100 New York City nonprofit organizations per year.

Albert T. Gavalis was recently appointed for a two-year term as a Resolutions & Receiverships Specialists by the FDIC in its Temporary East Coast Satellite Office in Jacksonville, FL, which serves the southeast region of the U.S. Gavalis was previously an independent of-counsel attorney and CPA consultant performing special-project work ranging from tax analysis, tax returns and contract processing at various CPA and law firms to processing billion dollar syndicated-loans at major banks.

Andrew S. Goodstadt, previously a partner of Thompson Wigdor & Gilly LLP, formed his own firm, Goodstadt Law Group, PLLC, focusing on all aspects of employment law and commercial and business transactions and disputes.

Nicole M. Hunn recently released her first book, *Gluten-Free on a Shoestring* (Da Capo Lifelong Books). It is a combination cookbook and money-saving guide based on Hunn's food blog of the same name.

Daniel C. McElhinney was named Managing Director for Corporate Restructuring at Epiq Systems, Inc., a leading provider of technology solutions for the legal profession. In this role, McElhinney will assume a leadership role for revenue generation, client services, and business planning for the company's bankruptcy business.

1998

Nailah K. Byrd was named the first Inspector General for Cuyahoga County in Cleveland, OH. In this position, Byrd is responsible for investigating fraud, abuse, and waste. She previously served as an Assistant United States Attorney in Cleveland and as an associate at Squire, Sanders & Dempsey.

Sean E. Coonerty became a named partner of Geller, Siegel & Coonerty, LLP, where he practices in the areas of plaintiff's personal injury and medical malpractice.

Hanna Liebman Dershowitz participated in a "Symposium on Proposition 19: The Regulate, Tax and Control Cannabis Act of 2010" at Loyola Law School in October 2010. She is the Contracts and Regulatory Advisor to the University of Southern California's Institute for Creative Technologies and co-chair of the Legal Subcommittee of the Proposition 19 campaign.

Sean R. O'Loughlin, President of Global Biomechanical Solutions, Inc., a New York City-based biomechanical consulting firm, co-authored two articles in the *NYSBA Torts, Insurance & Compensation Law Section Journal*: "The Rise of Biomechanical Experts at Trial" (Nov./Dec. 2010), and "The Use of the Biomechanical Expert: Fact or Friction" (Summer 2010). He also had two plays published on Amazon.com.

Richard J. Sobelsohn, an associate in the Real Estate Practice group of Moses & Singer LLP, contributed a chapter titled, "The Real Estate Owner's Perspective: Opportunities and Risks," to the *Legal Handbook for Architects, Engineers & Contractors* (West Thompson, Oct. 2010). Sobelsohn also had an article published in *Real Estate Weekly*, "Green Lease Issues for Commercial Tenants Set to Grow" (Sept. 2010).

Lisa C. Solbakken is a partner in the New York firm of Arkin Kaplan Rice LLP, where she specializes in all aspects of business-related litigation and negotiations, including contract and securities law, regulatory investigations, contract cases, and employment matters.

Antonio Vozzolo, a partner in the New York office of Faruqi & Faruqi, LLP, secured the largest consumer class action verdict and the second largest jury verdict in California for 2010. Vozzolo served as co-lead counsel for the case which concerned the Avacor™ hair regrowth system. Vozzolo represents individuals and institutional investors on complex matters involving federal and state securities laws and fiduciary duties of corporate officers and directors. **Christopher Marlborough '03** played a significant role in the litigation as well.

1999

Robert S. Hoff became a partner in the Stamford office of Wiggin and Dana in the firm's White Collar Defense, Investigations & Corporate Compliance Group and its Litigation Department. He is also a member of the firm's eDiscovery and Electronic Data Practice Group.

Marshall A. Mintz, founding partner of the law firm of Mintz & Oppenheim specializing in criminal trials and appeals, was elected to the Board of Directors of the New York State Association of Criminal Defense Lawyers. Mintz also serves as co-chair of its Amicus Curiae Committee.

2001

Charles A. Archer Jr., CEO of the Evelyn Douglin Center, received a Citation from Brooklyn Borough President, Marty Markowitz, in recognition of his organizational leadership. Located in Brooklyn, the Center provides individuals with developmental disabilities and/or mental retardation the opportunity to learn skills needed to reach their highest level of independence.

Kristopher M. Dennis became a partner in the firm of Kaufman Borgeest & Ryan LLP. Dennis concentrates his practice in the areas of legal malpractice, professional liability and insurance coverage litigation. He is also a contributing author to the coursebook for the Bi-Annual NYSBA's Legal Malpractice Litigation and Risk Management Seminar.

David K.S. Kim, a senior associate with the NY immigration firm of Bretz & Coven, LLP, led a CLE Panel, "Federal Court 'Nuts and Bolts' for the Immigration Practitioner," at the National Conference of American Immigration Lawyers Association. He was also featured in a *New York Daily News* article (9/9/10) about his pro bono representation of a Korean family who were victims of immigration fraud.

Melinda Eades LeMoine was elected a partner in the Los Angeles, CA office of Munger, Tolles & Olson LLP. She focuses her practice on complex litigation, particularly in the entertainment industry.

Afsaan Saleem and Gabriel P. Harvis '06, both previously with the New York City Law Department, formed their own firm, Harvis & Saleem LLP, a boutique civil litigation and transaction practice with a focus on civil rights, trademark, art law, and personal injury law.

2002

Jennifer A. Broomfield relocated to the Portland, OR area with her partner, Dana, and their daughter. She returned to social work and is serving as a Clinical Supervisor for a Forensic Assertive Community Team, helping clients with severe and persistent mental illness.

Michael G. Burke became a partner in the New York office of Sidley Austin LLP in the firm's Corporate Reorganization and Bankruptcy Practice Group. Burke focuses his practice on major Chapter 11 and Chapter 7 cases representing both debtors and creditors, including various aircraft manufacturers and other aircraft financing parties.

Janine M. Cerbone became a partner of Hahn & Hessen LLP. Her practice focuses on the representation of creditors' committees and secured and unsecured creditors in corporate reorganizations, restructurings and liquidations. She is a member of the Board of Directors of the New York Chapter of the Turnaround Management Association and she serves on the Unsecured Trade Creditors' Committee of the American Bankruptcy Institute.

Brian J. Grieco and his wife, Nina, welcomed the birth of their second son, Luca Joseph, in November 2010. Grieco is an associate in the New York office of Hogan Lovells, where he practices in the areas of bankruptcy, business reorganization, and commercial finance.

Jeffrey W. Kleiner was named a partner of New York law firm LePatner & Associates, LLP. He specializes in commercial and real estate litigation, construction and real estate related commercial transactional matters, corporate compliance, and advisory services.

Thomas S. Onder was named a shareholder of Stark & Stark, PC in the firm's Bankruptcy and Creditors' Rights Group. Onder concentrates his practice in the areas of commercial litigation, commercial landlord disputes, secured transactions, and bankruptcy. He is currently chair of the Bankruptcy Section of the Mercer County Bar Association.

Remi S. Silverman, formerly a trust and estates associate at Hughes Hubbard & Reed, LLP, joined Columbia University's Office of the General Counsel. She advises the Alumni and Development Office on trust, estate and gift matters. She previously served as an Acting Assistant General Counsel at The Solomon R. Guggenheim Foundation and was an Adjunct Professor at Brooklyn Law School where she taught Art Law.

2003

Nicholas J. Minella accepted a commission as a First Lieutenant in the U.S. Army Reserves Judge Advocate General Corps. He is assigned to the 4th Legal Services Organization in The Bronx, NY.

2004

Geraldine Gauthier, formerly with the Public Utility Law Project of New York, an energy and utility nonprofit legal services organization, joined the State University of New York as Associate Counsel at its System Administration headquarters in Albany, NY.

Peter W. Hennessey, formerly an associate in the New York City office of Skadden, Arps, Slate, Meagher & Flom, LLP, joined the Palo Alto, CA office of Wilson Sonsini Goodrich & Rosati as an associate. He focuses on corporate and securities matters for both public and private companies.

Mark A. Merriman became a partner at Frankfurt Kurnit Klein & Selz, PC. Merriman practices in all aspects of general entertainment law with a focus on theatre-related transactions, advising on worldwide theatrical rights acquisition, licensing, creative personnel agreements, theatrical syndication financing, music publishing, and related production agreements and transactions.

Laurie Parise, Executive Director of Youth Represent, a legal services organization she started four years ago, was featured as the *NYer of the Week* on NY 1 in October. Parise and her team of two other lawyers, including **Michael C. Pope '10**, work with youths (24 years and younger), representing them in court. They also assist youths with legal issues that stem from them being in the criminal justice system, and help transition them back into society.

2005

Odelia Levy, formerly an associate at Jackson Lewis LLP and at Sills Cummis & Gross P.C., joined the NYC Department of Education as Senior Associate Counsel for EEO and Diversity Management.

2006

Betty Huang and **Gregory R. Noce** recently launched their own firm, Huang Noce PLLP, a full service immigration and small business law firm.

2007

Joseph M. Ajello and his family members were featured in an article in *The Brooklyn Ink* (11/16/10) about their company, Pastosa Ravioli, a third-generation, family-owned and operated Italian specialty food company, with 11 stores in New York.

Grant I. Cartwright joined the Delaware office of Cole, Schotz, Meisel, Forman & Leonard, P.A. as an associate in the firm's Bankruptcy & Corporate Restructuring Department. His practice focuses on corporate reorganizations, creditor's rights issues,

and litigation arising in the context of bankruptcy cases. Prior to joining the firm, he was a law clerk at the U.S. Bankruptcy Court in the District of Delaware.

Joseph H. Nivin opened his own firm, The Law Offices of Joseph H. Nivin, P.C. in Jamaica, NY. His practice focuses on family law.

2008

Michael R. Herz, an associate in the New Jersey firm, Feitlin, Youngman, Karas, & Youngman, LLC, wrote the cover article, "Automatic Bank Transfers: Protecting Estate Assets or Impeding Consumer Debtors' Rights?", for the November 2010 *American Bankruptcy Institute Journal*. Herz's practice concentrates on the areas of consumer and commercial bankruptcy law, as well as civil litigation.

Lauren A. Jones joined the New York office of Martin Clearwater & Bell LLP as an associate focusing on medical malpractice defense.

Jennifer Kernkamp-Muller, an associate in the Philadelphia, PA office of Dechert LLP, and her husband, Peter, welcomed the birth of their son, Lucas Harrison, in June 2010.

Adam S. Turk, a founding partner of Turk & Davidoff PLLC, married Ilana Hausdorff, a teacher at the Heschel School in New York City.

2009

Todd D. Batson was recently appointed to the University of Texas at Austin McCombs School of Business BBA/MPA Alumni

Advisory Board. The Board helps set the direction and goals for the McCombs Alumni Network. He is completing a Civil Rights Fellowship at the Texas Civil Rights Project and will become a law clerk to Judge Richard C. Wesley of the U.S. Court of Appeals for the Second Circuit this fall.

Marcus A. Nussbaum joined the law firm of Goetz Fitzpatrick LLP as a litigation associate, representing clients in the areas of commercial and construction law and intellectual property. Prior to entering the practice of law, he served as an Officer in the U.S. Army Air Defense Artillery, and is a veteran of Operation Freedom, during which time he was awarded the Bronze Star Medal.

Kathryn M. Wilson was promoted to Principal Regional Counsel at the Financial Industry Regulatory Authority.

2010

Amy B. (Friedland) Cohen, an Assistant District Attorney in the Manhattan District Attorney's Office, was married to Micah G. Cohen, a resident at Mt. Sinai Medical Center, in October 2010.

Stephanie A. Staal recently had a second book published, *Reading Women: How the Great Books of Feminism Changed My Life* (Public Affairs, 2011). Her first book, *The Love They Lost: Living with the Legacy of Our Parents' Divorce*, was published in 2000 by Delacorte. She previously worked as a features reporter for the *Newark Star-Ledger* and she also spent several years in the film and publishing industries as a literary scout.

EDITOR'S NOTE:

The Alumni Relations Office receives information for ClassNotes and In Memoriam from various sources. All information is subject to editorial revision. *BLS LawNotes* is produced a few months in advance of publication, and any ClassNotes or In Memoriam information received after March 1, 2011 will be included in the next issue.

Please send ClassNotes information for future issues to communications@brooklaw.edu, or visit www.brooklaw.edu/classnotes to submit a classnote online.

Losing a Legend: David G. Trager, Dean of Brooklyn Law School During an Extraordinary Period of Growth

David G. Trager, who died on January 5 at the age of 73, was an extraordinary and beloved colleague, teacher, trustee, former Dean, and great friend to the Brooklyn Law School community. Judge Trager served as Dean from 1983 to 1993, guiding the Law School through a crucial period of growth and development. Through his energetic leadership and clear vision, he was able to marshal the enthusiasm of trustees, faculty, alumni, and students to transform the Law School from a local school into a national institution. “His role in raising the School to new heights was indispensable, and his mark on Brooklyn Law School is indelible,” said President Joan G. Wexler.

“On David’s capable shoulders, the Law School commenced an era of monumental change,” said Board of Trustees Chairman Stuart Subotnick. “He was particularly enthusiastic about undertaking new initiatives — to draw alumni into the School’s orbit, to recruit talented students, and to enhance the visibility of the faculty.” Trager expanded the faculty by drawing many distinguished scholars, outstanding practitioners, and highly regarded visiting professors. Throughout the Trager years, Brooklyn Law School led the nation in the number of women in full-time law faculty, and in 1991 the *National Jurist* ranked BLS among the top law schools in the nation for women. Trager also fostered curricular changes, developing seminar section programs, and expanded the Law School’s clinical program.

Although Trager devoted a significant amount of time to the development of the Law School as an academic institution, he may best be remembered for his wise real estate investments. During his tenure as Dean of the Law School, Trager purchased five buildings, including the first of the Law School’s residence halls. He also acquired One Boerum Place, which has been used to house administrative offices, clinics, journals, and the bookstore. But his crowning achievement was the construction of the critically acclaimed addition to 250 Joralemon Street, designed by Robert A.M. Stern. The addition is home to the Law School’s expanded library, new classrooms, the Dining Hall, faculty and administrative offices, and an impressive bi-level conference space with sweeping views of downtown Brooklyn.

“Trager knew every corner of what was happening. He engineered everything,” said Professor Joseph Crea, a member of the faculty for the past 50 years. “He jump-started things.”

Trager was a formidable multitasker. While serving as Dean, he continued to play an active role in the legal community. He served as Chair of the Temporary New York State Commission of Investigation, was a member of the New York City Charter

Revision Commission, President of the Federal Bar Council, and was Chairman of Mayor Koch’s Committee on the Judiciary.

The son of Solomon and Clara Trager, who emigrated from Vienna to the United States at the end of World War I, Trager was raised in Mount Vernon, New York and was a graduate of Columbia University and Harvard Law School. As a young lawyer, he trained under the great trial lawyer Emile Zola Berman and then served successively as law clerk to New York State Court of Appeals Judge Kenneth Keating and Chief Judge Stanley Fuld. He then began a career that combined law school teaching and public service. From 1970 to 1972, he served as Assistant United States Attorney for the Eastern District of New York and was Chief of the Appeals Division. In 1972, he joined the faculty of Brooklyn Law School (a position he held until his death). Then in 1974, he was appointed United States Attorney for the Eastern District of New York by President Richard Nixon.

When Trager took office as United States Attorney, he pledged to hire only “the most qualified lawyers that can be attracted,” selected solely on the basis of their ability, and he increased the hiring of women and minority assistants. He was the first U.S. Attorney in the country to create part-time positions for Assistant

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— BOARD OF TRUSTEES CHAIRMAN STUART SUBOTNICK



U.S. Attorneys. He also pledged to conduct business “in a completely independent and nonpolitical fashion,” and to “enforce the laws vigorously against all who violate them.” He kept that pledge, a fact recognized by President Jimmy Carter when he continued Trager in his position.

In 1978, Trager returned to Brooklyn Law School as an adjunct faculty member and taught Constitutional Law and Conflict of Laws and, in 1983, he was appointed Dean of the Law School. He led the Law School for a decade, until 1994, when he was appointed United States District Judge for the Eastern District of New York by President Bill Clinton. He assumed senior status in 2006, but continued working full time until shortly before his death. His tenure on the bench produced several noteworthy rulings, one in a racially-charged case

in Crown Heights and another relating to the first civil suit to challenge the Bush administration’s practice of sending terrorism suspects to countries that employ torture.

“Judge Trager’s death is a profound loss for our Court and the legal community,” said Eastern District Judge Raymond J. Dearie. “He is not replaceable. We will just have to endure the loss.” □

Contributions in Judge Trager’s memory may be made to Brooklyn Law School by contacting development@brooklaw.edu, online at www.brooklaw/makeagift or by calling the Development Office at 718-780-0673. Donations will support the David G. Trager Public Policy Symposium.

Professor Margaret Berger: Luminary in the Field of Evidence

The Brooklyn Law School community lost a great scholar, friend, and practitioner this winter with the death of Margaret Berger, the Trustee Professor of Law, who taught at the Law School from 1973 to 2009.

A graduate of Radcliffe College and Columbia University School of Law, Berger was instrumental in shaping the rules of evidence in both civil and criminal cases. She was one of the first Brooklyn Law School professors to hold a named chair and the second woman to join the faculty, and her four decades of service to the Law School helped to build its reputation as one of the best law schools in the country for the study of evidence.

“Professor Berger was revered by her students and widely recognized as one of the nation’s leading evidence scholars,” said President Joan G. Wexler in an email sent to the Law School community after Berger’s death. “She was instrumental in shaping the Federal Rules of Evidence and did pioneering work in the field of scientific evidence. Her influence on lawyers, judges, and scholars was legendary. Margaret was an extraordinary woman and a beloved friend. We will miss her dearly, but her legacy will be long enduring.”

One of Berger’s most notable professional achievements was the amicus brief she wrote on behalf of the Carnegie Commission on the Admissibility of Scientific Evidence in the landmark case of *Daubert v. Merrell Pharmaceutical, Inc.* in 1993, which established a two-pronged test for the admissibility of scientific evidence, geared to ensuring that testimony “is not only relevant, but reliable.”

Daubert, however, was just one of the highlights of a remarkable career in which Berger championed justice through the lens of evidence. In her amicus brief in *Idaho v. Wright* on behalf of the ACLU, Berger successfully argued that the defendant’s Sixth Amendment Rights had been violated by the admission of hearsay of a two-and-a-half year old child. In a 5-4 decision written by Justice Sandra Day O’Connor, the Court agreed that the defendant’s Sixth Amendment rights had indeed been violated.

Outside of the court room, Berger made still more momentous contributions to the field of evidence. She authored chapters to both editions of the *Federal Judicial Center’s Reference Manual on Scientific Evidence* (1994, 2000). She also co-authored *Evidence: Cases and Materials* (9th ed., 1997, with Weinstein, Mansfield and Abrams), the leading evidence casebook, read by virtually every law student in the nation.

Berger was also instrumental in educating judges on the discrete issues of science and the law. In “Science for Judges,” a series of programs she established at the Law School, which ran from 2003 to 2007, she brought together a group of the brightest scientists and researchers in the country — including doctors, epidemiologists, statisticians, and psychologists — in an effort to provide both state



and federal judges with an understanding of cutting-edge issues involving science and the law.

Berger’s formidable reputation earned her membership to an elite club of scientists and lawmakers. She was frequently invited to join committees, working groups, and agencies in an effort to explore the veracity and admissibility of forensic evidence and expert scientific testimony. “Margaret was often the only law professor on these committees with scientists,” said Professor Lawrence Solan. “Their reports have had significant impact on courts and on the law.”

In February 2009, Berger served on a panel of the National Academy of Sciences Subcommittee on Science, Technology, and the Law. Together, Berger and a cadre of other noted scientists, researchers, and scholars appointed to the panel conducted a two-year study that exposed a system of underfunded labs lacking independent oversight and consistent standards. The resulting report concluded that these deficiencies posed “a continuing and serious threat to

“The pain of separation from some people seems to grow rather than heal with time, and Margaret Berger’s absence elicits that kind of response.” — JUDGE JACK B. WEINSTEIN

the quality and credibility of forensic science practice,” and that, with the exception of DNA, many forensic methods have not reliably connected crime-scene evidence to its source. The report has since been cited by the Supreme Court and become the focus of a Senate Judiciary Committee hearing and further Department of Justice research.

In recognition of her exceptional achievements, Berger was awarded the Francis Rawle Award for outstanding contributions to the field of post-admission legal education by the American Law Institute/American Bar Association for her role in developing new approaches to judicial treatment of scientific evidence and in educating the legal and scientific communities about these approaches. Most recently, in 2009, the Evidence Section of the American Association of Law Schools awarded her with the Wigmore Lifetime Achievement Award, an award Berger had bestowed upon U.S. District Court Judge Jack B. Weinstein of the Eastern District of New York the year before.

At her faculty retirement dinner in April 2009, Berger was presented with an exceptional gift from her colleagues: a draft of a *Festschrift*, a collection of articles written by some of the most influential minds in the field of evidence and compiled by Professor Edward Cheng in her honor, which was published by the *Brooklyn Law Review* last summer. “She has had the complete evidence career,” said Professor Cheng, a protégé of Berger’s. “If there were ever a fully fleshed-out career as a legal academic, she’s had it.”

At a memorial service held at the Law School this past April, colleagues, students, alumni, friends, and family celebrated Berger’s life. In his opening remarks, interim Dean Michael A. Gerber described her as a brilliant and devoted scholar, a beloved colleague and friend, and a true modern-day renaissance woman.

“I quickly realized that this was a woman whose knowledge base was as deep as it was broad,” he said. “She was someone who could talk to anyone about anything: baseball, opera, restaurants, and the exquisite torment of owning an old Saab. But we also talked about

dogs, and of course about law school, and the law.” Gerber recalled many of Berger’s impressive academic accomplishments and spoke of her pivotal role in establishing the small seminar section for first-year students and her subsequent empirical studies on their effectiveness.

“The pain of separation from some people seems to grow rather than heal with time, and Margaret Berger’s absence elicits that kind of response,” said Judge Jack B. Weinstein.

“Her life in the law was so much bigger than the lives of most of us. She was technically the student and I the professor at Columbia Law School, but the education flowed both ways,” he continued. “To her many friends she epitomized the supportive engaged relationship that adds sweetness to life even in its most trying moments. It was my privilege and honor to know Margaret Berger. She was my student, my first law clerk, and my co-author, and to the last, my dear friend and advisor, and like so many of you here today, I am so grateful for the years of companionship and for the work that Margaret and I shared.”

“Margaret was modest, hard-working, and honest, and she never lost the forest for the trees,” said her son David Berger, who noted that the service was particularly poignant as it was being held on April 7, what would have been the 83rd birthday of her late husband, Mark.

Berger was clearly one of the most celebrated and influential scholars in her field, but when *LawNotes* asked her, upon her retirement in 2009, to reflect on the most important moments of her career, she gave an answer both touching and humble: teaching evidence.

“Evidence... has so much to do with drawing inferences and using your imagination to see what proves what,” she said. “I think the most exciting thing in teaching was having those students who just found it fascinating and really got fired up about it. And not just because they had to get a good grade or because they needed to understand it for the bar. They really fell in love with the subject matter. That’s what I loved.” □

To honor Margaret Berger’s legacy, Brooklyn Law School has established the Margaret Berger Scholarship Fund. To make a donation or learn more, please visit www.brooklaw.edu/gift or contact the Office of Development at 718-780-0638 or development@brooklaw.edu.

Justice Steven W. Fisher '72

Steven W. Fisher, Class of 1972, and a Justice of the New York State Supreme Court Appellate Division, Second Department, for almost three decades, died in December at the age of 64.

Known for his thorough preparation and his scholarly approach to the law, Justice Fisher was named to the Criminal Court in Manhattan by Mayor Edward I. Koch in 1983 and served as an Acting Supreme Court Justice in both Brooklyn and Queens. He was elected to the Supreme Court in 1993 and served as Administrative Judge for Queens County Supreme Court from 1998 to 2004, when Justice Fisher was appointed to the Appellate Division, by Governor George Pataki, a position he held until his death.

Justice Fisher was born in Manhattan in 1946. He attended Stuyvesant High School and then Queens College, earning a bachelor's degree in physics. But he found his home at Brooklyn Law School. "In the fall of 1969, I walked into my first Law School class, which was torts," said Justice Fisher in a profile. "Within thirty seconds, I knew I was home."

Justice Fisher began his legal career as an Assistant District Attorney in Brooklyn, where he worked from 1972 to 1976. He then briefly entered private practice as a founding partner of Rhodes, Baker & Fisher. He served as the principal law clerk to Justice Milton Mollen, the presiding justice of the Second Department, from 1979 to 1983, before he joined the bench.

"He was a trial attorney's dream judge — smart, even-tempered, fair, and completely conversant with every nuance of the law. As administrative judge, he was thoughtful, accessible, reasonable, and effective," said Queens County District Attorney Richard Brown. "And in the Appellate Division, he wrote numerous opinions that reflect his remarkable abilities as a lawyer and judge, his passion for justice, and his eloquent and well-reasoned writing style."

Justice Fisher is survived by his wife, Judy, his son, Danny, his daughter, Carrie, and three grandchildren. □

1935

Irene Kaufman

September 19, 2010

1937

Julius M. Greisman

September 28, 2010

1939

Jack C. Brill

September 25, 2010

Hyman Goodman

December 19, 2010

Sidney A. Harris

February 2, 2011

1950

Seymour B. Walzer

January 16, 2011

1951

Jerome M. Neuberger

November 1, 2010

Milton Zelman

November 3, 2010

Francis W. Palmieri

January 5, 2011

Robert M. Weitz

February 23, 2011

1952

Herman Schwartz

February 9, 2011

1954

Lawrence Halfond

September 27, 2010

1955

Daniel J. Heller

March 17, 2011

1956

Arthur V. Bates

November 16, 2010

1957

Hyman J. Mendelson

October 14, 2010

1958

Gerald J. Ginsburg

October 26, 2010

1959

Lawrence A. Dinerstein

October 27, 2010

1962

Melvyn Mitzner

October 16, 2010

1964

Richard A. Dienst

October 2, 2010

1967

G. Harrison Darby

November 2, 2010

1968

Alan Tabakman

February 17, 2011

1974

George J. Beck

January 3, 2011

1975

John D. Grzedzicki

October 16, 2010

1977

George G. Smyth

September 23, 2010

1985

Susan E. Wertheim

December 16, 2010

1987

Regina V. Kelly

February 24, 2011

1991

Maureen Brinkers

November 6, 2010

2008

Harrison Evan Berg

November 9, 2010



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At Brooklyn Law School, we are very fortunate to have a loyal family of alumni who list job opportunities with us, and who are very generous in offering advice to our students and graduates. Many of our bright and talented students and recent (and not so recent) graduates are looking for work.

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- Lateral positions for more experienced graduates
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- Quasi-legal positions (compliance/risk management, human resources, contract administration or claims analysis)
- Non-traditional practice

If you are experiencing your own job search issues, the Career Center is staffed with seven attorney-counselors and employer relations associates who are available to assist you.

To post immediate openings, please go to www.brooklaw.edu/careers where you will find several listing options. For assistance with your listing, call 718.780.7963 or e-mail career@brooklaw.edu.

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UPCOMING EVENTS

JUNE 6

COMMENCEMENT

SPEAKER: Judge Thomas Buergenthal,
International Court of Justice in The Hague (ret.)
Avery Fisher Hall

JUNE 9

RECENT GRADUATE COCKTAIL PARTY

Little Cheese Pub, Manhattan

JULY 10

ON THE ROAD: SEATTLE

Fairmont Olympic Hotel

JULY 24

HAMPTONS SUMMER COCKTAIL RECEPTION

Home of Stacy Kanter '84 and Eric Kornblau '84

AUGUST 15

CONVOCATION

AUGUST 24

FALL SEMESTER CLASSES BEGIN

OCTOBER 6

BELFER LECTURE

SPEAKER: Commissioner Alan Bersin,
US Customs and Border Protection

OCTOBER 21

SYMPOSIUM

**"Globalization of the United States
Litigation Model"**

Sponsored by the Dennis J. Block Center for the
Study of International Business Law and the
Brooklyn Journal of International Law

NOVEMBER 11

SYMPOSIUM

**"Crawford and Beyond III:
Confrontation Clause Limitations on
Hearsay Evidence, Differing Perspectives**
Sponsored by the *Journal of Law and Policy*

*For more information about events and dates, please visit
our Web site at www.brooklaw.edu/NewsAndEvents.*