

et al.: A 1L Odyssey

# PENN LAW JOURNAL

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## A 1L Odyssey

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# PENN LAW JOURNAL

## FEATURES

### **A 1L Odyssey** 16

BY LARRY TEITELBAUM

Who doesn't remember their first year of law school? The mind-bending adjustment to a new way of thinking. The oh-no-the-professor-called-on-me feeling. The late nights studying, and the blur of finals melding into summer job applications running into legal writing requirements and oral arguments. Details hazy at this point? For you, we offer a refresher course.

### **Alumni Fill Halls of Academe** 24

BY JENNIFER BALDINO BONETT

Like academic Johnny Appleseeds, legions of alumni have gone forth from Penn Law to plant ideas and teach students all across the country. And their numbers are growing, as the Law School offers a new seminar to prep the next round of intellectual whiz kids.

### **New LAS President Hopes to Increase Outreach to Alumni** 61

BY TASNEEM PAGHDIWALA

Stella Ming Tsai is a go-getter. Whether in public service or private practice, she gets the job done. And now she turns her talents to a new challenge with characteristic gusto.

### **Levy Scholars Program Provides 'Mark of Distinction' for Top Students** 62

BY LARRY TEITELBAUM

Crème de la crème. Best of the Best. Top of the class. The finest students, with surpassing interests in interdisciplinary study, make the grade as Levy Scholars.

### **Tanenbaum Hall Turns 10** 68

BY LARRY TEITELBAUM

Could it really be 10 years already? In 1993, amid great pomp and circumstance, Tanenbaum Hall opened its doors, and the Law School has never been the same.

### **Judge Rosenn Inspires A Following Among Former Clerks** 71

BY LARRY TEITELBAUM

No one proves the old adage, "Age is only a number" better than the Honorable Max Rosenn, who, at age 94, remains on the federal bench, from which he helped launch the careers of countless Penn Law alumni.

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## EDITOR

Larry Teitelbaum

## DESIGN

Warkulwiz Design Associates

## CONTRIBUTING WRITER

Jennifer Baldino Bonett

## PHOTOGRAPHY CREDITS

Greg Benson

Delila Omerbasic

## EDITORIAL ASSISTANT

Tasneem Paghdwala

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Larry Teitelbaum, Editor, Penn Law Journal  
University of Pennsylvania Law School  
3400 Chestnut Street, Philadelphia, PA 19104-6204  
TELEPHONE (215) 573 7182 FAX (215) 573 2020  
EDITOR E-MAIL [alumnijournal@law.upenn.edu](mailto:alumnijournal@law.upenn.edu)  
LAW SCHOOL WEBSITE [www.law.upenn.edu](http://www.law.upenn.edu)

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# A MESSAGE FROM THE DEAN



MICHAEL A. FITTS  
Dean and Bernard G. Segal  
Professor of Law

## To the Penn Law Community:

**WHEN ALUMNI LOOK BACK** on their years here, what do they remember most?

They reminisce about friends and fondly remember long-time administrators who put a friendly face on a trying experience. But overall, they recall favorite professors who challenged and inspired them and took an interest in their success, in school and after.

Good teaching leaves an imprint. Course materials may fade from memory but not the people who taught the courses. They remain indelible.

As Dean, I can never say enough about the quality of our faculty, past and present. It is one of my favorite topics. Penn Law has been fortunate through the years to have an extraordinary faculty. When you think about the people who called this Law School home, it's simply amazing. A. Leo Levin, Louis B. Schwartz, John Honnold and Robert Gorman, to name just a few, are legitimate legends and Hall of Fame professors. And I must say that today's faculty are exceptional in their own right, and getting better all the time.

Now, if you think that a school devoted to recruiting and retaining the best possible faculty would put a premium on developing first-rate academics, you would be right. Scores of alumni, in effect, launched their academic careers at Penn Law, where a new seminar molds future academics. This issue contains a look at that program, as well as several profiles of alumni who chose to teach and contribute to our country's intellectual stock.

Equally extraordinary is this year's class. The 260 members of the Class of 2006 are a diverse and talented group, clearly as accomplished as we have ever seen. At this point they are nearing the end of their first year, having battled through the thickets of law like participants on *Survivor*. Being a 1L is not easy. It is, in fact, a signature experience; along with your favorite professor, you never forget it.

We try to rekindle those memories in our cover story, which documents the trials and travails of the first months of law school through the bleary eyes of one student. For older graduates, forget the part about the laptops. Otherwise I trust the piece will spur a ring of recognition.

As a last word, I want to mention the new look of the *Penn Law Journal*. We think the redesign makes it easier and more enjoyable to read. Let us know what you think. And please stop by anytime to see us. We promise not to call on you.

*Mike*





# THE BRIEF

## LAW SCHOOL NEWS & EVENTS

### Former War Crime Prosecutor Expects Nations To Step Up Human Rights Enforcement

**JUSTICE LOUISE ARBOUR**, the chief prosecutor who as head of an international tribunal indicted Slobodan Milosevic for war crimes in the former Yugoslavia, said in a talk at Penn Law that she expects more domestic prosecution of international crimes in the future, leaving the International Criminal Court with a smaller role.

And that outcome suits her fine.

“This may not be a bad thing if an honest and vigorous enforcement of international humanitarian law arises from the marketplace of competing national jurisdictions,” Justice Arbour said during the **SEGAL LECTURE** in September.

Justice Arbour was appointed Chief Prosecutor of the U.N.’s International Criminal Tribunal in 1996 and charged with prosecuting serious violations of international humanitarian law in Rwanda and the former Yugoslavia. She joined Canada’s Supreme Court in 1999.

Speaking in the Levy Conference Center, Justice Arbour said the United Nations created the ICC in 1998 as a “default jurisdiction.” The treaty signers, she said, preferred sovereign states prosecute international crimes such as genocide, crimes against humanity, and war crimes, and that the ICC step in only if governments failed to act.

According to Justice Arbour, this preference may lead more states to exercise universal jurisdiction, which has become a customary part of international law, as reflected in treaties, na-

tional legislation and the jurisprudence of international courts. Universal jurisdiction encourages states to prosecute international crimes, even if the offense occurs outside their territory and is perpetrated by a non-citizen who poses no harm to national interests.

“The possibility of criminal prosecution for war crimes anywhere in the world on the basis of universal jurisdiction has increased dramatically in the last few years, and is likely to continue to increase,” Justice Arbour said.

Citing recent history, Justice Arbour said several governments have applied universal jurisdiction with modest success so far. In one celebrated case, Great Britain, acting on a warrant issued by a Spanish court, arrested former Chilean President Augusto Pinochet in 1998 for human rights violations. Spain applied for Pinochet’s extradition, although most of the crimes were committed against Chilean nationals. Pinochet’s attorneys challenged the extradition, maintaining that heads of states should be immune



from prosecution. Justice Arbour said The House of Lords set an important precedent when it struck down the challenge, ruling that torture does not qualify as an official act of State.

This year, Danish police charged Niza al-Khazraji, former Chief of Staff of Iraq's armed forces, with committing war crimes against Kurdish civilians during the Iran-Iraq war. And, Justice Arbour said, last September a Spanish judge indicted Osama Bin-Laden and 34 others for the September 11 terrorist attacks on America. The indictment alleged al-Qaeda used Spain to plan, support, and finance the attacks.

Justice Arbour, who had favored a strong international court with primacy over national courts, said there's no turning back now on this new global human rights culture.

"The enforcement of international humanitarian law has taken an irreversible step forward ... International criminal justice as it is presently evolving is entirely consistent with an enriched concept of State sovereignty which acknowledges personal responsibility and accountability," she said.

Justice Louise Arbour, former Chief Prosecutor of the U.N.'s International Criminal Tribunal, predicts shrinking role for the Court.





**THE BRIEF**  
LAW SCHOOL  
NEWS & EVENTS

## Special Master of 9/11 Fund Questions Distribution Disparities

**HIS WORK NEARING** an end, Kenneth Feinberg, Special Master of the 9/11 Victim Compensation Fund, raised questions during the **SHILS LECTURE** about Congress' decision to provide financial help exclusively to victims of the 2001 terrorist attacks.

Feinberg, who said he unequivocally supports the program he has administered for the last two years, nonetheless wondered if the country can justify compensating families who lost loved ones in that assault after offering no assistance to victims of the Oklahoma City bombing, the U.S. Cole attack, or the first World Trade Center bombing.

"Can we as a people in a democratic society carve out for special community-based compensation one group of people, telling everybody else you're not eligible?" Feinberg asked.

But that's exactly what Congress did when it established the unprecedented Fund sixteen days after the worst terrorist attack in the nation's history. The Fund was created to prevent lawsuits that could bankrupt the airlines. Claimants waive the right to sue.

The law gave Feinberg, appointed by Attorney General John Ashcroft, discretion in determining awards, but directed him to base allotments, in part, on an estimate of future earnings – as routinely occurs in tort cases. Feinberg questioned the wisdom of that provision, which invariably favors well-heeled workers over laborers. "I have grave reservations about giving people different amounts of money. It fuels divisiveness. You're trying to heal."

He said one solution, an across-the-board flat fee, while egalitarian, risks shortchanging and drawing complaints from survivors whose spouses earned high salaries. The law specifies a formula for awards – compute economic loss, add non-eco-

conomic loss (pain and suffering of victims and survivors), and deduct collateral income such as pensions and life insurance – but remains silent on recipients. He said he relies on state law (in Pennsylvania, half goes to the spouse, half to the children) or on wills. When all else fails and a dispute arises, he mediates. Feinberg related one instance in which he struck a bargain with a victim's parents who refused to share their award with their son's fiancé.

The average claimant has received \$1.8 million tax-free. A man with third-degree burns over 85 percent of his body got the highest award: \$7.8 million. "The awards have been very substantial," said Feinberg, who figured a final tab of at least \$3 billion for the taxpayer-subsidized program. "There's never

been anything like this in American history."

Feinberg, who inaugurated the Shils Lecture on Arbitration and Alternative Dispute Resolution 10 years ago, called the 9/11 Fund "an unbelievable success." He spoke as eligibility for the Fund dwindled down to 11 days. Up to that point, only 73 families had filed lawsuits. Another 2200 families, or 75 percent of the 2900 families, had filed claims and waived their right



Kenneth Feinberg explains the challenges of administering 9/11 Fund.

to sue, according to Feinberg.

That left 25 percent who, Feinberg said, either remained too grief-stricken to apply or feared repercussions. Undocumented workers were afraid U.S. marshals or the FBI would deport or imprison them if they joined the program. But Feinberg said the Immigration and Naturalization Service passed a resolution, backed by Attorney General Ashcroft, that promised no sanctions.

The 25 percent, he said, also included procrastinators. More than 30 percent of the 2200 applicants came forward in the last six weeks, as time ran out on the program. Feinberg said he thinks many people will soon put pen to paper and file. And he hopes they do, before it's too late.

"Congress shows no inclination to expand this program. Not a chance... It's not going to happen," Feinberg said.



## Taiwan-China Relationship Among Hot Topics at Sino-American Conference

**WHEN SCHOLARS MET** at Penn Law last September for the 32nd Annual Sino-American Conference on Contemporary Chinese Affairs, they focused on China's uncertain future, and on Taiwan's uneasy relationship with mainland China and the threat to peace in the region it represents.



Describing the Taiwan Strait as “the most dangerous spot on the planet,” National Chengchi University Professor Yuan-kang Wang contended the rise of democracy in Taiwan poses grave dangers to regional and global security. Wang and other participants stressed that Taiwan’s status has become an increasingly volatile subject. While the People’s Republic of China (PRC) insists on unification under a “one country, two systems” model in which Taiwan would be a “special administrative region” of China, Taiwanese political leaders, including President Chen Shu-bian, have more forcefully asserted the island’s independent status.

At the conference, titled “Democratization (and Its Limits) in Greater China: Implications for Governance and Security” <https://scholarship.law.upenn.edu/plj/vol39/iss1/1>

in East Asia,” leading scholars from Penn, Columbia, Duke and other universities in the United States, and colleagues from China and Taiwan debated whether recent developments in the PRC foreshadowed meaningful steps toward constitutional democracy or marginal adjustments to an unreformed system that faces growing challenges.

Some panelists pointed to an incomplete transition from Jiang Zemin to Hu Jintao as China’s top leader, weak political and constitutional institutions, and severe inequality that has led to growing social unrest. Others emphasized the growth of village-level elections, rising wealth and levels of education, and the new leadership’s agenda for addressing social and political problems.

Penn Law Professor Jacques deLisle, who is Director of the Asia Program at the Foreign Policy Research Institute, organized the conference. He presented a paper titled “Federalism with Chinese Characteristics?” and moderated a panel, “Crisis in the PRC: Economic and Social Consequences of Reform and Implications for Politics and Foreign Policy.” Arthur Waldron, the Lauder Professor of International Relations at the University of Pennsylvania, presented a paper titled “How Would Democracy Change China?” Conference papers will appear in the Spring 2004 issue of *Orbis*.



**THE BRIEF**  
LAW SCHOOL  
NEWS & EVENTS

## Historian Katz Says Constitution Remains Barrier to U.S.' Embrace of International Human Rights

**IN A LECTURE** at the National Constitution Center, eminent historian Stanley Katz largely blamed America's spotty international human rights record on its constitutional infrastructure and said that, barring organized political pressure, he does not foresee dramatic changes in U.S. policy.



"If we are to sign on more fully to international human rights, we will have to rethink and reinvent some basic elements of our constitutional legacy," Katz said. "More importantly, we will have to struggle to build a domestic political constituency in favor of constitutionalizing international human rights norms that satisfies American popular sovereignty sensibilities ... For the moment, I am not optimistic that we are up to those challenges."

Katz, a professor at Princeton University's Woodrow Wilson School of Public and International Affairs and visiting professor last fall at Penn Law, explained the historic roots of U.S.' recalcitrance on human rights during the Visiting Scholar Lecture co-sponsored by the NCC and Penn Law.

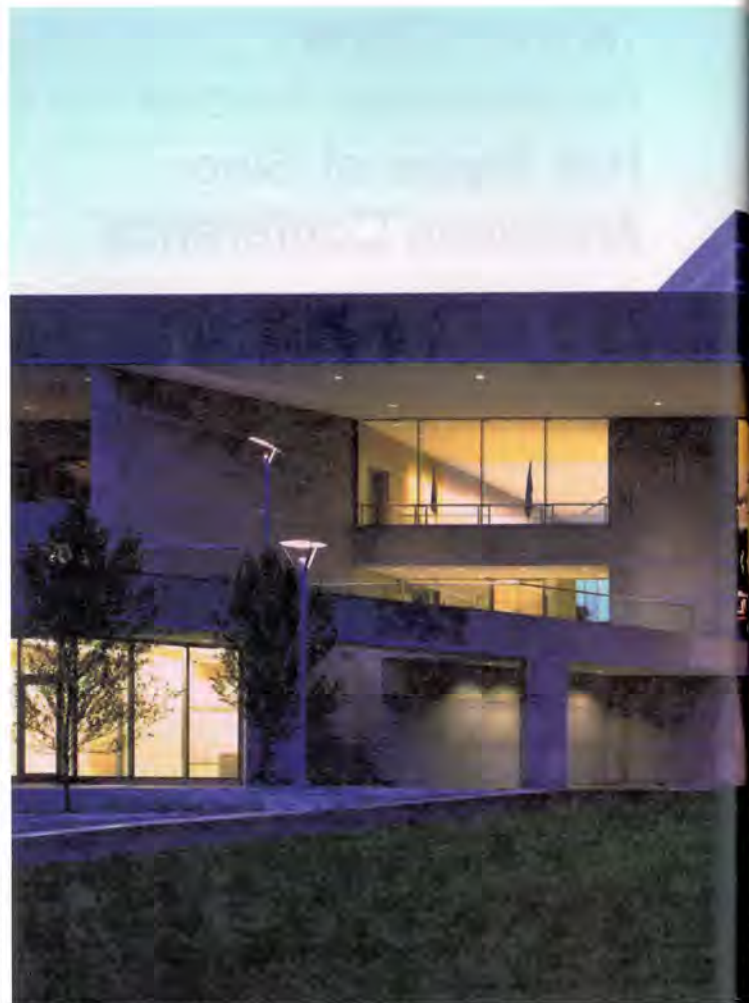
He said U.S. aversion to participation in international human rights accords accrues to three constitutional traditions. The first is textualism, a principle under which the Constitution has become nearly sacred and its words – if not its meaning – impervious to change. Katz argued that textualism inhibits innovation and triggers age-old fears of "foreign entanglement" and government-overreaching.

According to Katz, the second constitutional clash with human rights involves popular sovereignty, a concept enshrined in this country's representative government. "We simply do not accept that the United Nations or any other international body embodies the will of the American people sufficiently for it to establish rules enforceable in American

courts ... For Americans, international human rights as they might be simply assimilated into our Constitution threaten the creation of a disturbing democratic deficit."

Katz added that a third factor – America's "idiosyncratic rights tradition" – further accounts for this country's resistance to human rights. The Bill of Rights tradition, he argued, imposes a narrow, negative, definition of rights, limiting them to those explicitly written into the first amendments to the Constitution.

"Even the Reconstruction Amendments, and in particular the Fourteenth Amendment, have not introduced many broad new rights ... As I argued some years ago, the guarantee of the 'equal protection' of the laws is a far cry from a mandate of



The National Constitution Center



'equality,' whereas normative equality undergirds the structure of much of international human rights law," Katz said.

"We tend to think that our historic conception of rights is the only valid conception, or at least that it is the best approach to constitutional rights. This is not likely to change soon."

In short, Katz said America's "rights ethnocentricity," political mindset, and textual literalism compromise efforts to embrace international human rights. "We should not be surprised that the United States has been the most reluctant of the post-industrial democracies to participate in the international human rights regime. Our constitution is virtually unamendable. Our rights tradition is mostly text-based, negative in

character and limited to civil and political rights. (And) even our undoubted commitment to civil and political rights cannot offset our attachment to popular constitutional sovereignty."



**THE BRIEF**  
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ABOVE: James Nevels WG '78, L'78, Chairman of the Philadelphia School Reform Commission, makes a point during ILE lecture.

RIGHT: Nevels greets Law School student.



## Nevels: Philadelphia School Reform Sets Standard for Nation

**LESS THAN TWO** years into a much-watched reform of the Philadelphia School District, initial results are promising, said James Nevels, who is leading the turnaround effort as Chairman of the School Reform Commission.

“We have seen appreciable increases in (test) scores in our worst performing districts,” reported Nevels WG’78, L’78 during a lecture in October at the Institute for Law and Economics.

Nevels, who is also Chairman and Chief Executive Officer of The Swarthmore Group, an independent investment advisory firm, told an audience of students and alumni that old-fashioned entrepreneurial zeal accounts for improvements in the school district.

He said for-profit, nonprofit and public entities are managing more than one-third of Philadelphia schools, creating new models of innovation and initiative, such as charter schools, education management organizations (EMOs), and partnership schools, for 62,000 students.

Independent charter schools are funded by the school district and run by parents, teachers and administrators with a

mandate to set academic goals, hire staff, develop curriculum and train teachers. Private education providers, including the University of Pennsylvania, operate EMOs, which have reduced class size and started extended day and summer school programs, while universities, foundations and corporations have adopted partnership schools. For example, Microsoft will wire one high school with state-of-the-art technology and The Franklin Institute, a premier science museum, will develop Philadelphia’s first high-tech neighborhood high school.

Nevels called the district-wide effort the “most comprehensive and aggressive reform system undertaken to date in urban America.” There’s nowhere else in the United States at this time where so much is going on in terms of educating children,” Nevels said.

The school reform legislation, a partnership between Philadelphia and the Commonwealth of Pennsylvania, was signed in December 2001, setting off a storm of protest. “The change did not come easy ... The talk of introducing outside entities to manage our public schools invited protests from students, parents and teachers, from union leaders and community activists. At times it got a little personal,” Nevels said.

But Nevels is committed to seeing the reforms through, because the stakes are so high. “If we don’t get this right as citizens, we are looking at the prospects of creating a permanent underclass in this region the likes of which we’ve never seen before.”



## Experts Split on Role of Investment Bankers in M&A Deals

**SOME SEE INVESTMENT** bankers as fair arbiters of value in mergers and acquisitions. Others see them as biased parties with a stake in striking the best deal for management and themselves.

Those strikingly different views were offered at a panel discussion in November sponsored by the Institute for Law and Economics (ILE).

Charles M. Elson, the Edgar S. Woolward, Jr. Professor of Corporate Governance at the University of Delaware, said the prospect of big fees and repeat business can undermine investment bankers' ability to determine good value. "The bankers' job is to promote the transaction," he told students taking a class in corporate finance.

Robert Spatt, a partner at New York-based Simpson Thacher & Bartlett LLP, holds the opposite view. "I happen to be a huge believer that the banker plays a huge role and brings value," countered Spatt, who counsels boards to strike fair deals for stockholders.

Joining Elson and Spatt on the panel were Stuart M. Grant of Grant & Eisenhofer, P.A. and Robert A. Kindler, an investment banker with J.P. Morgan Securities, Inc. Michael L. Wachter, William B. Johnson Professor of Law and Economics and ILE Co-Director, and Leo E. Strine, Jr. L'88, Vice Chancellor of the Chancery Court of Delaware, organized the program, and Strine served as moderator.

An earlier ILE presentation in October explored issues

surrounding disputes over valuation in M&A deals. Panelists Bruce Silverstein of Young Conaway Stargatt & Taylor presented the shareholders point of view and Alan Stone of Morris, Nichols, Arsht & Tunnell the corporations'. Expert witness Donald Puglisi, Managing Director of Puglisi & Associates and the MBNA America Professor of Business Emeritus at the University of Delaware, also served as a panelist and offered his perspective.

## Corporate Governance Hot Topic at Roundtable

**EXPERTS DISCUSSED THE** implications of the Sarbanes-Oxley Act and other aspects of corporate law at a roundtable event last December. Sarbanes-Oxley, enacted by Congress in 2002, set higher standards for corporate governance and accountability.

Roberta Romano, Allen Duffy/Class of 1960 Professor of Law presented a paper titled "The Sarbanes-Oxley Act and the Making of Quack Corporate Governance." John Core, Associate Professor of Accounting at Wharton, and Chancellor William B. Chandler of the Delaware Court of Chancery, provided commentary.

Another discussion centered around "Incentives Vs. Control: An Analysis of U.S. Dual-Class Companies," a paper presented by Andrew Metrick, Associate Professor of Finance at Wharton. In the final session, six panelists offered insights on "Acquisition Financing and Securitization." Panelists included Robert L. Friedman L'67, Senior Managing Director at

The Blackstone Group, and Marianne Rosenberg GL'80 of New York law firm Thelen Reid & Priest LLP. Penn Law's Edward B. Rock, Saul A. Fox Distinguished Professor of Business Law, and Michael L. Wachter, William B. Johnson Professor of Law and Economics, moderated this discussion.



Leo E. Strine Jr. L'88, Vice Chancellor of the Chancery Court of Delaware, leads a discussion on the value of investment bankers in mergers & acquisitions.



**THE BRIEF**  
LAW SCHOOL  
NEWS & EVENTS



Seth Kreimer, Associate Dean and Professor of Law, introduces panel of federal judges. Assistant Professor Nathaniel Persily (seated, far left) moderated the discussion.

## Federal Judges Find Fault With Federal Sentencing Guidelines

**FOUR FEDERAL JUDGES** debated the merits of federal sentencing guidelines in a lively session last November in which questions arose about the wisdom of placing limits on judicial discretion and imposing draconian sentences that do not always fit the crime.

“I have seen a shift from (giving discretion) to the court to giving the discretion to the prosecutor,” said Judge Petrese B. Tucker of the U.S. District Court for the Eastern District of Pennsylvania.

Speaking at a program on the “Role of Federal Judges in the 21st Century,” Judge Tucker argued that setting mandatory minimum sentences handcuffs her ability to make judgments on proper punishment, which she had when she was a state judge.

Judge Michael M. Baylson L’64, also from the Eastern District of Pennsylvania, took the other side, saying that Congress indeed has the right to set mandatory minimums. “I just think it’s a fundamental balance of power ... and judges shouldn’t put themselves in some supreme position.”

The federal guidelines, approved by Congress in 1987, were supposed to create consistent sentencing. But Third Cir-

cuit Appellate Judge Theodore A. McKee said that goal has not been achieved. Sentencing disparities remain “an absolute abomination” that lead to indefensible, “ridiculously long sentences” that promise to fill prisons in the future with a geriatric population.

Judge Louis H. Pollak, former Penn Law Dean who sits on the U.S. District Court for the Eastern District of Pennsylvania, agreed with McKee’s assertion, citing vastly different sentences for crack dealers than for cocaine dealers. “To the degree that the guidelines, supplemented by a whole network of statutes, impose minimum standards that are really draconian in some circumstances, it’s unwise policy.”

Baylson vigorously defended the federal sentencing guidelines, saying it is a vast improvement over the prior system, which invited disparities that sometimes resulted in unfair sentencing. Before the guidelines, he said, defendants who committed similar crimes could receive totally different sentences, depending on the judge.

At the event, sponsored by the American Constitutional Society, Baylson also cited the use of technology in research as a major development and joined the chorus of judges who bemoaned the increasing role of politics in judicial confirmations. Other judges encouraged their colleagues to consider laws in other countries when thinking about cases. Penn Law Assistant Professor Nathaniel Persily moderated the panel discussion.



ALG156761 The Sacrifice of Isaac, c.1556 (oil on canvas) by Michelangelo Merisi da Caravaggio (1571-1610) Galleria degli Uffizi, Florence, Italy / Bridgeman Art Library / Bridgeman Art Library / Alinari



## Professor Stern Interprets Biblical Sacrifice Story

**GENESIS 22, THE** story of the Binding of Isaac, or the “Aqedah” in Hebrew, is one of the most familiar but horrifying stories in the Bible. In his two **GRUSS LECTURES** last fall, Professor Josef Stern of the Dept. of Philosophy at the University of Chicago presented the great medieval Jewish rabbi and philosopher Moses Maimonides’ two parabolic, or allegorical, interpretations of this episode.

Unlike traditional readings of the story that focus on its beginning, Maimonides’ radical interpretations locate its moral in its ending: in the fact that Abraham does not sacrifice Isaac. On the first interpretation, Abraham’s initial willingness to sacrifice Isaac reflects the conception, deeply held by certain medieval rabbis, that the one who truly loves and fears God

is he who would rather die for God than transgress any divine commandment—through acts of martyrdom. Abraham learns that such love is excessive and that fear of God within the proper limits is expressed and attained by living the life of the Mosaic Law, not by dying for it.

On the second parabolic interpretation, the Abraham who is at first willing to sacrifice Isaac symbolizes the perfected philosopher who lives the pure life of the mind that intrinsically values only intellectual things. He therefore regards everything in the material world, including the personal and the communal—symbolized by Isaac—as worthless and sacrificeable. At the end of the story Abraham comes to realize the moral horrors of this kind of purely intellectualized ideal and because he realizes that he may simply be imagining, falsely, that humans can achieve this intellectual ideal state. The sacrifice of the ram, Stern showed, expresses Maimonides’ view that even a perfected philosopher like Abraham needs the Law to correct and restrain the potential excesses of the purely intellectual life.



**THE BRIEF**  
LAW SCHOOL  
NEWS & EVENTS

## Parents and Partners Take Ownership of Penn Law for One Day

**"I OWN THIS** place."

With that simple declaration to Gary Clinton, Associate Dean for Student Affairs, a decorated alumnus began his career at Penn Law School several years ago.

To this day, Clinton remembers his reaction: "That's right. This place is as much yours as anybody else's."

That sense of ownership prevailed as Clinton, retelling the story, welcomed moms, dads, spouses, and partners to the annual Parents and Partners Day.

On their visit in October, families got a primer on the rigors of law school for first-year students. They attended classes, heard administrators tout the value of law school, and listened to students talk about the challenges they face.

"It's an exciting period to undertake a legal education," said Penn Law Dean Michael A. Fitts, noting attorneys' role in almost every substantive issue in the news, including terrorism, civil liberties, bioethics, intellectual property, and diversity.

"Law school is the best training for leadership in this society," Fitts said, adding that it is better career preparation than business school. He noted, however, that students can get the best of both worlds at Penn Law by studying law while taking courses at the renowned Wharton School or at Penn's other acclaimed professional schools. Second- and third-year students do just that, taking up to one quarter of their classes outside the Law School.

"We're really doing something special here and I think it's very rare in legal education," added Jo-Ann Verrier L'83, Vice Dean for Student Services, ticking off the rich curriculum, supportive environment and top-notch faculty as reasons for Penn Law's excellence.

The school also excels in resources for research. Biddle Law Library Director Paul George said the library houses 750,000 volumes, plus offers a full complement of internet resources and the LexisNexis database.

Penn Law's excellence extends as well to the service offered to students looking for internships and jobs, said Diane Downs, Co-Director of Career Planning & Placement. She said more than 90 percent of first-year students find summer jobs at private law firms, as interns for federal judges, or with public interest or government agencies.

"The nice thing about coming to Penn, you're sought after by top employers in all areas," Downs said.

Parents and Partners Day ended with a greeting from Stella Ming Tsai L'88, president of the Law Alumni Society and a presentation from 2L and 3L students on "Law School Survival Skills".

Stella Ming Tsai L'88, president of the Law Alumni Society, talks to 1Ls during Parents and Partners Day.



## six tips from Stella Ming Tsai L'88 on Building a Successful Career

- 1 Do good work.
- 2 Find and align yourself with the players and power brokers at work.
- 3 Practice teamwork.
- 4 Network your way to new business and new jobs.
- 5 Stay in touch with classmates.
- 6 Maintain integrity – don't misrepresent clients.



## Mini-Mentoring Helps 1Ls Sort Through Career Choices

**THE DEAN'S ROUNDTABLE.** It's not an elective or a seminar or an extension of Career Planning and Placement. Rather, it is a forum for successful alumni to return to the Law School and proffer advice to students.

Periodically, 1Ls gather in Tanenbaum Hall's Rare Book Room for a kind of mini-mentoring session. They hear life stories and do's and don'ts, and get to ask pointed questions.

This school year, students heard from Joseph Gatto, L'84, Managing Director at Goldman Sachs & Co.; Rick Schifter L'78, Partner, Texas Pacific Group; Pam Johnson L'83, Senior Vice President at Fannie Mae; and Mark Ellman L'83, Managing Director, Credit Suisse First Boston.

In November, Ellman advised students who want to be corporate securities lawyers or investment bankers to take several finance courses. He also counseled the 1Ls to cultivate passionate interests and to learn to write and speak clearly.

"The ability to simplify complicated things is the mark of a great lawyer," Ellman said.



Mark Ellman L'83 provides career advice to students.

## Supreme Court Observer Favors Scrapping Confirmation Hearings

**YALE CONSTITUTIONAL LAW** Professor Stephen Carter posed a simple question about confirmation hearings for Supreme Court and other judicial nominees: Why bother?

"Since the testimony rarely yields anything, it's quite appealing to cut out that part entirely," said Carter, William Nelson Cromwell Professor of Law at Yale Law School. Carter visited Penn Law in November to talk to students about the way in which we choose our judiciary. The American Constitutional Society sponsored the event.

Carter, author of *The Confirmation Mess: Cleaning Up the Judicial Confirmation Process* and former clerk to Justice Thurgood Marshall, said justices have remained mum on judicial philosophy ever since nominee Robert Bork got burned for his candor.

Given such reticence and the attendant political furor that accompanies judicial nominations, Carter suggested what he considers a better, more neutral method to choose nominees: Select justices at random from federal appellate courts. After serving specified terms, they would return to appellate court.

Even respected members of the bar or party loyalists would be preferable to the contentious scholars who comprise today's Court, added Carter. "Scholars do not make good Supreme Court Justices," said Carter, who decried the court's failure to reach consensus and the gamesmanship at work in many opinions.

"We tend to be tied to this system because this is the way we've always done it, but I'm not sure the current system is defensible," Carter said.

At the very least, he said, the House of Representatives as well as the Senate should hold confirmation hearings.



## THE BRIEF

### PUBLIC SERVICE



Howard Lesnick, Jefferson B. Fordham Professor of Law

## Professor Lesnick, Architect of Public Service Program, Receives AALS Deborah L. Rhode Award

**HOWARD LESNICK, JEFFERSON B.** Fordham Professor of Law, received the Association of American Law School's Deborah L. Rhode Award in January 2004. The award, given annually to a full-time faculty member who has made a contribution to increasing pro bono and public service opportunities in law schools through scholarship, service, and leadership, was created to honor those who have dedicated significant efforts towards increasing access to justice. Lesnick, the architect of Penn's much-heralded Public Service Program – the first and only program to receive the American Bar Association's Pro Bono Publico Award – has devoted much of his work since 1965 to developing students' recognition of the potential of law practice to serve the public good.

## Pro Bono Participation at Record High

**THE PUBLIC SERVICE** Program's pro bono requirement continues to serve as the cornerstone of the Law School's commitment to public service. The Program placed a record 373 students during fall 2003 – a 22 percent increase over the previous fall. In addition, employer participation was up 28 percent, with nearly 1,200 slots available. New to the program is the Human Rights Project through which law students provide legal assistance to Amnesty International and the Prisoners' Rights Project, a joint collaboration of the Institutional Law Project and the Pennsylvania Prison Society.

## Penn Law Joins Mandatory Pro Bono Study

**PENN'S PUBLIC SERVICE** Program is among three law school programs selected to participate in a study assessing the impact of mandatory pro bono requirements on young lawyers. This study will be the first systematic, empirical research on the effect of such programs on educational experience and career choice.

A book-length monograph that contributes to the scholarship on legal ethics and professionalism will be issued at the end of the study.





Loren Stewart L'05 (right) accepts award for public service.

## Loren Stewart L'05 Wins Pro Bono Publico Award

**PS LAW NET** and the National Association of Law Placement awarded Loren Stewart L '05 with the Pro Bono Publico Award at their 9th Annual Recognition Event in October. The award honored Stewart's contributions to Penn Law's Public Service Program. Most notably, Stewart spearheaded the Immigration Project – a joint collaboration between the Law School's Public Service Program and the Nationalities Service Center in Philadelphia. As the project founder and supervisor, Stewart has trained 24 students to provide legal assistance to indigent clients in asylum cases. In addition to his work with the Clinic, Stewart is also serving as a pro bono intern for the Volunteers for the Indigent Tax Program. He also organized the 2004 Sparer Symposium, which examined the Housing and Community Development Act on its thirty-year anniversary.





# A 1L ODYSSEY

BY LARRY TEITELBAUM

Every year they come to Penn Law a couple hundred strong, from all parts of the country and from every type of background. They are 1Ls. What awaits them is like nothing they have ever experienced. But with a little help from their friends, and a large dose of inner strength, these students emerge as lawyers, in one capacity or another. This is one of their stories.



**S**o, Ms. Iachan, why did you decide to go to Law School?

*I wanted to learn to think and speak like a lawyer, and make laws that change society.*

*But you know, Ms. Iachan, that law school is incredibly demanding. Are you up to the challenge?*

*I think so. I'm a pretty determined person, with lots of energy and a good sense of humor. I can make it.*

*Ok, Ms. Iachan, welcome to the first year of law school.*

Melissa Iachan (Ya-Shan) earned the appellation 1L after graduating last year from Brown University with a bachelor of arts degree in political science. A quick study, Melissa breezed through college, juggling schoolwork with off-campus activities such as political organizing. Exams didn't require much heavy lifting. In truth, she only had four exams in four years. Like many undergrads, most of the time she wrote papers. No sweat.

Then came law school.

Its packed schedule, demanding reading, and probing questions from professors weaned on the Socratic method is a grind, as Melissa quickly discovered. "I sat in all my classes for the first month and I felt like I was taking Latin," Melissa says. "Beyond the archaic language, the legal terms and the structure of arguments and analysis are not easy to follow."

Did we mention the workload?

"1Ls have twice as much work as any other year. You have to take twice as many credits," says Melissa.

Professor of Law and History Bruce Mann, who teaches Melissa's Property class, agrees that the high expectations and demands placed on students can be quite daunting. "The first year of law school, particularly the first semester, is unlike anything students have encountered before... Because we focus so closely on cases and statutes, we're teaching students to read much more closely than most of them have been asked to read before. We're trying to develop analytical skills that most of them have not had to use. Students often are overwhelmed, but they quickly get over the sense of being shellshocked."

**G**iven her precocious interest in politics and policy, Melissa seemed destined to attend law school. Her role as Al Gore in her sixth grade mock election prefigured bigger things. By eighth grade, Melissa was the youngest member of the Democratic Club in Coral Springs, Fla. In high school she <https://scholarship.law.upenn.edu/plj/vol39/iss1/1>

volunteered for political campaigns. That preoccupation grew in college, when she worked for Gore's presidential campaign in New Hampshire and served as the candidate's student coordinator in Rhode Island. At Brown University, she was vice president of the school's College Democrats, senior class advocate, and the driving force on feminist issues. She kept busy off campus as well, serving as head of opposition research for David Cicilline's mayoral campaign in Providence, and working for the Rhode Island Secretary of State's office.

"I'm an activist from the ground up," Melissa says. "Policy and politics get my blood pumping... I think that law school gives you the right tools to be a more effective legislator. A political career is in the front of my mind."

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When applying to law school, Penn Law was also top of mind. Unlike some peer schools, Penn Law exudes a welcoming atmosphere — less competitive, more congenial. For those reasons, and the school's emphasis on public service and *pro bono* work, Melissa wanted to attend Penn Law. She says another drawing card was the rapport between students and professors, which she has found to be true.

But first she had to pass the ultimate Darwinian test and get into Penn Law, where the competition is fierce. There were 5,140 applicants; the Class of 2006 includes 260 students. Then, before she knew *amicus* from *apriori*, she was assigned to read cases over the summer.

After traveling more than 1,000 miles from South Florida and settling in for a few days, Melissa finally walks into Penn Law as an official 1L, rife with anticipation and apprehension. Over the next two days, Melissa and her classmates will attend sample classes to get their first taste of what lies ahead and



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## A 1L ODYSSEY

receive more advice than they can process.

When Dean Michael Fitts opens orientation, Melissa listens attentively to him as he acknowledges students' uneasiness about the next three years, let alone the first year, and describes the opposing forces in society that lawyers must comprehend to do their jobs.

Gary Clinton, Associate Dean for Student Affairs, tries to further brace students for the rigors of law school. "This isn't practice, but preparation, for the rest of your life," Clinton said. "There will be a great deal of dissonance in your life as your values and belief systems are challenged in class and conversations with each other, because you are coming from widely different places. And that's okay, because you will come to understand why you are who you are. This is not just a legal education, but a world education."

The next day, Melissa and her classmates receive a welter of tips from upperclassmen, each of whom professes to know exactly how to manage law school – Don't study all the time, Don't give up your outside interests, Don't relinquish your

identity, Treat law school like a job, Investigate public service opportunities, Align with or start your own student group, with one student concluding: There is no formula for law school.

Who could blame students if the din of voices and the demands awaiting them turned orientation into disorientation.

**A**s August wanes, Melissa prepares for her first day of classes. In fact, she has been preparing over the summer. She was assigned to read seven cases for two classes, a total of eight hours' work.

Her required courses (there are no electives in the first semester) are Civil Procedure, Contracts, Property, Torts, and Legal Writing. In her first semester, Melissa has a frontloaded schedule, with most of her classes on Monday, Tuesday and Wednesday.

Melissa's first class is Torts. Unlike college, there will be no easing in to the work. Visiting Professor Connie Rosati introduces herself then gets down to business. More advice: Law

## DID YOU CALL ON ME?

That first time can overwhelm. You're fresh to law school, trying to get your bearings when an imperious professor scans a class list and calls your name at random. Uh oh, you think, now I'm on the spot. We asked some alumni how they responded the first time they were called on in class. Those who didn't blank out the experience told us how they reacted or the strategy they employed to avoid it.

“I don't remember that. What I do remember is that one time, in Paul Bender's first-year class on Criminal Procedure, there was a very tense moment when Prof. Bender called on one person who passed, then a second and then a third said "Pass." As the tension mounted, the fourth person, who also was unprepared, responded: "Two Clubs." Fortunately, Prof. Bender saw the humor – whether or not he was a bridge player, I cannot say – but the tension was defused.” – PAMELA F. CRAVEN L'77

“In the early days, I was always terrified I was about to be called on. So each time a professor would say expectantly "Miss . . .", I would cringe inwardly until the name of his next victim was announced. I survived several weeks until one day in Contracts, Professor Frug said, "Miss . . ." Hearing a name other than my own, I immediately relaxed, happy I'd

dodged another bullet. Then I realized that everyone in the class, including Professor Frug, was looking expectantly at me. In that instant, I remembered I was recently married and had a new last name!” – PAMELA DALEY L'79

“My first time called upon in Law School was in Torts very early in my law school career. As I remember, the class was just after lunch in one of the large lecture halls. People always walked in a little late and generally talking loudly. The professor had the habit of beginning by speaking softly in a conversational voice until the class would quiet down. My first time called upon was one of those noisy starts. As we quieted down, I heard the professor say "So Mr. Ellman, what's the difference between the plaintiff and the defendant?" It seemed like a simple and strange question, but being a new student I gave the only answer I could think of. That



School is pretty stressful, so help each other. Keyboards begin to clack as students take notes on their laptops. Rosati tells the class that they will learn theory and policy, legal history, how the Constitution affects Common Law, and how to develop a legal argument. What follows are basic explanations of liability, remedies for accidental injury, and discussion of their first case. The class will have to read 20 to 30 pages per class.

"A once-through light read is not going to cut it at all," says Mann. "Students are very surprised when on the first day you ask them what a term that they read in the case means ... They figure that it will become obvious to them in time. So when you ask them 'what is assumpsit?', they are shocked."

As Mann suggests, the learning curve is steep, and the first week takes a toll. Exhaustion sets in from lugging 1400-page textbooks around and reading and thinking all day, every day. There's so much to absorb. The information is dry, dense and unfamiliar, and Melissa wracks her brain to extract the relevant data from each case. In order to brief a case and condense nine pages of reading into one page of bullet points, she has

to understand judges' opinions and decipher formal footnotes, then pull out the facts, procedures, holdings, reasoning and disposition. She must also learn how to pick apart arguments, make new ones, and somehow correlate seemingly unrelated information, and do so quickly and instinctively.

"Law school has challenged me more than I ever thought it would," Melissa says. "We all feel like we're on some kind of ridiculous reality show that, at the end balloons are going to come down (and someone will say), 'You made it. Congratulations.'" "

At the same time, she says, to her delight the intense competition and hard-boiled environment she expected in law school does not exist at Penn Law. Clinton, Associate Dean for Student Affairs, says he reminds students that the staff, faculty and administration are ready to help students every step of the way.

"We're there to support students when that's needed and to celebrate with them when the occasion calls for it," Clinton says. "And our concern doesn't stop at the law school door."

was that the plaintiff brought the action and the defendant defended. At that point, every one looked at me like I was making a joke or worse was an idiot. Luckily, the student next to me asked whether the Professor had asked the question with respect to a specific case, because we couldn't hear her. When the Professor said that she was in fact referring to a specific case, I felt like hugging my classmate for saving me. Then the Professor said that the case was *Tedla v. Ellman* (my name!). At that point, I unfortunately had to respond that I wasn't prepared for the case. Definitely, not my proudest moment. I did learn a very important lesson, however. When the question doesn't make sense, ask to hear it again and always prepare when your name is one of the parties in the case." — **MARK ELLMAN L'83**

present in the back of the classroom, my first response was "can the other Mr. Rotko answer that question?" Professor Summer politely put the question to me again and I replied that the Court was, in fact, wrong. Professor Summers then asked if I was telling the class that that the greatest State court ever assembled, a Court that included Justices Cardozo, Pound, Lehman and Field, among others, did not get it right. Now shaking, I repeated that the Court did not get it right. After a brief pause, he moved on to the next issue and another unsuspecting student whose parents were also in the room. To this day, in nearly ten years of practice, this issue has yet to come up. But should it, I will be ready or I will call my father." — **THOMAS ROTKO L'94**

It was Parents & Partners Day in early October. The sections were combined and Professor Summers introduced the concepts of offer and acceptance. The specific issue — whether an acceptance becomes effective at the time it is mailed — was discussed in a seminal case authored by the New York Court of Appeals in 1929. As I later learned, this was perhaps the greatest collection of jurists to ever sit on the same court. Professor Summers discussed the facts of the case and then asked me if the Court got it right. Since my father, who graduated from the Law School in 1963, was

I don't have a vivid memory of the first time I was called upon in class. I was sufficiently concerned, however, that I raised my hand to speak when I thought I knew what I was talking about to lessen the probability of being called upon randomly. That strategy generally served me well." — **RICK SCHIFTER L'78**

I always volunteered when I did the reading. Then when I didn't, the professors were so sick of hearing from me, they left me alone." — **LISA SCOTTOLINE L'81**



## A 1L ODYSSEY

Nonetheless, law school is no cakewalk. “If you don’t keep up, you won’t do well and you won’t succeed and you won’t do well when you’re called on in class, and you’re guaranteed to be called on in at least one class once a week,” Melissa says. “In my classes you never know when you’re going to be called on, so you always have to be on your toes.”

And it didn’t take long for a professor to call Melissa’s number. It happened on her first day, in Professor Jason Johnston’s Contracts class. She felt a rush of adrenaline, part nervousness, part excitement. As for what he asked, weeks later that remains blurry, a casualty of too much information sluicing through her brain. What she does remember, however, is that Johnston kept calling on her in the next two classes.

**A**s the semester progresses, Melissa’s schedule turns more hectic. “Everyone is starting to really stress right now trying to keep up with the work, because professors are giving even more as the semester comes to a close, and they realize they want to cover everything,” Melissa says.

At the same time, she has to apply for a summer job. The opening gun for submitting applications approaches, which causes Melissa to rethink her career goals. Only three months into law school and already she wonders if she can afford to maintain her ideals.

“I am just so torn about the whole private versus public thing,” Melissa says.

“I feel I need to try both out before I start thinking long term, and see if I can find some way to accomplish both my desires to serve the public while also not make under \$40,000 a year.”

Melissa’s dilemma is common, one that career planners at Penn Law say they see every year. Students are asked at orientation why they came to law school and what they hope to do after graduation. Like Melissa, many 1Ls want to work in the public sector to effect social change, but financial considerations begin to impinge on their hopes and dreams. “A lot of our students just came from college. They’ve never paid tuition before, they maybe never even bought a car, which doesn’t even cost a year of tuition,” says Diane Downs, Co-Director

of Career Planning and Placement.

“I think they’re coming to terms with two things: What do I want to do in the abstract, but they also want a higher standard of living,” Downs continues, “so while they’re very interested in equal housing for everybody, they’re not interested in living on \$35,000 a year.”

But there will be more time for Melissa and her class to sort out career options. Right now, finals approach. Unlike college, all-nighters won’t cut it. Melissa can’t suddenly shift into overdrive and sprint to the finish line; finals are a marathon, requiring Melissa and her classmates to muster the stamina to study off-and-on for two straight weeks.

The pressure mounts. After all, students must spill out everything they’ve learned in class and in their thick textbooks. Jason Johnston, Robert G. Fuller, Jr. Professor of Law, says exams are a testing ground. “Law students soon learn that their first grades will be the most important grades of their entire three-year law school career ... A major task for first-year students is to deal with this pressure, to not be overwhelmed

“I think they’re (the students) coming to terms with two things: What do I want to do in the abstract, but they also want a higher standard of living,” Diane Downs says, “so while they’re very interested in equal housing for everybody, they’re not interested in living on \$35,000 a year.”

by the perceived consequences of one’s performance.”

As she prepares for her first six-hour final, Melissa greets the challenge with three parts confidence, one part trepidation. “There is that little competitive voice that’s like, ‘Come on, you know you can’t wait to sit down and put all your knowledge on a piece of paper, turn it in and see how you do.’”

“But for the most part, I feel like I’m going to be thrown into this big ring to fight this gladiator that I have no idea what he looks like and how strong he is and I could feasibly die.”

*And so, Ms. Iachan, how did your first semester go?  
I made it through and I’ll be fine.*

*Very well, tonight I want you to read pages 23 to 38 in your casebook. PLJ*





Robert H. Miller  
L'98

## WANT TO ACE LAW SCHOOL? AUTHOR OF *LAW SCHOOL CONFIDENTIAL* TELLS YOU HOW

**THE WORK OF ROBERT H. MILLER L'98** is probably familiar to many of our readers, and many more doubtless wish he had written his book, *Law School Confidential: The Complete Guide to the Law School Experience*, by the time they were anxious first-year law students. Now the bestselling law school preparatory book, *Law School Confidential* offers a step-by-step guide to tackling law school – from deciding whether to apply in the first place to seeking summer internships – with advice from law school graduates.

The revised Second Edition of the book, featuring extensive, information-packed interviews with the Dean of Admissions at Cornell Law School and with the hiring partners at prominent law firms including Ropes & Gray, came out in January. Miller is now the senior litigation associate at the Manchester, NH office of Sheehan, Phinney, Bass & Green, and has just been named one of New Hampshire's "Forty under 40" people to watch.

**Q:** It seems that one of the main themes of *Law School Confidential* is unraveling myths that applicants and current students hold about what law school is going to be like. What are the most dangerous misconceptions surrounding law school?

**A:** Well, the obvious one, I think, is that some people still cling to the misperception that law school is going to be like [the 1973 movie] *The Paper Chase*, in which law school is depicted as a war of attrition and a battle to the death. The fact is, most law schools aren't like that anymore. The message I try to give to law students today is to do everything you can to own your experience. Don't be intimidated by the mystique surrounding law school. Learn about the process and then make it your own. You're paying for it – both financially, and in the opportunity cost in your life – so you ought to do everything you can to make the most of it.

**Q:** Are there other fears that you would like to dispel?

**A:** The other thing is this irrational fear that students have of the Socratic Method. Students worry that their entire persona for the next three years will depend on how well they respond to their first question in their first class. That's garbage! The reality is, the student is the consumer, and the professors are working for you – to help you become the most capable lawyer you can be. Speaking from the point of view of a practitioner, I've come to realize that the Socratic Method is actually very applicable in "the real world", so it's a good teaching tool. The mistake is being paralyzed by it. If you don't know the answer to the question, you don't know it. Five years removed from law school, you'll laugh about those moments. Prepare for class every day to the best of your ability, and then relax.

**Q:** What is the biggest mistake a 1L can make?

**A:** Without question, treating law school like college, and going to classes unprepared. Preparation starts with knowing why you applied to law school in the first place. You should take all the time you need, before you apply, to get absolutely clear on why you want to go to law school, and how you think the degree will help you. Once you get there, you need a solid strategy for how to proceed on a daily, monthly, and even yearly basis. This involves figuring out how to 'study smart' rather than 'studying hard'.

Successful law students realize very quickly that law school is not a continuation of college. Many undergraduate students can skip class all semester, pull all-night study sessions when exams come around, and still do remarkably well. That is not an option in law school, since every class builds on the class before it. Think about it: you're investing a substantial amount of money in your legal education, so you ought to show up for class prepared. If you approach law school as though it were a full-time job, you'll be in good shape.

**Q:** What are some of the hardest adjustments that students have to make to law school?

**A:** One of the unfortunate aspects of law school is that social relationships can take a heavy hit during the first year. It can be a very difficult time to try to perform well in the first year, and simultaneously manage a long distance relationship. Given the disproportionate weight that the first year of law school has in the overall scheme of things, I would get myself mentally prepared to go through a nine month "bootcamp" where your first priority every day is your classwork.

**Q:** Is there such a thing as "working too hard" in law school?

**A:** Absolutely. Though I would maintain that being unprepared for class is the biggest mistake you can make, I also want to remind people of the importance of maintaining balance in their lives. This involves exercise, getting enough sleep, eating well, and scheduling at least a small dose of personal time into your daily routine. I knew people who spent every waking moment in the library, but they weren't always more successful than those people who maintained a healthy sense of humor and kept the law school experience in perspective. You want to study smart, not study hard. There is a difference between the two.

**Q:** Was there an aspect of law school that you didn't realize was beneficial to you until after graduation?

**A:** Legal Writing doesn't get nearly as much emphasis as it deserves. Bar none, I believe it is the most important class you will take in law school, but students often give it short shrift because at most schools, it is offered pass-fail. The only way students will give proper attention to the Legal Writing class is to put it on par with every other class you take in law school – by making it a full-year, full credit graded class. I simply can't emphasize strongly enough how important your legal writing skills will be to your long-term success as a practicing lawyer. The other thing I would say is if you know you want to become a litigator, take a class in Trial Advocacy, which will teach you the nuts and bolts that you won't learn in your regular classes.

**Q:** A number of times in the book you urge your readers to be mindful of the fact that after law school they will, in fact, be lawyers. Do you think law school students tend to suffer from tunnel vision in this regard?

**A:** I do. Never lose sight of the fact that lawyers trade on their reputations. Your classmates today may be your partners, co-counsel, opposing counsel, or referral sources tomorrow. Treat your classmates with respect, even if you fundamentally disagree with them politically or otherwise. Strive to be remembered as a good person who was always willing to lend a hand when needed. I had a wonderful experience at Penn. I got a top-notch education from professors who really seemed to care about teaching, in a place where both the faculty and students were committed to maintaining a collegial atmosphere. I feel very fortunate to have had the opportunity to study law there.



# ALUMNI FILL HALLS OF ACADEME

## Though the Path Has Changed, Profession Retains its Charms

BY JENNIFER BALDINO BONETT

In the late 1960s and early 1970s, Regina Austin L'73 took a traditional path to a career as a law professor. After graduating from Penn Law, she clerked for Judge Edmund B. Spaeth, of the Superior Court of Pennsylvania, and then practiced at Schnader, Harrison, Segal & Lewis in Philadelphia before joining the Penn faculty in 1977.

"That's what people did when I started teaching," says Austin, the William A. Schnader Professor of Law at Penn. "They did well in law school; they did a clerkship; they spent a brief amount of time at a law firm; and then they went into the academy. That's not the pattern today."

Now, says Austin, junior faculty are more likely to have completed graduate work in a related discipline before, during, or after law school than to have practiced law. "I think that the nature of the legal profession has changed as well," explains Austin. "There is a kind of dialectic going on, so the lawyer of tomorrow is more likely to be a policymaker, a business person, less likely to keep the same job forever the way folks did when I was coming along."

As Austin and her colleagues in the law professorate have seen, aspiring law professors need new credentials, among them interdisciplinary skill, high grades, and serious writing experience, to succeed today. Penn Law is working to prepare up-and-coming law professors, while they earn their JDs, for the new expectations of the legal academy.

Faculty member Stephen J. Morse often advises students considering law teaching. "In the past, a golden resume was good enough to get you an academic job," says Morse, the Ferdinand Wakeman Hubbell Professor of Law who is also a professor of psychology and law in psychiatry at Penn. "These days, it's not good enough in most places. One also has to show scholarly ability, and the way you show that is with a record of scholarly production."

Through a Penn Law seminar focusing on scholarship taught by assistant professor Gideon



Parchomovsky, students interested in law teaching get a jump-start on the writing and publications they need to be attractive to law school hiring committees. (See sidebar.)

A significant cohort of Penn Law alumni — nearly 200 graduates — are in the legal academy, helping to teach and train the next generation of lawyers and legal scholars. These alumni say that understanding current expectations and training lawyers to be academics are necessary lessons in law schools today.

“The legal academy has taken on the attributes of a formal academic discipline, and that’s a big change from when I first started,” says Austin. “The legal academy has always been a little strange because law schools are professional training grounds, so we’re training lawyers. We’re not really teaching graduate students to do what it is we do — to, in essence, re-

**“I think back on my career and I’m just enormously grateful that I’m in it,” says Curtis R. Reitz, the Algernon Sydney Biddle Professor at Penn Law.**

place us. So I’ve always felt that leaves some people who are interested in law teaching at a real disadvantage, so they have to make their own path.”

At Penn Law, that is changing. The interdisciplinary nature of legal practice and legal scholarship today demands expertise in related fields, and Penn Law provides a foundation for its students.

Says Morse: “In most first year classes at Penn, in almost any section, students will be exposed to interdisciplinary approaches to the law. For example, in literally every contracts class, they’re going to hear a lot about economics. In every torts class, they’re going to learn about relevant economics and philosophy. In criminal law, they’re going to hear about philosophy, psychology, and psychiatry. In property, they will learn about history and economics. It’s just part of the water they drink and the air they breathe.”

Penn Law is particularly well-prepared to train students to be intellectuals in today’s interdisciplinary legal arena. Some 80 percent of the new faculty hires in the past six years have advanced degrees in other disciplines, adding to a faculty that is rich in doctoral degrees. “Graduate training trains you to be an academic, whereas law training trains you primarily to be a practicing lawyer,” says Morse, “so the fact that we have so many faculty who have training in other disciplines prepares

them to be academically oriented in the classroom, and in their approach to students. . . . What that means is we are very well positioned to give academic training, guidance, and advice to our students who want to become academics.”

The outstanding talents of Penn Law’s faculty inspired James Strazzella L’64. A former vice dean of the faculty at Penn, Strazzella later acted as dean of Temple Law School where he holds the James G. Schmidt Chair in Law. “Unlike many fields, the road to law teaching is unlikely to include education courses,” notes Strazzella. “When I was a student, the best chance to absorb good law teaching technique was to experience exceptional professors in our own law school experience. What came across every day was the Penn faculty’s own exceptional level of excellence and preparation. That consistent performance at the front of the classroom gave us a

worthwhile model as aspiring lawyers and – although some of us may not have been consciously thinking about it at the time – a model to emulate later in teaching law.”

Some brought that model right back to Penn Law, and built on it. Douglas N. Frenkel, W’68, L’72, practice professor and clinical director at Penn Law, has overseen the development of Penn Law’s nationally renowned clinical program since 1980. “I derive a lot of satisfaction from having been able to build and grow something new and permanent that wasn’t in the curriculum here when I was a student,” says Frenkel. “Being an alum, with access to the Penn network in the profession and in Philadelphia, has itself helped me in my work in many ways. And having students of the caliber that Penn attracts is a luxury and an energizing factor that is very easy to take for granted day-to-day but has been a big factor in my long-term happiness as a teacher.”

The reasons Penn alumni chose to become law professors are varied. The Penn Law faculty tapped Curtis R. Reitz, C’51, L’56, while he was still in his third year. Now the Algernon Sydney Biddle Professor at Penn Law, Reitz has spent 47 years on the Penn Law faculty and is a highly admired scholar and counselor on commercial law, an influential senior commissioner of the National Conference of Commissioners on Uniform State Laws, and a respected, forward-thinking legal mind.

“I think back on my career and I’m just enormously grateful that I’m in it,” says Reitz. “We are, I think, extraordinarily



## ALUMNI IN ACADEME

privileged to be able to work in a great law school. The opportunity to work on legal development, research and advancing ideas is something the ordinary practitioner couldn't do, doesn't have the time or the resources to do." At the same time, says Reitz, "It's been a joy for all these years [to teach]. It never fails to produce a new surge of energy and thought."

For Edward B. Rock L'83, the Saul A. Fox Distinguished Professor of Business Law and co-director of the Institute for Law and Economics at Penn, there was an opportunity to move from an adjunct teaching position to a full-time one.

Seth Kreimer, currently associate dean and professor of law, first encouraged Rock to teach antitrust as an adjunct several years after he graduated. At the time, Rock was an associate at Fine, Kaplan & Black in downtown Philadelphia.

Rock, who is also a professor of business and public policy at the Wharton School, is a member of a Penn Law class that turned out one of the largest contingents of professors.

One of them is Ann Laquer Estin, professor of law at the University of Iowa. She came to Penn Law with an undergraduate degree in anthropology and an interest in Indian rights. After a clerkship for the U.S. District Court of Colorado, she worked for a few years at a small litigation firm in Denver, and then began teaching at the University of Colorado. Although she has primarily taught family law and contracts, she says she has "wandered back" to her roots in anthropology, focusing on international and comparative family law. "One of the great pleasures of academic life," she

says, "is the opportunity to shift from one field to another over time."

Estin says of her own teaching that "it took me a while to be comfortable being exactly myself and not worry about what a law professor was supposed to look like, supposed to ask." Once Estin jumped the hurdle of tenure, she says, she felt greater freedom to define her own style and methods. During her experience at Penn Law, this was an example set by Regina Austin, who served as a model of both a woman lawyer and law teacher for Estin.

For aspiring law professors, Estin calls writing "essential," as is the understanding that writing is an integral part of the

## LEARNING THE ROPES OF TEACHING

**IN A NEW SEMINAR** for students interested in pursuing law teaching, Gideon Parchomovsky, assistant professor of law, is preparing students for a job market that places significant value on legal writing and publishing and on an interdisciplinary background.

In "Legal Scholarship," up to eight second- and third-year students work with Parchomovsky to publish a note and an article, developed from the students' own ideas. The students then present their papers for comment to Penn Law professors with relevant legal specialties. "It enables the students to draw on wonderful resources," says Parchomovsky. "Unlike other students who write papers for a seminar, they produce much more expansive and better polished papers with superior quality."

A record of scholarly production has become increasingly important in recent years, says Penn Law professor Stephen J. Morse. "One of the things that was often said about old-style law schools -- say 40 years ago -- is they were filled with people who were brilliant but who had few genuinely scholarly ideas," he says. "They were very good at examining a line of cases and rationalizing them, but they had few theoretical, interdisciplinary, or interesting policy ideas about how the law should be."

Today, says Parchomovsky, these ideas are more important than ever for aspiring law professors. Law, he says, is no longer "an insular field. . . . Now much of the analysis is driven by policy, and law is more of a policy instrument than it used to be in the past. Students with academic aspirations ought to be aware of this change. There's no other way for them to be successful. They have to understand what the expectation is out there."



law professorate. It is important, she says, to ask oneself “to what extent that will be a satisfying and rewarding life.”

Another member of the Class of '83, Robert M. Jarvis, L'83, professor of law at Nova Southeastern University in Fort Lauderdale, went into law teaching after four years practicing admiralty and international law in New York City and earning an LLM at New York University. When it came time to apply for a law school job, however, Jarvis found his admiralty experience was a drawback. “Law schools are not looking to hire people with exotic interests,” he says, “and admiralty is about the most exotic interest you can have.”

As a result, Jarvis redid his resume to emphasize his international law experience, and landed a position at Nova. Jarvis cautions aspiring law professors to think carefully about how they package themselves. “People looking for teaching jobs need to put themselves in the position of law schools and ask: ‘What do they need?’ Schools don’t need people who want to teach courses with small enrollments. What law schools need are people willing to be team players who can cover difficult-to-staff courses, like tax and bankruptcy and the UCC.”

Holly Maguigan L'72, professor of clinical law at NYU, had originally dismissed the idea of teaching when Howard Lesnick, Jefferson B. Fordham Professor of Law at Penn, presented her with it while she was a student. She recalls her reaction: “Spend my summers writing? No way.” After 14 years of practice, she taught at CUNY, then moved to NYU where the clinical programs gave her time in court. “Practice is more thrilling and more exhausting and you think very hard, but generally in a case-by-case way,” she says, adding candidly: “Teaching is less thrilling, less exhausting, but you get to think much harder about larger questions.”

She advises students to think ahead as they build their resumes. “I think people have to be strategic in a way, frankly, that 20 years ago they didn’t have to be. Teaching has become more competitive.”

Kevin L. Cole L'83, professor of law and associate dean at the University of San Diego, anticipated teaching when he started at Penn Law, and he credits his professors for inspiration and guidance. Now he teaches criminal law and criminal procedure and his research focuses on sentencing and criminal law theory. He says of teaching: “In some ways, it’s the best job there is. You get to deal with young people who are interested in starting their careers and you can allocate part of your day to things you enjoy thinking about.”

As chair of the hiring committee at USD, Cole says he looks for candidates who are capable of being effective teachers

and good communicators, who are motivated, who can think about complicated legal issues and bring new insights to bear on the law.

For lawyers who have spent time in practice, Penn Law is among the schools with faculty positions called “clinical law professor” or “clinician.” Unlike most traditional, or non-clinical, law faculty, clinicians come to law school teaching after a significant period as active practitioners. This allows attorneys who have not pursued the traditional route to a faculty post to share their knowledge of legal practice in the classroom and in scholarship. Alan M. Lerner, W'62, L'65, practice professor at Penn Law, took this path.

“I love working with the students,” he says. “I like being able to see the growth in a student in the course of a semester — growth in ability, growth in understanding what a lawyer is, growth in understanding of responsibility, growth in judgment as lawyers, growth in self-confidence.” He also enjoys writing about topics that are of special interest to clinicians: teaching, the practice of lawyering, and the impact of the legal system on underserved populations.

Penn Law alumni interested in entering the legal academy receive considerable support from the current faculty. Stephen Morse and Gideon Parchomovsky are among the Penn Law faculty who work with alumni — advising about teaching and scholarly aspirations and offering practice job talk and mock interview opportunities — to prepare them for job searches for teaching positions.

“Many of our alums did not know until this year what the expectation was, what were the rules of engagement, how you present yourself as a credible candidate, how to interview well, how to answer certain questions that if you don’t answer correctly, the interview is all but over, how to address questions about scholarship. Just providing the information helps our students a great deal,” says Parchomovsky.

“They need mentors and advisors,” says Stephen Morse. “When we go to bat for our students, we have been very successful in placing them in law teaching.” **PLU**



## ALUMNI IN ACADEME



ALUMNI  
PROFILE:  
ABOU  
EL-FADL  
L'89

# Enthralled With the 'Big Picture', Abou El Fadl Takes Academic Route To Become Major Islamic Thinker

BY TASNEEM PAGHDIWALA

As a Penn Law student, Dr. Khaled Abou El Fadl L'89 discovered he had a knack for working through the minute details and often tedious technicalities that are the trademark of legal education. But while classes that dealt heavily with the “nuts and bolts” of the law didn't prove to be very difficult for him, Abou El Fadl found himself gravitating instead towards courses with titles like Philosophy of Law or Theory of Rights.

“I was infatuated with the intellectual issues of the law, and not as interested in its technical application. The ‘bigger picture’ is what held my attention,” he recalls. But though his interest clearly lay more in the classroom than in the judge's chambers, Abou El Fadl still had his responsibilities as a new husband and father to consider when mapping out his post-graduation plans.

For the first few years after law school, he stuck to what he then considered the more practical route and exercised his proficiency with the technical application of the law. He accepted a position at Kirkpatrick & Lockhart, a large Washington, D.C. firm where he had held a summer associate position while at Penn Law, and he later clerked for Arizona Supreme Court Justice James Moeller. As he toiled through numerous cases and briefs over the years, he thought that his fascination with the “bigger picture” would diminish. Instead, it became increasingly apparent that academia was his true calling. A native of Kuwait and a devoted scholar of Islamic jurisprudence, Abou El Fadl began a Ph.D. program in Islamic Studies at Princeton University. As a means of support for his family, he continued to practice immigration and investment law in the United States and in the Middle East while completing his doctoral work.

Fast forward to the present, where Abou El Fadl has managed to turn his interest in the



merging of philosophy and law into a highly celebrated career. Today he is a Professor of Law at the UCLA School of Law and Visiting Professor of Law at Yale Law School, where the courses he offers sound like ones a younger Abou El Fadl would have registered for in a heartbeat. They include Islamic Law, International Security Law, and courses related to human rights and political asylum. He has also taught at the University of Texas at Austin Law School and Princeton University.

The benefits and satisfaction Abou El Fadl derives from teaching have clearly surpassed the initial difficulty of leaving practice for academia. “When I was in private practice, I didn’t enjoy working on many of the cases that were assigned to me – but that is the nature of practice. When you go into academia, you get to pick what fascinates you, and go with it. It is more emotionally rewarding because you feel you are making a contribution at the universal level.”

Working in academia has also afforded Abou El Fadl the time to pursue his other intellectual pursuits. A high-ranking Muslim sheikh with formal training in Islamic jurisprudence, he has been described as the most important and influential Islamic thinker of contemporary times. He regularly appears on various international media including CNN, NBC, PBS, and National Public Radio as a critical and powerful voice against religious fundamentalism and intolerance, and as a staunch advocate of women’s rights in the Middle East. The author of numerous texts on Islamic law, tolerance and terrorism, his recent books include *The Place of Tolerance in Islam* (Beacon Press), *Conference of the Books: The Search for Beauty in Islam* (University Press of America), and *Speaking in God’s Name: Islamic Law, Authority and Women* (Oneworld Press). He also serves on the Board of Directors of Human Rights Watch.

Looking back over a career path that took off in private practice and landed at the forefront of legal scholarship, Abou El Fadl credits Penn Law with fostering in its students the confidence needed to explore whatever aspect of the law they found most stimulating, instead of only pursuing more lucrative opportunities. “I had professors who insisted that we not

only understand how the law works, but also that we strive to understand law as a concept. They not only exposed us to the various social and political issues affected by the law, but asked us to consider the implications of our own positions on these issues in our daily lives,” he says. It is clear that he has had an equally impressive impact on his own students – a number of them have even formed a website – [www.scholarofthehouse.org](http://www.scholarofthehouse.org) - dedicated to spreading Abou El Fadl’s scholarly work and message of tolerance to a larger audience. **PLU**

## ACADEMIC CAREER HISTORY

**VISITING PROFESSOR.** Yale Law School, Fall 2003 – Spring 2004. Teaching National Security law, Islamic law and Immigration law.

**FULL PROFESSOR.** Distinguished Fellow in Islamic Law, UCLA School of Law. Fall 2002 – Present. Acting Professor, Fall 1999 – Spring 2001. Awarded the Fredric P. Sutherland Public Interest Award, 2001- 2002.

**VISITING PROFESSOR.** UCLA School of Law. Teaching courses on Islamic and Middle Eastern Law, Islamic Law and Human Rights, Investment Law in the Arab World, and Immigration Law. Fall 1998 – Spring 1999.

**INSTRUCTOR.** Department of Middle Eastern Languages and Cultures, University of Texas at Austin. Taught courses on Islamic and Middle Eastern History and Culture. Fall 1995 – Spring 1999.

**ADJUNCT PROFESSOR.** University of Texas at Austin Law School. Taught courses on Islamic Law and Commercial Laws of the Middle East, Spring 1996 – Spring 1998.

**TEACHING ASSISTANT.** Department of Near Eastern Studies, Princeton University. Assisted Professor Hossein Modarressi in teaching a course entitled “Introduction to Islamic Law,” Spring 1995.

**VISITING LECTURER IN ISLAMIC LAW.** Yale Law School, Yale University. Taught a course on Islamic and Middle Eastern Law, Fall 1994.

**TEACHING ASSISTANT.** Department of Near Eastern Studies, Princeton University. Assisted Professor Carl Brown in teaching a course entitled “History of International Relations in the Modern Middle East.” Responsible for leading three precepts consisting of 40 students. Spring 1992.



## ALUMNI IN ACADEME



ALUMNI  
PROFILE:  
F. SCOTT  
KIEFF  
L'94

# Kieff Emerging as Top Young IP and Patent Scholar

BY LARRY TEITELBAUM

F. Scott Kieff faced a conundrum. Fewer than 10 years removed from law school and close in age to some of his law school students, he wanted to share his rich real-world experience — he co-authored a leading book on patent law and had worked on many important intellectual property cases — without seeming pretentious.

So what did he do? He drew on his experience to tell what actually happened in some of those cases, but did so in the third person.

Problem solved.

“Getting students connected to the topic is important ... and this (narrative device) provides a palpable link without telling war stories – it avoids what could be an awkward personal connection between me and the topic,” says Kieff, on leave from the Washington University School of Law, having received one of the preeminent faculty fellowships in the United States for a year of research and writing at Stanford’s Hoover Institution.

Kieff’s willingness to experiment has served him well, taking him on a journey from private practice to clerking to academia. “Since applying to law school I have wanted to work at the interface among technology, the market and society,” says Kieff, who graduated from Penn Law in 1994. “And that is what I have done and hope to continue to do. The job title has mattered little to me. Lawyer, law clerk, law professor. Just different angles from which to try to crack a rather tough nut.”

Kieff, who teaches first-year contracts and upper level courses in all aspects of intellectual property, has carved a research niche in which he explores how property rights in ideas might facilitate or frustrate the entry of those ideas into the market. *Principles of Patent Law*, which he co-authored, is used as a text at most of the top law schools including Harvard, Yale, Stanford, Chicago and Penn; and his new book on IP issues in biotechnology, *Perspectives on Properties of the Human Genome Project*, has received rave reviews.

Explains Kieff: “Getting useful applications out of someone’s head and onto a store shelf turns out to be a rather complex process.”



Kieff, 34, first cut his teeth in the field by working for six years as a lawyer, beginning at Pennie & Edmonds in New York and ending as counsel to Jenner & Block in Chicago. His practice encompassed every aspect of intellectual property – from obtaining rights to enforcing them to transactions, in both the national and international arenas.

“But the real depth came for me when I withdrew from the private sector for two years to go to Washington, D.C. to clerk for Judge Giles Rich” of the United States Court of Appeals for the Federal Circuit,” says Kieff. When Judge Rich died in 1999, the New York Times eulogized him as “a towering figure in patent and intellectual-property law,” and Kieff recalls him as “the kindest of gentlemen with the keenest of intellects and enough curiosity for a thousand cats – he was also the consummate teacher, which meant we were always learning from him even though he never appeared to teach.”

“That’s probably when I realized I had the bug to be an academic,” says Kieff, who is grateful for the help and encouragement he received from his Penn Law professors Stephen Burbank, Leo Katz, Michael Moore, Stephen Morse, Michael Schill, and Seth Kreimer.

According to Kreimer, Kieff displayed all the prerequisites for teaching: an interest in research; an intense devotion to a subject, biotechnology and patent law; and, not least, the right pedigree (both his parents taught at the University of Chicago and are Penn alumni as well). “He’s a guy who makes things happen (and) likes to discover things,” says Kreimer.

Among the things he has discovered is that he likes teaching. “Teaching is most fun when the students are engaged,” Kieff says. “I especially like it when they are trying to develop their own views rather than trying to decide how I would come out on an issue.”

In 1999 he became a Visiting Assistant Professor of Law, first at Northwestern University for two years and then at the University of Chicago for a quarter. He took a tenure track job as an Associate Professor at Washington University School of Law beginning in fall 2001. But before he arrived there got a faculty fellowship in the John M. Olin Program for Law,

Economics, and Business at Harvard Law, thus dividing his time for two years between St. Louis and Boston.

At every stop he’s connecting with students and colleagues and making a mark in academic circles. Which moves Seth Kreimer, who’s followed his progress, to say:

“He’s emerging as one of the top young scholars in the field of patents and IP.” [PLU](#)

## ACADEMIC CAREER HISTORY

Washington University School of Law (July 2001 to present) **ASSOCIATE PROFESSOR OF LAW**

Hoover Institution, Stanford University (September 2003 to present) **W. GLENN CAMPBELL & RITA-RICARDO CAMPBELL NATIONAL FELLOW AND ROBERT ECKLES SWAIN FELLOW**

Harvard Law School (July 2001 to August 2003) **JOHN M. OLIN SENIOR RESEARCH FELLOW IN LAW, ECONOMICS AND BUSINESS**

University of Chicago Law School (March 2001 to July 2001) **VISITING ASSISTANT PROFESSOR**

Northwestern University School of Law (September 1998 to July 2001) **VISITING ASSISTANT PROFESSOR AND ADJUNCT PROFESSOR**



## ALUMNI IN ACADEME



ALUMNI  
PROFILE:  
MARCI  
HAMILTON  
L'88

# A Constitutional Expert on Church-State Issues, Hamilton L'88 Has Fervor for Intellectual Pursuits

BY LARRY TEITELBAUM

Six years ago, Marci Hamilton stood on the biggest stage in jurisprudence and thrust herself into what she calls “one of the most heated church-state issues in the twentieth century.” She argued before the United States Supreme Court, taking on the Catholic Church and bedrock religious freedoms.

Hamilton represented city officials in Boerne, Texas who, citing the town’s historic preservation ordinance, denied a request by a local church to demolish its building and construct a much larger one. The case pitted supporters of the then-new federal Religious Freedom Restoration Act - which aimed to prevent government agencies from interfering with religious practice without compelling cause - against opponents like Hamilton who declared it unconstitutional.

In the end, Hamilton’s side prevailed. She won *Boerne v. Flores* in 1997.

Not bad for a career academic. It was Hamilton’s first case, and the case changed her life. In the aftermath, she litigated many more church-state cases and began to focus her academic research on the theological origins of the Constitution.

But one thing didn’t change: her fervor for the rewards and flexibility of teaching. “It gives me the freedom to pursue the intellectual threads that are most important to me,” says Hamilton, who holds the Paul R. Verkuil Chair in Public Law at Yeshiva University’s Benjamin N. Cardozo School of Law. “But there are also endless opportunities to try to make the world a better place through the legal system. Being a law professor does not stop in the classroom, or even with the publication of an article, it also extends to public debate and battle over the most important issues of the day.”

Entering Penn Law, Hamilton L’88 presumed she would become a city attorney like her grandfather William Jennings Wehrli, whom she admired. (Coincidentally, he too argued a case before the United States Supreme Court.) That was before being editor-in-chief of the *Law Review* and clerking for Associate Justice Sandra Day O’Connor of the U.S. Supreme Court and



Chief Judge Edward R. Becker of the U.S. Court of Appeals for the Third Circuit.

Those positions dramatically expanded Hamilton's options. She weighed potential careers - practicing first amendment law, being an Assistant U.S. Attorney, or teaching law school. Teaching won. (Like her grandfather, though, she represents cities in important church/state cases.)

Hamilton joined Cardozo's faculty in 1990. She has also been a Visiting Professor of Law at New York University School of Law, a Visiting Scholar at the Princeton Theological Seminary, a Fellow at the Center of Theological Inquiry at Princeton, and Distinguished Visiting Professor of Law at Emory University School of Law. She will return to Princeton Theological Seminary as a Visiting Scholar during Fall 2004.

An internationally recognized constitutional expert, Hamilton specializes in church/state relations, federalism, and representation. She writes and lectures often on these subjects, and frequently advises Congress and state legislatures and consults on cases involving important constitutional issues.

At Cardozo, Hamilton teaches constitutional law, first amendment law, and law and religion, adapting a style she learned from Penn Law Professor Seth Kreimer, while she was one of his students.

"Seth Kreimer is a great classroom teacher - both challenging and engaging," Hamilton says. "I have tried to emulate his style of using the Socratic method, but in a way that never demeans anyone. Teaching is not about punishment; it's about imparting knowledge the best way possible."

Working with Justice O'Connor also taught her invaluable lessons - how to be gracious and professional, even when you disagree, and the experience elevated her scholarship another notch. "In terms of teaching, there is no match for spending a year at the Supreme Court to see how the law there is actually made," she says.

And what did she learn from her involvement in the landmark Supreme Court case?

"I was one of the many in the United States who mistakenly assumed that one acting out of religious motivation was

always acting in the best interest of others," Hamilton says. "It took the very public debate over RFRA and its successors in the states and the Congress, for me to fully understand that religious entities are perfectly capable of harming the public good. A religious believer myself, I have become a gadfly of religion in the public square." Hamilton will spend her sabbatical next year writing a book about religion and the public good. [PLU](#)

## ACADEMIC CAREER HISTORY

Benjamin N. Cardozo School of Law, [YESHIVA UNIVERSITY ASSISTANT PROFESSOR \(1990-93\)](#) [ASSOCIATE PROFESSOR \(1993-95\)](#)

[PAUL R. VERKUIL CHAIR IN PUBLIC LAW \(1995 to present\)](#)

[VISITING SCHOLAR, \(Fall 2004\)](#)

[PRINCETON THEOLOGICAL SEMINARY VISITING PROFESSOR OF LAW, \(2000-2001\)](#)

[NEW YORK UNIVERSITY SCHOOL OF LAW DISTINGUISHED VISITING PROFESSOR OF LAW, \(Fall 1999\)](#)

[EMORY UNIVERSITY SCHOOL OF LAW VISITING SCHOLAR, \(1997-98\)](#)

[PRINCETON THEOLOGICAL SEMINARY FELLOW, Center of Theological Seminary, Princeton \(Fall 1997\)](#)



## ALUMNI IN ACADEME



ALUMNI  
PROFILE:  
RICHARD  
ALLAN  
MATASAR  
C'74, L'77

# Matasar Offers 'Custom' Education as Dean of New York Law School

BY JENNIFER BALDINO BONETT

As dean of New York Law School, Richard Allan Matasar C'74, L'77 has a bird's-eye view of legal education. From his perspective, he sees an increasingly interdisciplinary practice of the law, creating a need for attorneys trained in more than the singular field of law; and he foresees significant changes deriving from technological developments and international affairs. He is working to prepare students for a very different world of lawyering.

"I think that many of us have doubts that the legal profession will look anything like it looks right now for most lawyers," says Matasar. "The effect of the changes to come will profoundly alter what lawyers do. Law school graduates will have to make their own way and market their special skills to give them the edge they will need to succeed in the crowded space occupied by lawyers."

Matasar has spent much of his career shaping legal education to meet these new and growing needs. At Penn Law, Matasar was research and writing editor of the Law Review. After graduating magna cum laude, he clerked for Circuit Judge Max Rosenn in the Third Circuit Court of Appeals, then spent two years as an associate attorney at Arnold & Porter in Washington, D.C. Two titans of Penn Law -- professors A. Leo Levin and Louis B. Schwartz -- encouraged Matasar to pursue a career in the legal academy. He went on to become a nationally recognized scholar in civil procedure and federal jurisdiction. He also has spent much of his professional life thinking about law schools as institutions and how to use education to add value to society.

As dean of the Chicago-Kent College of Law, Matasar helped the school establish a reputation as a leading institution in integrating technology into legal education.

As the Levin, Mable & Levin Professor of Law and dean of the University of Florida's Fredric G. Levin College of Law, Matasar created the school's first comprehensive strategic plan, which led to the development of several new research centers and an expanded international presence. He also developed the International Center for Automated Information Research and the Legal Technology Institute.



Matasar has published extensively in scholarly and academic venues. His teaching and scholarly areas include civil procedure, constitutional litigation, federal jurisdiction, trial advocacy, and professionalism.

Today, as dean and president of New York Law School, Matasar is focused on creating a new law school experience for students through curricular and administrative innovations. In announcing an approach called “The Right Program for Each Student” in 2001, Matasar said: “As a stand-alone, private, expensive law school, we are obligated to provide our students with a significant, value-added education. . . . Students receive individual attention and a chance to develop their talents to the maximum in a law school climate with sufficient flexibility to give each student the best opportunities possible.”

To that end, the School has five academic centers for specialized study and opportunities for exchange between the students and expert practitioners: the Center for New York City Law, the Center for International Law, the Center for Professional Values and Practice, the Institute for Information Law and Policy, and the Justice Action Center. These centers engage top-ranking students in advanced research through the newly established Justice John Marshall Harlan Scholars Program. In this program, every student becomes a member of the school’s law review; each is required to publish an article in a subject related to the center to which she or he is affiliated; each has a faculty mentor; and each completes a capstone project before graduating.

The New York Law School also has initiatives for students in the middle of the class and those in the bottom quartile. Since many mid-level students will be engaged in general practice, the school offers a curriculum of dispute resolution classes. The school also reserves clinical and moot court opportunities for them. Students in the bottom quartile engage in the Comprehensive Curriculum, which includes special courses to improve their general legal skills, broad-based courses to prepare them for work in small office settings, and scholarship support to permit students to stay an extra semester to ensure that the quality of their law school work improves.

“Twenty or thirty years ago, law school was a leavening experience. Students had a common experience while in school,” says Matasar. “Now we have 1,400 students and there are 1,400 different paths to get them to the places they want to go. We offer a luxury product -- high-priced education -- that requires us to customize each student’s educational options. Every aspiring lawyer should build on the passions that drove them to law school; each should be able to use the law school experience to make their passion flower.” <sup>100</sup>

## ACADEMIC CAREER HISTORY

DEAN AND PRESIDENT, New York Law School, July 2000-present

DEAN EMERITUS, University of Florida Fredric G. Levin College of Law, April 2000-present

LEVIN, MABIE & LEVIN PROFESSOR OF LAW, 1999-2000

DEAN AND LEVIN, MABIE & LEVIN PROFESSOR OF LAW, July 1996-August 1999

DEAN AND PROFESSOR OF LAW, Chicago-Kent College of Law, July 1991-July 1996

VICE PRESIDENT, Downtown Campus, March 1995-June 1996

ASSOCIATE PROFESSOR OF LAW, University of Iowa College of Law (August 1980 - April 1984) August 1980 - July 1991

PROFESSOR, April 1984 - July 1991

ASSOCIATE DEAN FOR ACADEMIC AFFAIRS, May 1989-June 1991

VISITING PROFESSOR OF LAW, The University of Michigan Law School, January 1989-April 1989



## ALUMNI IN ACADEME



ALUMNI  
PROFILE:  
CARRIE J.  
MENKEL-  
MEADOW  
L'74

# Pioneer in Civil Dispute Resolution and Women and the Law

## Menkel-Meadow L'74 Credits Penn Law for Her Academic Ascent

BY JENNIFER BALDINO BONETT

The Socratic method was de rigueur for most classes that Carrie J. Menkel-Meadow L'74 took as a Penn Law student. So when her course in judicial process was taught using the experiential method — emphasizing role-playing and student interaction — it sparked her interest, opening her eyes to a novel, effective way of teaching the law. She told herself: “If I’m ever going to teach, this is the way I’m going to teach.” It wasn’t long before she had the chance to do just that.

After graduating from Penn Law, Menkel-Meadow, now professor and director of the Georgetown-Hewlett Program on Conflict Resolution and Problem Solving at Georgetown Law Center, declined the usual post-graduate path of a clerkship, turning down an opportunity with the U.S. Third Circuit Court of Appeals. Instead, she returned to Penn Law as an instructor. One of the first women on the faculty at Penn Law, she taught a legal education seminar with Dean Bernard Wolfman, directed the legal writing program, and co-founded the clinical program.

“A bit of a student radical,” as she calls herself, Menkel-Meadow was then able to instigate change from within the legal academy. “In everything I’ve done, I’ve always been an intellectual who relates to theory and takes it back to practice,” she says. “It’s a wonderful life to contribute to the production of knowledge, to the improvement of law and legal institutions.” She led a course on women when the concept was still so new there was not yet a casebook on it, and she used the experiential teaching method which had so affected her as a Penn Law student.

While teaching at Penn Law, she also worked as a staff attorney for Philadelphia’s Community Legal Services, specializing in employment law, government benefits, and domestic relations.



She moved to UCLA in 1979, as law professor and acting co-director for the UCLA Center for the Study of Women and Director of the UCLA Center for Conflict Resolution. In 1996, she went to the Georgetown Law Center. Her teaching has also included visiting professorships at Harvard and Stanford law schools and in 1999 the first Phyllis Beck Chair in Law at Temple University.

Early in her 28 years of teaching, Menkel-Meadow found doors opening for women in law and between law and other disciplines, and she opened doors of her own. One of the pioneers of the civil dispute resolution movement, Menkel-Meadow has published and lectured widely on the topic. She has also worked as a mediator in such high-profile cases as the Merrill Lynch Claims Resolution in 2000 and the Wellington Asbestos Claims Resolution Panel since 1985, and as an arbitrator in the Dalkon Shield Claims Trust from 1992 to 1996 and the Victims Compensation Fund for September 11, 2001.

She has provided training and briefing on mediation for former U.S. Attorney General Janet Reno, worked as a consultant for the Federal Courts Program on Dispute Resolution, and conducted training internationally in alternative dispute resolution. Her copious professional activities reflect her interests in conflict resolution, civil legal processes, women and the law, law and society, and clinical education. She is currently co-editor-in-chief of the *Journal of Legal Education*.

Grateful for the opportunities afforded her at Penn Law (including editorship of the *Law Review* and the Arthur Littleton Legal Writing Fellowship), Menkel-Meadow encourages students considering careers in academe to “study with someone who is a good role model, someone with passion for the subject . . . Find good teachers and watch them.”

As for the frequent encouragement to aspiring law professors to “write, write, write,” Menkel-Meadow puts a different twist on it. “My advice to people is: Write with passion,” she says. “Find your passion in something you want to spend a significant portion of your life involved with. Don’t just write on the issue of the moment. . . . Write not only from the brain, but from the heart.” <sup>PLU</sup>

## ACADEMIC CAREER HISTORY

**PROFESSOR OF LAW**, Georgetown Law Center, 1996-present

**DIRECTOR**, Georgetown-Hewlett Program on Conflict Resolution and Problem Solving

**VISITING PROFESSOR OF LAW**, University of Fribourg (Switzerland), Spring 2003

**VISITING PROFESSOR OF LAW**, Harvard Law School, Spring 2001

Phyllis A. Beck Chair in Law, Temple University Law School (Visiting Chair, 1999)

**PROFESSOR OF LAW**, UCLA School of Law, 1984-1999 (Acting Professor of Law, 1979-84)

**CO-DIRECTOR**, UCLA Center for Conflict Resolution, 1994-1999

**ACTING CO-DIRECTOR**, UCLA Center for the Study of Women, 1989-1990

**VISITING PROFESSOR OF LAW**, Georgetown University Law Center, Fall 1992 & Spring 1994

**DISTINGUISHED VISITING PROFESSOR IN LEGAL THEORY**, University of Toronto Law Faculty, Fall 1990

**VISITING PROFESSOR**, Stanford Law School, Fall 1990

**LECTURER AND CLINICAL SUPERVISOR OF LAW**, University of Pennsylvania Law School, 1976-79

**VISITING ASSISTANT PROFESSOR OF POLITICAL SCIENCE**, Temple University, 1977

**DIRECTOR**, Legal Writing Program and Instructor, University of Pennsylvania Law School, 1974-75



## ALUMNI IN ACADEME



ALUMNI  
PROFILE:  
BERNARD  
WOLFMAN  
C'46, L'48

# Wolfman Enjoys Intellectual Freedom That Teaching Confers

BY JENNIFER BALDINO BONETT

After 15 successful years and serving as managing partner with the Philadelphia firm Wolf, Block, Schorr & Solis-Cohen, an attraction to teaching and research moved Bernard Wolfman C '46, L'48 to choose a career in the legal academy. He had been teaching tax part-time at Penn Law for three years at the request of Dean Jefferson B. Fordham, when he was invited to join the Penn Law faculty as a tenured professor in 1962.

Wolfman, now Fessenden Professor of Law at Harvard Law School, says he pondered the invitation from Dean Fordham for “many, many months . . . I liked teaching. I liked practice. In addition to teaching when you’re in the academy, you have the really extraordinary opportunity to decide in your research what you want to work on, how long you want to work on it; you can do so until you are satisfied that you have accomplished what the project you have undertaken calls for.”

His 13 years on the Penn faculty included five years as dean of the Law School. Under his leadership, from 1970-75, Wolfman oversaw faculty growth and major curricular changes. Much of the curricular reform, begun during the administration of his predecessor, Dean Fordham, was expanded and implemented by Wolfman and a large part of it remains in place today.

First-year students can thank Wolfman for shortening first-year courses -- from two terms each with one exam at the end of the academic year -- to one term with an exam at the end of the semester. An upper-level course in constitutional law was moved to the second semester of the first year, and courses introducing statutory law and administrative law were added to the first-year curriculum.

One of the administrative law courses moved to the first year was labor law, taught by leading scholar Clyde W. Summers, Jefferson B. Fordham Professor of Law, whom Wolfman enticed to come to Penn from Yale. Labor law is now an elective course for first-year students. Also under Wolfman, ILs took income security, the early incarnation of poverty law, in the spring term.





# NEWS FROM THE LAW SCHOOL'S BOARD OF OVERSEERS



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CW'74, L'77



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WG'78, L'78



ROBERT M. POTAMKIN  
L'70

## Penn Law Welcomes Five New Overseers

### Pamela Craven CW'74, L'77

**PAMELA CRAVEN CW'74, L'77** is Senior Vice President, General Counsel, & Secretary at Avaya Inc., a leading global provider of communications systems, applications and services for enterprises headquartered in New Jersey. Craven is responsible for all legal services at Avaya, including its commercial practice; corporate, securities, compliance, corporate governance and mergers and acquisitions practices; labor, employment and employee benefits law; litigation; and intellectual property law, including patents, trademarks, copyrights and licensing. She is in charge of Avaya's Global Contracts Management, Government Affairs and Corporate Security organizations. In addition, Craven serves as corporate secretary, one of Avaya's two Co-Chief Compliance Officers and supports the Avaya Board of Directors.

Prior to joining Avaya, Craven was Vice President, Law and Secretary for Lucent Technologies Inc. In this position, she oversaw attorneys responsible for Lucent's corporate and securities law, mergers and acquisitions, and labor and employment practices. Previously, she practiced federal, state

and international tax law at NCR Corporation and in private practice.

A native of Bloomfield, New Jersey, Craven is the Chair of the Community Advisory Board of New Jersey Network, the educational public television and radio network of New Jersey. She has also spoken at various programs related to continuing legal education and women in the legal profession. She is a member of the Board of Managers of the Law Alumni Association at Penn Law. Pamela and her husband, Bill, have two daughters, one of whom is a member of the Penn class of 2006.

### Marcy Engel L'83

**MARCY ENGEL L'83** is a Managing Director in the Global Fixed Income Division of Citigroup Inc.'s Global Corporate and Investment Bank (GCIB), where she is co-head of the Fixed Income Capital Products Group. That unit develops and structures new fixed income products for issuers and investors. She formerly served as General Counsel of Citigroup Global Markets, Inc., which was then known as Salomon Smith Barney, and Managing Deputy General Counsel of the GCIB. Engel joined Salomon Brothers, Inc., a predecessor firm, as an attorney in 1987. Prior to that, she was an associate at Sullivan & Cromwell.



Engel has been an active member of the Penn Law community since graduation. She served as Co-Chair of her class' 20th Reunion last year, and also chaired her 15th Class Reunion. She is also active in various securities industry trade associations and bar committees and formerly served as a member of the Federal Regulation Committee of the Securities Industry Association and as a Director of the Futures Industry Association.

## Antonio Magliocco, Jr. L'77

**ANTONIO MAGLIOCCO L'77** serves as Vice Chairman of Quaker Equities, Ltd., a holding company owned by the Magliocco family. Quaker owns wine and liquor distribution companies in New York State and Connecticut, a wine and liquor import company, and a micro-brew, New Amsterdam.

Magliocco and his wife Carla Solomon serve on the Yale Development Board and the board of the New York Psychoanalytic Foundation. His wife is also a member of the NYU Medical Center and the School for Strings boards.

Magliocco completed his undergraduate studies at Yale University. He lives with his wife Carla, who is a psychoanalyst, in Manhattan with their three children.

## James E. Nevels WG'78, L'78

**JAMES E. NEVELS WG'78, L'78** is both a successful businessman and community leader. He is Chairman of The Swarthmore Group, Inc., an independent investment and financial advisory firm managing over \$1.7 billion in assets and one of the largest minority-owned firms in the United States. Before starting The Swarthmore Group, Nevels was an investment banker for some of the most respected financial institutions in the country including, Smith Barney, Harris Upham & Co., and Prudential Bache Securities. He also practiced law as counsel in bond transactions at Ballard, Spahr, Andrews & Ingersoll.

Nevels is known as well for his efforts to improve the quality of Philadelphia public schools. In 2002, he was named as permanent Chair of the Philadelphia School Reform Commission by Gov. Mark Schweiker for a term to extend through January 2009. Previously, Nevels served as acting Chief Executive Officer of the Philadelphia School District, overseeing 220,000 students, 15,000 teachers and a budget in excess of \$1.7 billion.

Nevels serves on the board of Berea College. In addition, he

serves as a Director of The Association of Governing Boards of Colleges and Universities and is a member of the Investment and Educational Policy Committees. He has served as a Board member of the Philadelphia Health & Education Corporation and the State Employees Retirement System of Pennsylvania, and previously as a trustee of his alma mater, Bucknell University and as a Director of the Delaware County Community College Foundation.

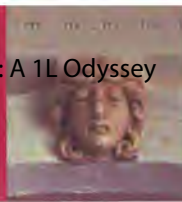
## Robert M. Potamkin L'70

**ROBERT M. POTAMKIN L'70** has a diverse portfolio of business interests. He is the Chairman and CEO of Potamkin Companies, a leading privately held consolidator of automobile dealerships. The company has more than 60 franchises at 30 locations in Florida, New York, Pennsylvania, Massachusetts, Illinois, Iowa, Texas and California. He also invests in real estate and media.

A recipient of the 2003 Alumni Award of Merit, he established the Potamkin Scholarship in Honor of A. Leon Higginbotham Jr. The scholarship provides financial support to minority law students of exceptional promise or to students interested in civil rights. Potamkin clerked for Judge Higginbotham of the U.S. District Court, Eastern District of Pennsylvania. Judge Higginbotham was an adjunct professor at Penn Law from 1970 to 1993, and served as Chair of the Law School's Board of Overseers and Trustee of the University of Pennsylvania.

Potamkin supports several charities. He is co-founder of the Potamkin Prize for Alzheimer's Research; he and his wife Lexie are also members of the United Way Million Dollar Roundtable.





# FACULTY NEWS AND PUBLICATIONS

**CRITICS CLAIM THAT** government interventions prevent audiences from getting the media content that they want and that an unregulated market would provide. Political theorists assert that a free press is essential for democracy. In *Media, Markets, and Democracy*, Ed Baker, the Nicholas F. Gallichio Professor of Law, argues that the critics' claim is simply wrong and that the theorists' assertion is right but inadequate for policy purposes. Unique economic aspects of media products prevent markets from providing for audience desires. Also, different theories of democracy lead to striking differences in opinion about what constitutes good journalism and good media policy. While himself favoring a theory of "complex democracy," Baker contends that the choice among democratic theories is crucial for understanding what should be meant by the constitutional protection of "freedom of the press."

The book was winner of the 2002 McGannon Communications Policy Research Award given for the year's best scholarship on media policy and ethics. Baker is only the second law professor to win this competitive annual award.

In a symposium at Penn, Ed Baker squared off with Seth F. Kreimer, Associate Dean and Professor of Law, to debate the merits of the arguments contained in Baker's book.

## Kreimer v. Baker on Media, Markets and Democracy

### An Appreciation with a Few Caveats

BY SETH KREIMER

ASSOCIATE DEAN AND PROFESSOR OF LAW

**IT IS ALWAYS** a pleasure to read Ed Baker's work, but it is a pleasure tinged by envy, for I inevitably come away thinking, "I wish I were that good a scholar". Some of my colleagues draw admiration because they speak in paragraphs; I envy Ed because he thinks in systems. Even in conversation, Ed always has anticipated the effect that his answer has on the next question; in his writing, he is three questions ahead, and the answers always mesh seamlessly. A Baker argument is a thing of beauty.

Equally important, Ed cares about the human value of the systems he analyzes. After setting forth the arguments from economics, social theory, journalistic practice and case law, in *Media, Markets and Democracy*, Ed ends up discoursing on "passion and values, wisdom and meaning". It therefore gives me great pleasure to spend a few minutes discussing the theories Ed sets forth in that book.

The book's overall structure is simple. Ed argues in three steps: First, media entities do and should play a special role in American democracy; second, both government actions and market-driven private decisions can endanger that special role and, third, both public policy and constitutional interpretation should be tailored to avoid the dangers to the press' role.

The tricky and elegant part of the argument is to parse both





## A. THE PRESS AS WATCHDOG

**ED BEGINS BY** recognizing the traditional role of the press as watchdog against government usurpation. As Andrew Hamilton put the point in his defense of John Peter Zenger, the press functions as a “bulwark against lawless power . . . [it exercises] a right which all free-men claim . . . to remonstrate the abuses of power in the strongest terms, to put their neighbors upon their guard against the craft or open violence of men in authority.” Ed characterizes this vision of the press as rooted in an “elitist” vision of democracy, and he is correct in suggesting that it is consistent with the elite-led legislatures of the American colonies. But it is, as he recognizes, also a role that the press is expected to play with vigor in other visions of democracy. Let me, therefore by way of mild protest, refer hereafter to the partisans of this press role as “Zengerites”, rather than elitists .

For a Zengerite, Ed points out, the danger to the democratic role of the press arises from pressures that prevent the watchdog from barking. Direct attacks

the nature of the press’ role and the nature of the dangers. Ed argues that the relevant role and the relevant dangers depend fundamentally on the conception of democracy that the analyst employs. He identifies a series of such conceptions.

such as libel verdicts, injunctions and prosecutions would give concern to the Zengerite. So, too, would government regulations or benefits schemes that are not directly censorial, but encourage the press to engage in self censorship as a way of



## FACULTY NEWS AND PUBLICATIONS

avoiding the wrath of governmental officials at whose discretion benefits and burdens may be dispensed. Likewise suspect are regulatory schemes that put the press in such intimate and regular contact with government officials that the press is likely to identify too closely with the foxes they are keeping from the henhouse door. A Zengerite might worry as well about an underproduction of investigative reporting (since the private sector will be unable to capture all of its external benefits), and the dangers that market pressures from vulnerable or partisan owners or advertisers might also muzzle the watchdog (particularly with respect to private sector malfeasance). Ed thinks that in most instances the Zengerite distrust of government would leave such analysts skeptical of interventions that sought to avoid market pressures on the press. The primary Zengerite policy prescription would be *laissez faire*.

### B. CIVIC REPUBLICANS

**BY CONTRAST, ACCORDING** to Ed, a Civic Republican conception of democracy would envision a more robust role for the press as an organ of popular participation and deliberation. Alongside a concern for preserving press independence

A rosy-tinged vision of the three national networks, running Edward R. Murrow and Fred Friendly, operating under the benign oversight of a progressive FCC during the mid 1960s would seem to capture the civic republican vision.

from governmental gelding, civic republicans would harbor concerns that, given commercial pressures, the press might:

1. provide an insufficient arena for popular participation;
2. segment or devolve into quarreling factions that further social disintegration rather than generating a discussion that tends toward establishing a societal conception of the good;
3. Even if unified, be typified by a discourse that is insufficiently deliberative.

To meet these concerns, a civic republican would be more willing to tolerate an active governmental role *vis-à-vis* the press. The civic republican would begin by subsidizing the press (as historically was done both with government print-

ing jobs and with postal subsidies). In a modern context the provision of preferred press access under FOIA serves some of the same purposes. A civic republican would be sympathetic as well to efforts to preserve public access by equal time or equal access or right of reply requirements; she would find the “fairness doctrine” congenial. She would not object to monopolies *per se*. Indeed, the effort to generate a single public realm of discourse in which social integration could take place would in some cases be furthered by a well-regulated monopoly. A rosy-tinged vision of the three national networks, running Edward R. Murrow and Fred Friendly, operating under the benign oversight of a progressive FCC during the mid 1960s would seem to capture the civic republican vision.

### C. LIBERAL PLURALISTS

A “**LIBERAL PLURALIST**” conception of democracy, according to Ed, would share with the civic republicans a priority for encouraging public participation, but would be far more inclined to foster “free, wide-open, and robust” debate, and would seek to assure that each “segment” of the population should have access to a partisan media platform that would

enable it to mobilize its membership and to advocate its interests in open political debate. The liberal pluralist would be concerned that market forces would marginalize already subordinated or powerless groups, and would be skeptical of media concentration *per se*, since she would see in it the specter of either blandness

or conformity or both. She would be skeptical of the market, which could corrupt the partisan integrity of media outlets, but also of governmental intervention of the sort advocated by civic republicans to provide common civic dialogue or civility, since partisan media diversity is precisely the relevant aim.

A liberal pluralist would seek policies that disperse ownership and control of media, while subsidizing non-commercial media centers such as local governments, unions and political parties.

### D. “COMPLEX DEMOCRACY”: A SYNTHESIS

**IN ED'S VIEW** each of these conceptions has complementary



insights, but each misses an element of the political good. In his view a properly “complex” ideal of democracy would be guided by the Zengerite concern for avoiding muzzled watchdogs, civic republican’s fear of wholly disintegrated civic discourse, the liberal’s fear of stunted pluralism, but would as well seek to assure that each group in society has access to media that provide an avenue to develop and celebrate the group’s identity and commitments. Ed’s solution, which he builds on the insights of Lee Bollinger and James Curran is, in effect, to diversify the regulatory portfolio, by constructing a variety of different media regimes.

In Ed’s vision, a “professional sector” staffed by committed professional journalists would serve the “watchdog” function. A “core” national media, modeled on the BBC or NPR would provide an inclusive and bureaucratically moderated forum for public discourse that captures the aspirations of the civic republican. Public subsidies to political parties and other affinity groups would encourage a vibrant pluralist sector, and a sort of “social venture capitalism” would incubate culturally enriching intragroup discourse. Finally, an unregulated commercial sector would do as well in meeting audience demand as the current system, and act as a safety net against the failure of any of the other sectors. Such a system, in Ed’s view, would allow society to capture the all of the virtues of the competing conceptions.

## E. SOME CONCERNS

**ED’S PROPOSED SYSTEM**, in my mind raises three sets of concerns.

First, although Ed’s diversified portfolio seeks to preserve all of the virtues of each of the systems he combines, suppose it were instead to capture all of the defects of each of the systems simultaneously? As Ed is well aware, communications regimes are competitive. Indeed, one of his points in *Media, Markets and Democracy* is that the economies of scale involved in growth of one publication may make it impossible for another competitive publication to survive, even if the audience values its content at more than the cost of production. The same is true of media sectors: the growth of one sector can crowd out others. If a particular change in technology (color television, for example) makes the broadcast sector more appealing, this may result in the decline of the print sector and a level of government intervention that is appropriate to maintain a proper balance between the “watchdog” print and “civic” broadcast media, will turn out to inadequately encourage the first and

excessively encourage the latter, establishing a snowball effect. A targeted system of “complex democracy” requires a continual rebalancing of the regulatory portfolio. In rebalancing, the government may overshoot its mark, and partial achievement of a goal of precise balance may be worse than none at all.

One way of reading the elimination of the fairness doctrine in 1987 is as a partial response to the eclipse of the partisan print sector by the civic broadcast sector. One might have hoped [pursuant to Ed’s dictum that a complex democrat would “embrace virtually any opportunity to support or develop differing media organizations”] that the repeal of the fairness doctrine would spur the development of a broadcast analog of newspaper advocacy. In fact, advocacy bloomed; partisan talk radio shows have proliferated, serving as both sources of information and mobilization (and arguably of self definition). But the mobilization has not been uniform across the political spectrum: Rush Limbaugh is not balanced by a Ralph Nader or Jim Hightower show, in part because the market niches, corporate consolidation and revenue structure of talk radio has proved more congenial to partisans of the right. From the point of view of pluralist democracy, or “complex democracy” it is far from clear that this partial mobilization is a gain.

I worry that regulatory mismatch becomes increasingly likely in a world of rapidly changing technology. A quickly evolving media environment will offer increasing opportunities for regulatory arbitrage: a particular function can migrate to an area where it is least constrained, and policies that were appropriate to the prior functions of a sector may be counterproductive in regulating the new users of the sector. And of course, for a Zengerite like me, the prospect of an ever-evolving set of government policies offers an ever-evolving opportunity for government to suppress or “disincentivize” criticism.

My second concern with the system which Ed proposes is that it depends on adequate identification of the “groups” which would be entitled to subsidies (and regulatory bonuses) to encourage the rich flourishing of group identity. In his book, Ed suggests that the proper recipients of such encouragement might be unions, or political parties or ethnic identity groups. Zengerite that I am, I am skeptical.

Human capacity for group identification is almost infinite. We can forge identities as garden-lovers or spiritual seekers, opera buffs or union activists, celebrants of ethnicity or of neighborhood or of church or of stock car racing. In a world of limited resources, Ed’s system requires the government to



## FACULTY NEWS AND PUBLICATIONS

identify which “groups” should be granted subsidies to develop their own media, and which individuals or institutions best represent those groups. Even if the allocation of benefits were undertaken by a wise, impartial, and virtually omniscient administrator (call him Ed Baker) these are not easy questions to answer. But assuming one could identify the right answers, it is far from clear that they would win out. My suspicion is that a system that encourages all identity groups to lobby for a share of the media benefits is likely to generate sharp-elbowed lobbying, inter-group hostility and disappointed expectation, rather than thriving and mutually respectful multiculturalism.

In general, if the allocation of other government benefits from farm subsidies to tax deductions is any indication, one would expect politically allocated funds to flow to the politically powerful. “Faith based initiatives” seem to me more likely than subvention of gay Hispanic culture.

Finally, and here I become more speculative, I harbor some skepticism regarding Ed’s use of “media” as a category of analysis. In the world in which he and I grew up, a relatively defined set of institutions were available to engage in the wide-scale dissemination of what Ed refers to as “media products.” One could speak of a “media policy” that revolved around print, telephony, postal and broadcast media.

It seems to me that the internet is beginning to change this world substantially. In the emerging world of internet, media institutions retain some of their force, but the capacity to produce and convey media products has been radically expanded. When I sat down before this symposium to try to figure out what the Bush Administration was wreaking in Iraq, I turned on NBC news, and checked cnn.com. But I also quickly scanned the Debka Files in Israel, the BBC and Skynews in Britain, Google and Yahoo news services, the IMC network of open source postings on the left and the moderated Free Republic postings on the right.

In this sort of environment, some of Ed’s concerns look substantially different. Take, for example, the Zengerite function of the media. Ed worries that an increasingly consolidated and bottom-line oriented corporate management of broadcast and print media will rob the polity of the resources necessary to

uncover public wrongdoing and skew public discourse away from criticizing malefactors of great wealth.

Let us grant, for the moment, that corporate management will seek to suppress inconvenient disclosures. In the world of the internet, this effort is doomed to failure. When the corporate media refused to break the Monica Lewinsky story, it ran on the Drudgereport website, and the corporate media fell into line. When the U.S. media declined to carry the British leak of pre-war American spying on UN delegates, the story blossomed on the Guardian website in Britain, and rapidly infiltrated both the Drudge site and online

It seems to me that the internet is beginning to change this world substantially. In the emerging world of internet, media institutions retain some of their force, but the capacity to produce and convey media products has been radically expanded.

discussion groups and weblogs. If the corporate bias in one country differs from the bias in another, there will be a race to the top: what the Times won’t cover, the Guardian will, and what is inconvenient to the management of both may be covered by Pravda. Once information is available in one venue, it is available everywhere.

Ed argues that the decreased costs of distribution mean that the cost of content creation will dominate, and if corporate media starves its news departments, the internet will deteriorate into rapid, free and wide dissemination of Jerry Springer, white house press releases and fluffy human interest stories. Here, I fear that Ed is transfixed by his focus on “the media” as an entity. In the world of the internet, creation of “content”, even of Zengerian muckraking, is not the exclusive preserve of reporters and news departments. Take, for example, the draft of the USA Patriot Act II, that recently emerged into the public spotlight. It was not uncovered by an enterprising Washington Post team. Rather, a disaffected whistle-blower apparently leaked it to the independent and nonprofit Center for Public Integrity in Washington, which posted the draft on its website. In a world where “content” is instantly available anywhere, the creators of content need not be its purveyors; the American Enterprise Institute and the Brookings Institu-



tion, the University of Pennsylvania Economics department and the “Instapundit” website are as much a part of the media as the fact-checkers in the back office of the Washington Post. In the world of the internet not only is every scholar a potential reporter, so is every citizen with an internet connection. If, as Ed reports, the primary motivator of investigative journalists is a self-righteous sense of craft, we should not be surprised to see amateurs merrily following in their professional predecessors’ footsteps.

In my view, the primary limit on the capacity of the internet to serve the cause of democracy (however construed) is not limited content, but limited attention; to be affected by information, analysis or edification, the polity must be exposed to it. And it is in the area of search engines, peer to peer networks, market share, and linking that it seems to me the real problems of media and democracy are likely to arise.

This, however, is a matter for a book that Ed didn’t write. I, for one, am enormously grateful for the insight he has provided in the one he did give us.



## For the Defense

BY C. EDWIN BAKER

NICHOLAS F. GALLICHO PROFESSOR OF LAW

**SINCE OUR JOINING** the faculty the same year, Seth has represented an ideal of a person who uses the privilege of a faculty position to serve both his students and the public. He has combined great teaching, outstanding scholarship directed at better understanding individual rights, and pro bono advocacy directed at establishing those rights for our collective benefit. Seth’s way illustrates the activity necessary in a democratic society to justify the existence of an elite institution like Penn Law School. His friendship has been my privilege for over twenty years.

<https://scholarship.law.upenn.edu/plj/vol39/iss1/1>

Seth’s brief summary of Part II of my book is far more careful and accurate than what can be found in most published reviews. His remarks, in a way his students will undoubtedly appreciate, gently but forcefully raise three probing worries that take at least tentative issue with my claims. Mostly, I will leave my response to what I say in the book. Still, I want to suggest briefly why his points do not cause me to back off my conclusions.

Let me begin with a comment on nomenclature. John Peter Zenger, the lowly colonial printer prosecuted for seditious libel by the British governor, defended by Alexander Hamilton, and freed by jury nullification, is an iconic darling of the free press. Protection of his speech – and Hamilton’s views in its defense – are accepted common ground among all four democratic theories that I describe in the book. In contrast, elite democrats’ view that the press’ checking or watchdog function is its only important democratic role typically leads them to favor a constitutionally mandated government “hands off” or *laissez faire* approach to the press. But nothing about the Zenger case suggests either that this is the only function of the press or the right constitutional policy. Although both the elite theory of democracy and the corresponding *laissez* approach to the press have considerable appeal in academia and have been increasingly, but selectively, invoked by media corporate giants, the approach’s “radicalness” should not be neglected. It has no grounding in American history. From the country’s first Congress, which used massive postal subsidies to support and help structure the newspaper industry in identifiable ways, the government’s structural interventions in the media realm has been the norm. Though critiques of inadequacies or failures of the American press are ubiquitous, few critiques do or reasonably could claim that the problems they find relate to the structural interventions we have seen historically. Of course, the best form and appropriate purposes of interventions are often contested. Still, the interventions have been regularly, often unanimously, approved by the Supreme Court. The constitutional standard, since its development beginning in the 1930s, has mostly been only to rule out censorship. Thus, elite democracy “hands-off” criterion may merit intellectual attention – as its appeal to Seth and episodic invocation by corporate lawyers suggests. However, Seth’s rhetorical ploy of identifying mandated non-intervention with the Zenger trial is misleading. The Zenger ideal corresponds to the Court’s rejection of censorship, not of structural intervention.

Seth’s first worry is that periodic policy tinkering, which complex democracy will require in order to adequately nurture



## FACULTY NEWS AND PUBLICATIONS

the media's differing roles, might make matters worse from a democratic ("Zengerite") perspective. As a logical possibility, this is true. Still, this possibility is surprising for a person like Seth to place great weight. The same claim is a standard argument made by (some) conservatives who favor a strong policy presumption in favor of a largely unregulated market world in which power and wealth increasingly and predictably accumulate in the hands of few while the country is left with environmental and social disasters, with poverty and injustice. A major point of the book, especially the economic analysis in Part I, is to argue that a non-interventionist response in the media realm would be equally disastrous – both disastrous for people receiving the media content they want and, more to the point here, disastrous for the media's performance of its democratic roles. If so, the issue is not to avoid intervention out of fear that it will not be ideal, but to think about how (both as a

and ability to strike down such censorship. And, I might add, sufficient popular (and judicial) intelligence – which I believe generally the public and sometimes the courts have shown – to distinguish unconstitutional *ensorious* intervention from other forms, for example, to distinguish the government censoring the Pentagon Papers from the government supporting public broadcasting.

As for the other two types of intervention, my perception is that the first – regulatory interventions – have never been perfect, have usually been inadequate, but historically on the whole have been overwhelmingly beneficial to the public and to the media's democratic role. The second – deregulatory interventions – which Seth implicitly endorses and some would constitutionally require, have also occurred occasionally. My perception is that these moves have generally resulted from pressure by major corporate interests and have, not in every

A major point of the book, especially the economic analysis in Part I, is to argue that a non-interventionist response in the media realm would be equally disastrous – both disastrous for people receiving the media content they want and, more to the point here, disastrous for the media's performance of its democratic roles.

matter of ideal content and as a matter of practical politics) to make those interventions better.

A second response is to observe that Seth's worry was offered only as an empirical possibility, suggesting that we look at the facts. That examination is obviously too complex (and contentious) for these comments but I will suggest what I expect such an examination would show. To oversimplify, there have been three major forms of governmental media interventions – what might be called regulatory, deregulatory, and censorious. The last category is condemned by all four democratic theories that I describe. I have sometimes been called an extremist in the absoluteness with which I argue that censorious intervention is both unconstitutional and unwise. However, effective constitutional doctrine outlawing the first forms of intervention is unlikely to cause governments to shy away from censorship in their moments of temptation. Real safeguards against censorship, if they exist, are twofold: Strong popular (and journalistic) opposition to any such action by government. Second, as a fall back, judicial willingness

case but on the whole, disserved the public interest. I think the FCC partial deregulation of media ownership in the summer of 2003 serves as a clear example. If I am right, any interpretation of the First Amendment that would push toward the second would disserve both the public interest and the values that the press clause should be seen to promote.

Seth has a second worry. A variety of policies that I claim will sometimes serve the media's democratic role involve varying forms of nurture for media controlled by or otherwise serving undeserved groups within society. The goal would be to support media that aid these groups in developing and advancing their self-understanding, their cultural life, and their political voice. Seth worries about the possibility of identifying the right groups and, in any event, suggests that in practice political support will more likely benefit the powerful than the needy groups. Again, Seth's worries merit attention – a crucial but not always successful aim of democratic politics should be to avoid the result he fears. Still, historical observation suggests that this worry is much too overstated to justify avoiding



efforts to provide support. Again, history merely suggests the need for careful policy attention as to how best to design and the need for political efforts to implement the support. The state once used the postal system to provide subsidies for the media activities of nonprofits. Legislation once provided support of oppositional partisan newspapers by requiring publication of government notices (at the time a major source of newspaper revenue) in two papers in each county, effectively one Republican and one Democratic paper. Both laws effectively “identified” appropriate groups for support. Though state and federal national endowment for the arts have sometimes spent much on the culture of the powerful, those expenditures have not for the most part been in themselves bad. Moreover, often these endowments have also provided crucial support for cultural work of marginal or oppressed groups. I could multiply the examples. The fact that the programs could have been better does not mean they were not on the whole good. From the perspective advocated in my book, few historical attempts to nurture media of varying societal subgroups have been affirmatively objectionable in their consequences. They have often been vital to varying groups. This suggests that the political/legal project should not be directed toward eliminating support but toward increasing its effectiveness in providing aid where most needed.

Finally, Seth raises the issue of whether the Internet changes everything. Rather than take as the message that his Zengerite should no longer worry about governmental interventions to improve the quality of the traditional mass media because the watchdog role can be handled online, Seth seems to imply the opposite: that maybe now no interventions are needed. My primary response to Seth’s point is the twenty-three-page “Postscript” to my book directed precisely to this claim – and despite the pace of change in this digital realm, nothing that has happened since I wrote the Postscript causes me to change that analysis. Here, I only offer two observations.

Obviously, the Internet dramatically changes the world of communications. Its most important democratic uses, however, may involve discursive, logistical, and informational communications within groups already playing an activist role and provision of information for those willing to seek it out. For most people, posting something on the Internet will receive no more takers than would passing out leaflets on Times Square or in front of our local courthouse. People still get most of their information from either the traditional mass media or conversations with people who got their information from these usually corporate media. Though I have a hard-

time finding time to thoroughly read one newspaper each day, Seth before this session checked or scanned nine information sources online. But even for Seth, most of the sites he checked were operated by traditional media – and I suspect much of the information he received from other, more activist sites originally came from stories originally produced by the traditional news media. This all suggests that nature and quality of those traditional media – and the arguable need to support alternatives to them – remain vital matters.

Second, Seth might usefully consider whom his position allies him with. Progressive forces rightfully celebrate both current and potential uses of the Internet. However, invocation in policy discussions of the Internet as remedying the limitations of the traditional media has almost exclusively been the province of corporate advocates of deregulation. And its invocation has often been to support remarkably bad arguments.

For example, it is often admitted that rules that prevent the same person from owning a town’s only daily newspaper and only television or radio station once made sense because a robust public sphere needed multiple voices. However, in the FCC proceedings in the spring of 2003, which concluded that greater media concentration was acceptable and rules restricting concentration should be relaxed, a major academic economist argued that the Internet undermined this old view. Since now hundreds if not thousands of people in the hypothetical town can post “news” on their own Internet home page, there was no reason to fear newspaper/broadcaster cross-ownership. Any one who wanted different voices to exist, this economist suggested, can now create her own home page and anyone who wants to hear that different voice can access her postings. My inclination is to think that solution was equally available before the Internet: Any one who wanted to offer a distinct voice could hand out leaflets in the town square and anyone who wanted to could take the leaflet! Despite all the benefits of the Internet, I find concentrated power within the public sphere – concentrated power in the traditional mass media, media which now even control the most visited news and information sites in the online realm – to remain a problem for democracy. We should reject the constant suggestions by the corporate giants and their scholarly hirelings that the Internet solves all problems involving their increasing power.



## FACULTY NEWS AND PUBLICATIONS

### The First Theodore K. Warner Professor of Law

#### Rubin Settles into Chair at Penn Law

**FOR EDWARD L. RUBIN**, the game of musical chairs is over. Five years after giving up a Chair at Berkeley to join Penn Law, Rubin has been appointed the first Theodore K. Warner Professor of Law.

“It’s nice to be recognized by your colleagues,” Rubin says of the faculty vote to install him in the coveted position.

A scholar in public governance, Rubin specializes in administrative law and legal theory. The workings of the administrative state hold particular interest.

In *Judicial Policymaking and the Modern State: How the Courts Reformed America’s Prisons* (with Malcolm Feeley, Cambridge University Press, 1998), Rubin argued that judges have the right – lo, the responsibility – to make public policy.

“In a modern state, judicial policymaking is not an aberrant procedure at all but a standard mode of judicial action, and it can be justified, just as the interpretative or fact-finding role of the judge can be justified,” Rubin comments in an interview.

“We have an ideology that law is supposed to come from (legislators),” Rubin says. “But that is an old idea.” Indeed, Rubin asserts that lawmaking is intrinsic to a judge’s job, adding that much of Common Law was created by judges who had no legislation on which to rely.

Once again, in his next book, Rubin will refute cherished notions. Due next year, the book will trace the advent of the administrative state, and will argue that many of the basic concepts that we use to describe government, such as democracy, legitimacy, law and rights, are products of a pre-administrative era and do not help us understand the government we really possess. Then Rubin plans to hit the theoretical trifecta with a book on the effect of the modern state on personal morality.

Work was not always so engaging or challenging for Rubin. He left a job as a curriculum planner for New York City schools when funds dried up, and opted for law school. After he graduated from Yale Law in 1979, and clerked for the Hon. Jon O. Newman of the U.S. Court of Appeals for the Second Circuit, Rubin joined Paul, Weiss, Rifkind, Wharton & Garrison as an associate in the firm’s entertainment department. But the lack of creative work and opportunity to initiate his

own projects wore on him, so he considering teaching.

Finally, he found the right fit. Offered a job at Berkeley’s School of Law, he liked it so much that he stayed for 16 years, the last two as the Richard W. Jennings Professor of Law. Rubin returned east (he’s from New York) to work at Penn when his wife took a job at Temple University. No regrets.

“Like Berkeley, Penn Law is a high-quality research school. And one of the things that struck me is how happy the students are at Penn,” says Rubin, who teaches courses in Administrative, Payment and Constitutional Law, as well as Law and Technology and Human Rights. “The place is very positive and upbeat.”

### Robinson Assumes Diver Professorship

#### Penn Law’s All-Points-Bulletin Nabs Leading Criminal Law Scholar

**YOU CAN POINT** to Colin Diver’s record as dean and call him a dynamic speaker, prodigious fund-raiser, and skilled leader, but two words best describe his decade-long tenure: productive and creative. Those same words fit Paul Robinson, who now calls Penn Law home.

Introducing the new holder of the Colin S. Diver Distinguished Professorship.

Robinson joined the faculty in spring 2003 from Northwestern University, where he was the Edna & Ednyfed Williams Professor of Law. Among the world’s leading criminal law scholars, Robinson is a brilliant theorist, a distinguished author, and the foremost expert on American criminal law doctrine. Considering his record, he was quite a catch.

“Penn Law already had an enviable complement of criminal law scholars,” said Dean Michael A. Fitts. “With the addition of Paul, Penn Law clearly has the best criminal law faculty in the United States.”

Robinson’s career exhibits several strands of scholarship. He has assisted in criminal code reform throughout the world, and is renowned for his Oxford monograph on criminal law, innovative coursebooks, and groundbreaking research with social scientists.

Drawing on that research, Robinson has finished a book,



*Law Without Justice* (Oxford University Press), that explores the chasm between America's criminal justice system and community perceptions of fairness. Using case studies, Robinson attempts to show how the United States "adopts rules that predictably or regularly produce results that are inconsistent with our notions of justice," which he says undermine moral credibility and, in the end, compliance with the law.

Author of a dozen books, Robinson is also working on an update of his popular coursebook, *Criminal Law: Case Studies & Controversies*. It differs from most classroom material in that Robinson employs a series of cases, rather than abstractions, to force students to face the issues of a case. Further, the book will contain visual clues - a few hundred pictures of the people and places involved in the crime.

"The pictures will help students really understand in a three-dimensional way what's happening in this case, so their intuitions become much stronger," Robinson says.

A former federal prosecutor, counsel to the U.S. Senate Subcommittee on Criminal Laws and Procedures, and one of the original commissioners of the U.S. Sentencing Commission, Robinson started his academic career at Rutgers School of Law, where he taught and served as Acting Dean. He has also been an adjunct professor at Georgetown University Law Center and a Visiting Professor at University of Michigan Law School.

Excited about the quality of the faculty and an area of the country he loves, Robinson joined Penn Law with great anticipation, and his intuition about the move has held true.

"The school projects itself as having the kind of values that I am very comfortable with," Robinson says. "The Law School is very committed to excellence in scholarship. Penn Law really prides itself on its history and traditions... The things I thought I'd like about Penn I like even more. Everybody here at Penn is lucky to be part of the place."



**Douglas Frenkel, Practice Professor of Law and Clinical Director, stands next to a sculpture donated to Humboldt University in 1912 by his great-grandfather. Last November, Frenkel visited the German university in Berlin to speak at the rededication of the sculpture, a statue of Hermes. The statue's origins were unknown until the publication in 2002 of a legal history dissertation on the Nazi confiscation of a bank founded by Hermann Frenkel, the professor's great-grandfather. The book's author, Berlin lawyer Henning Kahmann LL.M. '99, was in Frenkel's Mediation course at Penn and decided to pursue the research that led to this discovery after learning Frenkel's family background.**



## FACULTY NEWS AND PUBLICATIONS



### MATTHEW ADLER

PROFESSOR OF LAW

In November 2003, Adler spoke about cost-benefit analysis and national security policy at a meeting of the ABA Section on Administrative Law in Washington. The previous month, he was a speaker on several panels at a conference on *The Economic Dynamics of Environmental Law and Static Efficiency* held at Syracuse University College of Law. He presented a comment at a conference on *Conflict of Interests* organized by Penn Law's Institute for Law and Economics, and presented his paper *Fear Assessment: Cost-Benefit Analysis and the Pricing of Fear and Anxiety* at a conference on interdisciplinary legal scholarship at the Chicago-Kent School of Law. He presented the same paper at a faculty workshop at Penn Law in October 2003.

#### PUBLICATIONS

"Constitutional Existence Conditions and Judicial Review" (with Michael Dorf), 89 *Va. L. Rev.* 1105 (2003)

"Rational Choice, Rational

Agenda-Setting, and Constitutional Law: Does the Constitution Require Basic or Strengthened Rationality?," in *Linking Politics and Law* (Christoph Engel & Adrienne Heritier eds., 2003)

"Legal Transitions: Some Welfareist Remarks," 13 *J. Contemp. Legal Issues* 5 (2003)



### ANITA L. ALLEN

HENRY R. SILVERMAN  
PROFESSOR OF LAW

Allen is currently a Visiting Fellow in the Law and Public Affairs Program and a Visiting Professor at Princeton University. At the 2004 AALS section meetings, Allen spoke on attorney-client privilege at the section on Evidence and on free speech challenges to privacy rights at the section on Defamation and Privacy. In December 2004, she attended the American Philosophical Association meetings where she provided commentary on a paper on sexual harassment in the academy. In addition, Allen served on panels at the *Rawls and the Law* conference at Fordham Law School, and the *Future*

*of Diversity* program at the New School in New York, both in November 2003. She also presented a keynote address at the Feminist Ethics and Social Theory conference in Clearwater, Fla., in October 2003, and has completed a book – *The New Ethics: A Tour of the 21st Century Moral Landscape* – that will be released by Miramax Books in summer 2004.



### REGINA AUSTIN

WILLIAM A. SCHNADER  
PROFESSOR OF LAW

Last fall, Austin presented a paper "*Not Beyond Shame*": *The Stigma of Incarceration and the Political Disenfranchisement of Ex-Offenders* at a conference sponsored by the Brennan Center. In Spring 2003, Austin did a presentation with Brooklyn Law Professor Elizabeth Schneider at a conference sponsored by the Columbia Journal of Gender and the Law on the subject *Why a Feminist Law Journal?* Their talk, "Speaking Volumes: Musings on the Issues of the Day Inspired

by the Memory of Mary Joe Frug," will be published in the *Journal*. Austin also presented a paper called "Of Predatory Lending and the Democratization of Credit: Preserving the Social Safety Net of Informality in Small-Loan Transactions" at Brooklyn Law School's 2003 Sparer Conference on "The New Economy and the Unraveling Social Safety Net." She contributed as well to a symposium on "Children, Culture and Violence: Myths, Images and Realities" that was sponsored by the Center for Children and the Law of the University of Florida Levin College of Law. Her talk was titled "Dangerous Stereotypes: Poor Urban Minority Children as Workers and Consumers."



### C. EDWIN BAKER

NICHOLAS F. GALLICCHIO  
PROFESSOR OF LAW

At the 2004 AALS Annual Meeting in Atlanta this past January, Baker spoke on "Copyright and the First Amendment" to the Constitutional Law Section and



on "Informational Privacy and the First Amendment" to the Defamation and Privacy Law Section. Baker also delivered a talk on "Michelman's Theory of Constitutional Democracy" at the Frank I. Michelman Symposium at Tulsa Law School in October 2003, and defended his paper, "Foundations of Legal Obligation," at the Dworkin and Nagel NYU Legal Philosophy Colloquium in October 2003.

PUBLICATIONS

"The Media", in *Mark Tushet & Peter Cane, Oxford Handbook of Legal Studies* (2003)



**STEPHEN B. BURBANK**

DAVID BERGER PROFESSOR FOR THE ADMINISTRATION OF JUSTICE

Burbank made a presentation on "Independence in Arbitration" to the Litigation Council of General Electric on November 3, 2003 in New York. He also moderated a panel on "New Developments in the Federal Rules of Civil Procedure,

Court Management and Electronic Discovery" at the Third Circuit Judicial Conference on November 10, 2003.

PUBLICATIONS

"Jurisdictional Conflict and Jurisdictional Equilibration: Paths to a Via Media?" 26 *Houston J. Int'l L.* (forthcoming in 2004). This is based on a paper presented at the first AALS/European Law Faculty conference in Barcelona in June 2003.

Procedure and Power: the Role of Congress, 79 *Notre Dame L. Rev.* (forthcoming in 2004). This is based on a paper presented at an AALS Civil Procedure conference in June 2003.

Work in Progress: "Slouching Toward Bethlehem or Gomorrah? Vanishing Trials and Summary Judgment." This paper was presented at a December 2003 conference on the phenomenon of "vanishing trials" sponsored by the ABA Litigation Section. Conference organizers plan to publish the papers as a book or symposium issue.



**HOWARD F. CHANG**  
PROFESSOR OF LAW

In November 2003, Chang presented his paper "Cultural Communities in a Global Labor Market" at a conference on "Globalization, the State and Society"

at Washington University. Chang also presented his paper "Risk Regulation, Endogenous Public Concerns, and the Hormones Dispute: Nothing to Fear but Fear Itself?" at the annual meeting of the American Law and Economics Association at the University of Toronto in September 2003 and at the Delaware Valley International Law Day conference at Temple University in November 2003. He also served as a discussant at the National Bureau of Economic Research Summer Institute in August 2003 and at a conference on "Settlement Outcomes as Incentives for Primary Behavior" at the Georgetown University Law Center in October 2003.

PUBLICATIONS

"Any Non-Welfarist Method of Policy Assessment Violates the Pareto Principle: A Comment," (with Marc Fleurbaey and Bertil Tungodden) 111 *Journal of Political Economy* 1382 (2003)

"Risk Regulation, Endogenous Public Concerns, and the Hormones Dispute: Nothing to Fear But Fear Itself?," 77 *Southern California Law Review* (forthcoming 2004)

**JACQUES DeLISLE**  
PROFESSOR OF LAW

As Director of the Asia Program at the Foreign Policy Research Institute, deLisle organized (with the Institute for International Relations,



Taipei), an international conference at Penn Law School on "Democratization and its Limits in Greater China: Implications for Governance and Security in East Asia" in September 2003. At the conference, deLisle presented a paper on "Federalism with Chinese Characteristics?" He also presented a paper on "China and the WTO: International and Domestic Law and Politics in China's Quest for Accession and Behavior as a Member" at a conference on Law and the WTO in East Asia at Aoyama Gakuin University in Tokyo, in December 2003. Other presentations included: "Assessing Taiwan's Constitutional Reform and Political Development" at a conference on "The Rise of China Revisited: Perceptions and Reality" at the Institute of International Relations in Taipei, Taiwan, in December 2003; "The Value of Values: U.S. Foreign Policy, Law and the 'Democracy Factor' in Greater China (and East Asia)" at the Asia-Pacific 5 Summit on Democracy and Security in Taipei,



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Taiwan, in November 2003; “Causation and Proximate Causation as Limits on Tort Liability” at the Sino-American Conference on Tort Law, held at Tsinghua University in Beijing, China in October 2003; “SARS, Greater China and Globalization” at the Foreign Policy Research Institute in July 2003; and “The Politics of Legal Limbo: The Costs to Taiwan, the PRC and the International Order of Taiwan’s Contested International Status” at an international conference on “China’s Rise and Taiwan’s Dilemma” in Osaka, Japan, in July 2003. He was a commentator on a panel discussing “Legal and Constitutional Reform in China and Japan” at the Association for Asian Studies’ Mid-Atlantic Regional Meeting in Washington in October 2003. He also continues to chair the Inter-University Study Group on Asia at the Foreign Policy Research Institute.

### PUBLICATIONS

“SARS, Greater China and the Pathologies of Globalization,” *Orbis*, Fall 2003 (vol 47 no. 4)

“Asia’s Shifting Strategic Landscape: A Conference Report,” Foreign Policy Research Institute

### WILLIAM B. EWALD PROFESSOR OF LAW AND PHILOSOPHY

Ewald has been working



on turning the lecture notes for his Foundations of the American Legal System course into a book on the character of American law. He published a review of the legal philosophy of Robert Summers in the *Cornell Law Review*, as well as an article on the history of mathematical logic, and has been putting the final touches on the first volume of the notebooks of David Hilbert on logic and the foundations of arithmetic.



### ERIC FELDMAN

#### ASSISTANT PROFESSOR OF LAW

Eric A. Feldman was elected to the Executive Committee of the University of Pennsylvania’s Center for East Asian Studies. At the Annual Meeting of the American Public Health Association

in Philadelphia he chaired a panel and presented a paper on “Tobacco Control and the Liberal State: Legal, Ethical, and Policy Issues,” and at the Law and Society Association’s Annual Meeting he chaired a session on “Cause Lawyering Possibilities and Socio-Political Variation” and presented a paper on “Dispute Resolution in Japan.” In addition, he gave a talk at the Clifford Symposium, sponsored by DePaul University School of Law, called “Globalization, Americanization, and Japanese Civil Justice,” and made a presentation at a meeting organized by Penn’s Center for Bioethics at the National Press Club in Washington, DC on the topic “Facing Danger: Bioterrorism and the Duty to Treat.” He was awarded a U.S. National Resource Center Faculty Research Travel Grant by the University of Pennsylvania’s Center for East Asian Studies, for a research visit to Tokyo to study Japanese health law. At Penn, his interdepartmental activities have included serving as a course facilitator in the School of Medicine for a required class called Ethics of Human Subjects Research, lecturing on his book *The Ritual of Rights in Japan* in the undergraduate class “Japanese Civilization,” and speaking on “Law and

Government in Japan” for *Phila-Nipponica*, a course on Japan for high school teachers that is funded by the US Department of Education and coordinated by Penn’s Center for East Asian Studies.

### PUBLICATIONS

Eric A. Feldman and Ronald Bayer, eds., “Unfiltered: Conflicts over Tobacco Policy and Public Health,” Cambridge, MA: Harvard University Press (forthcoming 2004)

“Legal Reform and Medical Malpractice Litigation in Japan: Justice, Policy, and the Expert Witness System,” *Horitsu Jiho* (forthcoming 2004, in Japanese).

“Kawashima’s Legacy: Four Decades of Research on Dispute Resolution in Japan,” in Daniel Foote, ed, *Law in Japan: A Turning Point?* Seattle, WA: University of Washington Press (forthcoming 2004)

“Nihon ni Okeru Kenri no Katai: Kenri-Ishiki no Rekishi to Hatten” (translation of *The Ritual of Rights in Japan*), Tokyo: Gendai Junbun-Sha Co., Ltd (2003)

“The Landscape of Japanese Tobacco Policy: Three Perspectives,” 49 *American Journal of Comparative Law* 679-706, 2001 (published spring 2002).

Book review of Timothy Stoltzfus Jost, *Readings in Comparative Health Law and Bioethics* (Durham, North Carolina: Carolina Academic Press, 2001), 23 *Journal of Legal Medicine* 437-42 (2002)

### CLAIRE FINKELSTEIN

#### PROFESSOR OF LAW AND PHILOSOPHY

Finkelstein is the current





Actor," in *The Oxford Handbook of Rationality* (eds. Al Mele and Piers Rawling, 2003)

"Comments on Antony Duff, 'Penance, Punishment, and the Limits of Community,'" 6.1 *Punishment and Society* (forthcoming 2004)

"A Contractarian Account of Punishment," in the *Oxford Guide to Legal Theory*, (ed. Bill Edmundson, forthcoming 2004)

"Responsibility for Unintended Consequences," *Ohio State Journal of Criminal Law* (forthcoming 2004)

*Hobbes on Law* (ed.), Ashgate Publishing (forthcoming 2004)

"Merger and Felony Murder," in volume on *The Special Part* (eds. Antony Duff and Stuart Green) (forthcoming 2004)

"Intentional Action and the Deliberative Requirement," (eds. Gijs von Donselaar and Bruno Verbeek) (forthcoming 2004)



### DOUGLAS FRENKEL

PRACTICE PROFESSOR OF LAW

Frenkel served as a judge of the James Boskey Alternative Dispute Resolution Writing Competition sponsored by the ABA Section of Dispute Resolution and the Association for Conflict Management.

director of Penn's Institute for Law and Philosophy. In March 2004, she spoke at Villanova Law School's faculty workshop series. Later that month she presented a paper entitled "Merger and Felony Murder" at a conference on criminal law's so-called "special part" in Baton Rouge, Louisiana. She also presented "A Contractarian Account of Punishment" at an international conference on punishment theory in Montreal, Canada. In January 2004, Finkelstein spoke at the Jurisprudence Section meeting of the AALS on a panel on rule-following and the law. She also attended a conference on the philosophy of probability where her paper "Is Risk a Harm?" was among the papers discussed by participants. Last August, she presented a paper entitled "Responsibility for Unintended Consequences" at the 21st World Congress of the International Association for Legal and Social Philosophy in Lund, Sweden.

#### PUBLICATIONS

"Legal Theory and the Rational" <https://scholarship.law.upenn.edu/plj/vol39/iss1/1>



### SARAH BARRINGER GORDON

PROFESSOR OF LAW AND HISTORY

Gordon won the Best Book Award from the Mormon History Association and from the Utah State Historical Society for *The Mormon Question: Polygamy and Constitutional Conflict in Nineteenth-Century America*. She began work on a new book, tentatively titled *The Spirit of the Law*, about religion and litigation in the twentieth century. Gordon also was elected to the governing boards of the American Society for Legal History and the Mormon History Association. She presented papers at conferences in Ohio, Fort Worth, and Princeton.

### GEOFFREY C. HAZARD, JR.

TRUSTEE PROFESSOR OF LAW

Hazard traveled to several European countries and to Argentina and Brazil for conferences on the ALI/UNIDROIT project



on Transnational Civil Procedure. He also lectured at Hostra University and Georgia State University on election speeches by judicial candidates since Republican Party v. White and at Yale Law School on Transnational Civil Procedure. In addition, Hazard made presentations to law firms on problems in legal ethics.



### PETER H. HUANG

ASSISTANT PROFESSOR OF LAW

Huang presented "Effective Regulation of Affective Investing: Regulating Emotional Investing in Bipolar Securities Markets" at the Law and Emotions panel of the American Psychology-Law Society Annual Conference on March 5, 2004. On January 14, 2004, he presented "Regulating



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Moody Investing in Bipolar Securities Markets” at Fordham Law School, and on January 3, 2004 presented “Unemployment, Health, and Well-Being” at the Law & Macroeconomics panel in the Section on Socio-Economics, American Association of Law Schools Annual Meeting. In 2003, he made the following presentations: “Regulating Moody Securities Markets,” at the University of Cincinnati School of Law (October 14); “Effective Regulation of Affective Investing: Regulating Moody Investing in Bipolar Securities Markets,” at Rutgers School of Law – Camden (October 13); “(Possibly, Frivolous) Litigation Abandonment Option Games,” at Vanderbilt Law School (October 9); “Effective Regulation of Affective Investing: Regulating Emotional Investing in Bipolar Securities Markets,” at the Wharton Decision Processes Research Program (September 22); “Real Options in Law: (Possibly, Frivolous) Litigation and Other Applications,” at Cardozo Yeshiva Law School (September 15); “Options in Law: Possibly Frivolous Litigation, Negligence, and Preclusions,” at the University of Virginia Law School (August 12); and “Effective Regulation of Affective Investing: Regulating Emotional Investing in

Bipolar Securities Markets,” at the Society for the Advancement of Behavioral Economics (July 29).

### PUBLICATIONS

“Lawsuit Abandonment Options in Possibly Frivolous Litigation Games,” 23 *Rev. Litig.* 67 (forthcoming January 2004)

“Regulating Irrational Exuberance and Anxiety in Securities Markets,” in *The Law and Economics of Irrational Behavior* (Francesco Pareis & Vernon Smith, eds. 2004)

“Moody Investing and the Supreme Court: Rethinking the Materiality of Information and the Reasonableness of Investors,” *Sup. Ct. Econ. Rev.* (forthcoming 2004)



### MICHAEL S. KNOLL

PROFESSOR OF LAW  
AND REAL ESTATE

Knoll presented “The Tax Efficiency of Employee Stock Options to Wharton’s Accounting Department in April 2003. He also was on a panel at the Federalist Society’s Tax Policy conference at the National Press Club in Washington on March 28, 2003; panel members discussed “International Taxation: Ripe for Reform.” On March 20, 2003, Knoll

participated on a panel discussion on President Bush’s proposals for corporate tax reform at the Samuel and Ronnie Hyman Center on Corporate Governance, Benjamin Cardozo School of Law, Yeshiva University. He also made the following presentations of “A Theory of Tax Planning” (with Lewis Steinberg): Michigan Tax Colloquium, March 27, 2003; Wharton Applied Microeconomics, Summer 2002; Penn Law School, Ad Hoc workshop; and NYU Law School Tax Colloquium, Spring 2002. And, in connection with the Institute for Law and Economics, Knoll was a commentator on Andrei Scheiffer’s paper for the joint law/finance workshop and on a paper on appraisal remedies presented by Bill Carney (Emory) at the conference on change of control transactions. A story appeared in the Sunday Boston Globe based on the ideas in Knoll’s article for the Harvard Law Review, “Taxing Sunny Days: Adjusting Taxes for Regional Living Costs and Amenities (with Thomas Griffith). Participants at the SMU Law Review Tax Symposium presented commentaries on two of Knoll’s articles; Joseph Bankman (Stanford and NYU) commented on Knoll’s “Simplifying the Transition to a Consumption Tax; and Re-

uven Avi-Yonah (Michigan) is commenting on Knoll’s “Repealing the Corporate AMT.” In addition, Knoll is editor of Forensic Economics Abstracts, an electronic journal published by the Social Science Research Network, and a member of the Board of Editors of Litigation Economics Review, a refereed journal published by the National Association of Forensic Economists.

### PUBLICATIONS

“Simplifying the Transition to a (Progressive) Consumption Tax” (with Mitch Engler), 56 *SMU Law Review* 53 (2003)

“The Case for Repealing the Corporate Alternative Minimum Tax” (with Terrence Chorvat), 56 *SMU Law Review* 305 (2003)

*International Trade Law* (edited with Ron Cass) (2003)



### SETH KREIMER

ASSOCIATE DEAN AND  
PROFESSOR OF LAW

Kreimer organized, with Penn Law Senior Fellow David Rudovsky, the Pennsylvania Bar Institute’s Fourth Constitutional Law Conclave in the fall of 2003, where he spoke on panels that addressed “Substantive



Due Process” and the “First Amendment in Cyberspace.”

PUBLICATIONS

“Too Close to the Rack and the Screw: Constitutional Constraints on Torture in the War on Terror,” 6 *U. Pa. J. Const. L.* 278 (2003)



**FRIEDRICH KUBLER**

PROFESSOR OF LAW

In January 2004, Kubler was a speaker at a London conference on “Reforming Capital: International Accounting Standards and Capital Maintenance,” organized by the British Corporate Law Centre. In November 2003, Kubler organized and presented the opening lecture at an international conference in Frankfurt, Germany. The conference focused on legislation to be drafted by the Member States of the European Union that is designed to implement the EU Regulation and the EU Directive establishing the European Stock Corporation (Soecietas Europaea).

PUBLICATIONS

“Werbefreiheit nach Benetton” <https://scholarship.law.upenn.edu/plj/vol39/iss1/1>

(with Johanna Kubler; analyzing the new approach of the German Constitutional Court to commercial speech), *Festschrift fuer Peter Ulmer*, 907 ff. (January 2003)

“Rechnungslegung im Dienste finanzieller Stabilitaet” (economic analysis of the German opposition to the new accounting regime imposed by the European Union), 2003 *Neue Zeitschrift fuer Gesellschaftsrecht*, 358 ff.

“Rassenhetze und Meinungsfreiheit – Aktuelle Aspekte des christlich-juedischen Verhaeltnisses”, *Veroeffentlichung der Konrad Adenauer-Stiftung Budapest*, 45 ff. (Text of a lecture on racist hate speech; invitation by Bnai Brith and Konrad Adenauer-Stiftung, Budapest) (2003)

“Duale Rundfunkordnung?” 2003 *Media Perspektiven* 18 ff. (contribution to a symposium on the Future of Public Broadcasting in Germany)

“Leistungsstrukturen der Aktiengesellschaft und die Umsetzung des SE=Statuts”, 167 *Zeitschrift fuer das gesamte Handelsrecht und Wirtschaftsrecht* 222 ff (discussing basic issues of the Statute for a European company) (2003)

“Barabfindung bei der Gründung einer Europa AG? 167 *Zeitschrift fuer das gesamte Handelsrecht und Wirtschaftsrecht* 627 ff. (discussing appraisal rights to be triggered by the formation of a European company) (2003)

**ALAN LERNER**

PRACTICE PROFESSOR OF LAW

In February 2004, Lerner participated in creating and presenting a program sponsored by the Penn Law Chapter of the American Inns of Court that com-



memorated the 50th anniversary of *Brown v. Board of Education*. The Hon. Louis Pollak, former dean of Penn Law and U.S. District Court Judge, was also honored for his role as a member of the legal team that won the case. Lerner also presented a paper, “Using Our Brains, What Cognitive Science Teaches Us About Teaching Our Students Professional Responsibility,” to the faculty at Touro Law School, on March 3, 2004. In February 2003, Lerner participated in a revised ethics teaching video produced by The Center on Professionalism. He led a discussion on “What is Professionalism?” at the annual joint meeting of the AALS Section on Clinical Legal Education and the Clinical Legal Education Association, held in Vancouver, Canada in May 2003. And, as a co-director and Law School representative to the Field Center for Children’s Policy, Practice, and Research, Lerner organized and moderated a panel discussion at Penn Law on “Emerging Legal

Issues in Child Welfare.” Representatives of the leading organizations in the area concerned with legal issues confronting the child welfare system served as panelists.



**KRISTIN M. MADISON**

ASSISTANT PROFESSOR OF LAW

PUBLICATIONS

“Hospital-Physician Affiliations and Patient Treatments, Expenditures and Outcomes,” (forthcoming, *Health Services Research*)

“Multihospital System Membership and Patient Treatments, Expenditures, and Outcomes,” (forthcoming, *Health Services Research*)

**BRUCE H. MANN**

PROFESSOR OF LAW AND HISTORY

Mann’s book, *Republic of Debtors: Bankruptcy in the Age of American Independence*, won a second prize, the 2003 Littleton-Griswold Prize, awarded by the American Historical Association for the best book on the history of American law and society. He also lectured



## FACULTY NEWS AND PUBLICATIONS



on "Failure and the Law in the Early Republic" to the Legal History Committee of the Association of the Bar of the City of New York in September 2003, and on "Debtors' Prisons, Failure, and Bankruptcy in the Early Republic," at the Federal Judicial Center Workshop for Bankruptcy Judges in Boston in November 2003. In addition, Mann submitted an amicus brief to the U.S. Supreme Court in *Tennessee Student Assistance Corporation v. Hood*, a case that turns on the history of bankruptcy in the 1780s and 1790s. The case was argued in March.

### PUBLICATIONS

"Failure in the Land of the Free," 77 *American Bankruptcy Law Journal* 1 (2003)

### CHARLES W. MOONEY, JR.

PROFESSOR OF LAW

Mooney recently presented his paper, "A Normative Theory of Bankruptcy," to faculty workshops at the Penn Law faculty retreat and to the law faculties at the University of Illinois,



the University of Arizona, and the College of William and Mary. Mooney is the Chair-Elect of the University of Pennsylvania Faculty Senate and is a member of the University's Consultative Committee for the search for president of the University.

### PUBLICATIONS

"Means Measurement Rather Than Means Testing: Using the Tax System to Collect from Can-pay Consumer Debtors after Bankruptcy," *American Bar Institute Journal* 6 (February 2003)

"The Unfortunate Life and Merciful Death of the Avoidance Powers under Section 103 of the Durbin-Delahunt Bill: What Were They Thinking?," *Cardozo Law Review* (forthcoming 2004)

"Insolvency Law as Credit Enhancement: The Insolvency-Related Provisions of the Cape Town Convention and the Aircraft Protocol," *International Insolvency Review* (forthcoming 2004)

"A Normative Theory of Bankruptcy: Bankruptcy As (Is) Civil Procedure" (work in progress)

### NATHANIEL PERSILY

ASSISTANT PROFESSOR OF LAW

Persily organized a confer-



ence at Penn Law titled "The Law of Democracy." Held on February 6 and 7, 2004, the conference featured the nation's leading election law experts, who discussed voting rights, campaign finance, redistricting and regulation of political parties. Conference papers will be published in the *University of Pennsylvania Law Review*. Persily is planning another conference in June with the U.S. Army War College that will feature policymakers, lawyers, and law professors discussing "Homeland Security and Civil Liberties." In addition, Persily was an election law commentator for MSNBC during the court cases involving the recall of California's governor. He was also a frequent commentator on redistricting issues, as the Supreme Court heard a challenge to the Republican gerrymander of Pennsylvania's congressional districts.

### PUBLICATIONS

"Contested Concepts in Campaign Finance," 6 *University of Pennsylvania Journal of Constitutional Law* 118 (2003)

"Perceptions of Corruption and Campaign Finance: When Public Opinion Determines Constitutional Law", *U. Penn L. Rev.* (with Kelli Lammie, forthcoming 2004)

"Soft Parties, Strong Money, and Hard, Weak Predictions," 4 *Election Law Journal* (March 2004)

"The Law of the Census: How to Count, Whom to Count, and Where to Count Them" (chapter solicited by the Census Bureau, forthcoming as a chapter in a book to be published by Russell Sage Press, 2004)

"Forty-five years in the Political Thicket: Evaluating Judicial Review of Redistricting Since Baker v. Carr," in Thomas Mann & Bruce E. Cain, Title TBA (forthcoming Brookings Inst. Press, 2004)



### WENDELL PRITCHETT

ASSISTANT PROFESSOR OF LAW

Pritchett was appointed to the Pennsylvania State Planning Board by Pennsylvania Gov. Ed Rendell on May 12, 2003. Pritchett also delivered the Harold Rose Urban Studies Lecture at the University of Wisconsin-Milwaukee in February 2003. The lecture was titled "What's a City For: Or How I Learned to Stop Worrying and Love



the Hood." Also in February 2003, Pritchett presented the Sackler Lecture, titled "Cities and Suburbs: Friends or Enemies", at the Rye Country Day School. And, in connection with research for a biography of Robert Weaver, the first black cabinet secretary and the first Secretary of Housing and Urban Development, Pritchett presented papers on "Federalism and Metropolitan Policy" at the University of Virginia Legal History Colloquium, the Albany Law School Faculty Workshop, the American Society for Legal History, and the Penn Law School Faculty Retreat.

**PUBLICATIONS**

"Identity Politics, Past and Present," *International Labor and Working Class History* (Spring 2004)

"Where Shall We Live: Class and the Limitations of Fair Housing Law," 35 *The Urban Lawyer* 399 (Summer 2003)

**CURTIS R. REITZ**

ALGERNON SYDNEY BIDDLE PROFESSOR OF LAW

Reitz has been actively engaged in efforts to develop a body of international private law to support the growth of the global capital market. In recent years, most portfolio investments, securities and financial assets, are held through intermediaries. The arrangement



is referred to as a system of indirect holding of securities. The legal basis for indirect holdings is not clear in the national laws of most countries. United States law on this matter is governed primarily by the 1994 version of Article 8 of the Uniform Commercial Code. Professor Reitz was chair of the drafting committee that prepared Article 8 for the Uniform State Laws Conference. Two international legal projects are ongoing. The Hague Conference on International Law recently completed a convention that provides a clear set of rules for determining the law governing transactions involving indirectly held securities. Professor Reitz represented the Uniform State Law Conference in the Hague Conference proceedings. More recently, the Institute for the Unification of International Private Law (UNIDROIT) has had a Study Group considering the development internationally of a body of substantive law for indirect holding of securities. Professor Reitz is a member of the Study Group. The

Group held its most recent meeting in Rome on November 12-14, 2003.



**PAUL H. ROBINSON**

COLIN S. DIVER DISTINGUISHED PROFESSOR OF LAW

Robinson presented a talk at the University of Minnesota on January 15 entitled "Does Criminal Law Deter?" On December 22, 2003, he spoke on "Codification, Recodification and the American Model Penal Code" at a government-organized conference in Dublin. Earlier in December, he delivered a talk on "Criminal Law Codification" at a conference in China entitled "Research on the System of Crime Theory." The Center of Criminal Law and Justice at Shandong University sponsored the conference.

**PUBLICATIONS**

"Structure and Function in Criminal Law" (Oxford 1997) has been translated into Chinese.

"Criminal Law Case Studies & Controversies," a criminal law coursebook, will be sent to the publisher (*Aspen*) in April.

Final Report of the Illinois Criminal Code Rewrite and Reform

Commission (State of Illinois) (2003)

Final Report of the Kentucky Penal Code Revision Project (State of Kentucky) (2003)

"The Virtues of the Restorative Processes, the Vices of Restorative Justice," *Utah Law Review* (2003)

"The Role of Deterrence in the Formulation of Criminal Law Rules: At Its Worst When Doing Its Best," 91 *Georgetown Law Journal* (January 2004)

"Does Criminal Law Deter? A Social Science Investigation," *Oxford Journal of Legal Studies* (2004)



**KERMIT ROOSEVELT**

ASSISTANT PROFESSOR OF LAW

On November 7, 2003, Roosevelt lectured at the National Constitution Center on the presidency of Theodore Roosevelt.

**PUBLICATIONS**

"Light From Dead Stars: The Procedural Adequate and Independent State Ground Reconsidered," 103 *Colum. L. Rev.* 1888 (2003)

"Exhaustion Under the Prison Litigation Reform Act: The Consequences of Procedural Error," *Emory Law Journal* (forthcoming 2004)



## FACULTY NEWS AND PUBLICATIONS



**DAVID RUDOVSKY**  
SENIOR FELLOW

Rudovsky was a panel member at the Third Circuit Judicial Conference Debate on Civil Liberties and the War on Terrorism. He also organized, with Penn Law Associate Dean and Professor of Law Seth Kreimer, the Pennsylvania Bar Institute's Fourth Constitutional Law Conclave in the fall of 2003.

### PUBLICATIONS

Annual supplements to "Police Misconduct: Law and Litigation" and "Pennsylvania Criminal Procedure: Commentary and Forms."



**LOUIS S. RULLI**  
PRACTICE PROFESSOR  
OF LAW

Rulli presented a talk on the intersection between employment discrimination litigation outcomes under the ADA and poverty at a

University of Iowa, College of Law symposium in October 2003. He discussed the results of his study of filed cases under Title I of the ADA and their impact upon access to justice to remedy disability discrimination in the workplace. In November 2003, Rulli delivered a lecture at Penn Law as part of the public service/public interest speaker series. He spoke on the impact of several recent judicial developments on access to legal representation for the poor. Also in November, Rulli, along with Judge Dolores Sloviter and Chancellor Audrey Talley, were invited by Philadelphia's Volunteers for the Indigent Program to address first year associates from the city's largest law firms on the subject of providing pro bono representation to low-income people in civil matters. In September and October 2003, Rulli served on a Health Policy/Systems Working Group, composed of faculty representatives from Penn's medical, nursing, law, and business schools, to develop recommendations for the curriculum of the Medical School's new Robert Wood Johnson Clinical Scholar program. During the fall, Rulli also served as a pro bono consultant to Southwestern Pennsylvania Legal Services, Inc.



**CHRIS  
SANCHIRICO**

PROFESSOR OF LAW,  
BUSINESS, AND  
PUBLIC POLICY  
PUBLICATIONS

"Evidence, Procedure, and the Upside of Cognitive Error" (Manuscript, University of Pennsylvania Law School, Fall 2003)

"Finding Error" (Manuscript, University of Pennsylvania Law School, Fall 2003)

"Evidence Tampering," 53 *Duke L.J.* (2003)

"Norms, Repeated Games, and the Role for Law," 91 *1281 Cal. L. Rev.* (with P. Mahoney) (2003)

"Big Field, Small Potatoes: An Empirical Assessment of EPA's Self-Audit Policy," *J. Pol'y Analysis. & Mgmt.* (with A. Pfaff, J. Lee & D. Prager) (forthcoming 2004)

"Should Plaintiffs Win What Defendants Lose? Litigation Stakes, Litigation Effort, and the Benefits of Decoupling," *Journal of Legal Studies* (with A. Choi) (forthcoming 2004)

"Evidence Arbitrage: The Fabrication of Evidence and the Verifiability of Contract Performance," (UVA L. & Econ. Research Paper No. 02-17) (with G. Triantis)

"Collusion and Price Rigidity," 70 *Rev. Econ. Stud.* (with S. Athey & K. Bagwell) (2003)



**KIM LANE  
SCHEPPELE**

PROFESSOR OF LAW  
AND SOCIOLOGY

Scheppele spent January to July 2003 in Moscow, on a grant from the National Science Foundation to study the pattern of petitions from individuals to and the development of rights jurisprudence by the Russian Constitutional Court. She was hosted by Moscow's Institute of Law and Public Policy. In addition, Scheppele is associate editor of a new publication called *Annual Review of Law and Social Science*. The special issue on Constitutional Ethnography, which Scheppele is guest-editing for the *Law and Society Review*, will appear in summer 2004. Scheppele also presented papers at the following meetings: "Other People's PATRIOT Acts" at the Association of American Law Schools meeting in Atlanta, January 2004; "Democracy by Judiciary" at the American Political Science Association meetings in Philadelphia, September 2003; "Law in a Time of



Emergency” at the American Sociological Association meetings in Atlanta, August 2003; and “Show Case: The Terrorist Logics of the Spectacular Lawsuit” at the Law and Society Association meetings in Pittsburgh, June 2003.

**PUBLICATIONS**

“Law in a Time of Emergency: Terrorism and States of Exception,” *University of Pennsylvania Journal of Constitutional Law* (forthcoming 2004)

“The Problem of Social Infrastructure in Designing Conflict of Interest Rules,” 6(1) *Theoretical Inquiries in Law* (forthcoming 2004)

“Democracy by Judiciary (Or Why Courts Can Sometimes Be More Democratic than Parliaments),” Wojciech Sadurski, Martin Krygier and Adam Czarnota (eds.), “Rethinking the Rule of Law in Post-Communist Europe: Past Legacies, Institutional Innovations, and Constitutional Discourses” (forthcoming 2004).

“The Russian Constitution in European Constitutional History,” *Konstitutsionnoe Pravo: Vostochnoevropeiskoe Obozrenie*, *Constitutional Law: East European Review* (December 2003, in Russian).

“Cultures of Facts,” 1(2) *Perspectives on Politics* 363-368 (2003)

“Zashita sotsialnikh prav s pozitsii real’noi politiki” (A Realpolitik Defense of Social Rights), 1(42) *Konstitutsionnoe Pravo: Vostochnoevropeiskoe Obozrenie*, *Constitutional Law: East European Review* 52-66, in Russian (2003)

“Constitutional Negotiations: Political Contexts of Judicial Activism in Post-Soviet Europe,” 18(1) *International Sociology* 219-238 (2003)

<https://scholarship.law.upenn.edu/plj/vol39/iss1/1>

“The Agendas of Comparative Constitutionalism,” 13(2) *Law and Courts* 5-22 (2003).

“Aspirational and Aversive Constitutionalism: The Case for Studying Cross-Constitutional Influence through Negative Models,” 1(2) *I-CON (International Journal of Constitutional Law)* 296-324 (2003).



**DINA SCHLOSSBERG**

CLINICAL SUPERVISOR AND LECTURER

Schlossberg was a presenter at for a program titled “Determining the Correct Legal Structure for your Business,” which was part of the Universal Business Support Center Construction Management Series, sponsored by Universal Companies in Philadelphia on November 12, 2003. Also in 2003, Schlossberg was a presenter and planner of a session on “Building Your Nonprofit: Business Planning for Young Organizations,” sponsored by Citizens Bank and held at the Philadelphia Free Library on October 14, and participated in the October 13 Child Care Resource Developers Statewide Meeting in Philadelphia as a present-

er at a workshop titled “The Pros and Cons of Forming a Non-Profit Tax Exempt Organization. In addition, she was a panelist on a program titled “Are the HUD Section 3 Requirements Once Again Relevant to Housing Community Development and Economic Redevelopment Activities?” The program, held on August 21, was sponsored by the Philadelphia-based Office of Housing and Community Development, the Office of Fannie Mae in Philadelphia, and Regional Housing Legal Services in Philadelphia. She was also a presenter on a program at the University of Pennsylvania Graduate School of Education’s Entrepreneurship in Education Institute. The program, held July 22, was called “Getting Started: Legal Issues for the Entrepreneur in Forming and Operating a Business as a For-Profit or Non-Profit.”



**REED SHULDINER**

PROFESSOR OF LAW

Last fall, Shuldiner served on an International Monetary Fund team that pro-

vided technical assistance to the Chinese Ministry of Finance concerning reform of the Chinese personal income tax. In addition, he is working on a project exploring the risky transactions under an income tax. His paper analyzes the conditions under which an income tax exempts the returns to risk bearing.



**DAVID A. SKEEL**

PROFESSOR OF LAW

Skeel presented his paper “Corporate Anatomy Lessons” at the Law and Economics workshop series at Kirkland & Ellis in New York on December 3, 2003. On November 17, 2003, he gave a lecture on the background to the Sarbanes-Oxley legislation at the National Association of Securities Dealers conference in New York. Earlier that month, Skeel spoke on an “American Debt” panel at the New School in New York, and commented on “The Role and Limits of Legal Regulation of Conflicts of Interest,” a paper by Zohar Goshen and the ILE



## FACULTY NEWS AND PUBLICATIONS

Conference, at Penn Law on October 17-18, 2003. Also in October 2003, Skeel commented on "The New Economics of the American Family" by Elizabeth Warren at a symposium on the twenty-fifth anniversary of the 1978 Bankruptcy Code held by the American Bankruptcy Institute at Georgetown Law School, and commented on a paper by David Smith and Per Stromberg at the World Bank Conference on "Systematic Financial Distress," in Washington. On September 26-27, 2003, Skeel commented on a paper by economic historian Brad Hansen at the Corporate Financial Architecture conference at Princeton University, and on September 24-25, 2003 he made a presentation on corporate governance and bankruptcy lessons for developing economies to the Institute for Policy Dialogue at Columbia University. Finally, Skeel spoke about the Sarbanes-Oxley legislation on a panel at the Northeastern region conference of the American Bankruptcy Institute in Newport, Rhode Island on July 18-19, 2003.

### PUBLICATIONS

"Can Majority Voting Provisions Do it All?," 52 *Emory L.J.* 417 (response to Buecheit & Gulati, "Sovereign Bonds and the Collective Will," 51 *Emory L.J.* 1317) (2003)

"Creditors' Ball: The "New" New Corporate Governance in Chapter 11," *U. Penn. L. Rev.* (2003)

"Avoiding Moral Bankruptcy," 44 *Boston College L. Rev.* 1181 (2003)

"The Past, Present and Future of Debtor-in-Possession Financing," *Card. L. Rev.* (2003)

"Corporate Anatomy Lessons," *Yale LJ* (forthcoming 2004)



### CATHERINE T. STRUVE

ASSISTANT PROFESSOR  
OF LAW

In January 2004, Struve was part of a panel on "Indian Nations and the Federal Court" at the AALS Section on Federal Courts. She also moderated the 2003-2004 Langfitt Symposium on "Medical Liability Reform" in December 2003.

### PUBLICATIONS

"Sovereignty with a Sunset Provision: Tribal Sovereign Immunity and the Evolution of Remedies against Tribal Governments," 36 *Ariz. State L.J.* (forthcoming 2004)

"Doctors, the Adversary System, and Procedural Reform in Medical Liability Litigation," 72 *Fordham L. Rev.* (forthcoming 2004)

"Expertise in Medical Malpractice Litigation: Special Courts, Screening Panels, and Other

Options," *The Project on Medical Liability in Pennsylvania* (October 2003)



### CLYDE W. SUMMERS

JEFFERSON B. FORDHAM  
PROFESSOR OF LAW

### PUBLICATIONS

"Public Sector Bargaining," 5 *U. of Pa J. of Lab. & Empl. L.* 441 (2003)

"Labor Law Scholarship – Some Comments," 23 *Com. Lab. L. & Soc. Pol.* (2003)



# New LAS President Hopes To Increase Outreach To Alumni

## Stella Ming Tsai L'88



never learned how to rest on her laurels. Glancing at the wide-ranging list of professional and philanthropic organizations with which she is affiliated, one gets the sense that Tsai's schedule could

She is especially proud to relate news about Penn Law's booming Public Service Program to alumni. Her own record in public service is remarkable for the diversity of causes which she has sought to promote. A longtime champion for children and families at risk, an aspect of her tenure at the City of Philadelphia Law Department she found extraordinarily rewarding was her work with the Department of Human Services. "My personal mission dovetailed with the agenda of the administration," Tsai explains. Tsai helped to influence ongoing reforms in Family Court designed to promote timely permanency for children who enter the child welfare system.

easily keep a number of people very busy. Yet in every position Tsai has been involved with - whether as Board Member of Philadelphia Legal Assistance, a pro bono organization which provides civil legal services to Philadelphia's low-income community, or as the former Chair of the Administrative Law Group at the City of Philadelphia Law Department - she has consistently displayed an enormous level of commitment and innovation to get the job done.

Tsai's latest endeavor as President of the Law Alumni Society is no exception. Wielding a keen insight into the needs of Penn Law alumni, one of Tsai's major goals for the next two years is to bolster LAS' outreach to the geographically diverse group. She also hopes to reach out to graduates who have not become involved with the alumni scene at Penn Law, despite a desire to reconnect with old friends and stay informed of current events. "Penn Law School has experienced a real surge in the past few years, and I feel a sense of responsibility towards both maintaining that momentum and informing our alumni about the great new programs being implemented here," says Tsai.

For her work in this and other areas, Tsai was a recipient of the 2003 "Women Making a Difference Award" presented annually by Philadelphia City Councilwoman Blondell Reynolds Brown. The award honors local women of extraordinary courage, vision and accomplishment.

Tsai, who was named one of its "Best Lawyers under 40" by the National Asian Pacific American Bar Association in 2002, recently returned as a shareholder to Christie, Pabarue, Mortensen and Young, where she had practiced before being named to the City of Philadelphia Law Department. At Christie Pabarue, she is a member of the specialty litigation group, represents major insurance companies in coverage disputes, and acts as counsel to the Philadelphia Civil Service Commission. Though she found her work at the City of Philadelphia Law Department highly rewarding, Tsai appreciates the flexibility private practice affords to focus on her numerous projects. **PLU**



# LEVY SCHOLARS PROGRAM PROVIDES 'MARK OF DISTINCTION' FOR TOP STUDENTS

**P**air exceptionally bright students with accomplished mentors, give them the freedom to explore their interests, and you have the Levy Scholars Program.

Or as Assistant Professor of Law Eric Feldman sees it, a recipe for greatness. "As the program develops, being a Levy Scholar will have the same cachet as being the recipient of a Watson Fellowship, or being a Fulbright Scholar," says Feldman, who mentors two students. "It will be a mark of distinction, a signal to employers, professionals and colleagues that the person has distinguished him or herself in a group that is already extremely selective."

The Levy Scholars Program, established by Board of Overseers Chairman Paul Levy L'72 and his wife, Karen, is in its first year. It provides a big leg up to first-year students who have the credentials and interest to develop a law-based specialty. Students receive full scholarships in the first year and half tuition in the second and third years. They also attend special seminars and receive expert guidance from alumni and faculty, who are assigned to every student.

Leon Willis didn't have to wait long to

## LEVY SCHOLARS

**MICHAEL J. AREINOFF**  
Monrovia, California

**DANIEL R. CORBIN**  
Toronto, Canada

**ELYSE ECKART**  
Albuquerque, New Mexico

**ANTHONY E. FALCONE**  
Stockton, California

**HOLLY K. FERNANDEZ**  
Albany, New York

**CURTIS E. JEWELL**  
Frederick, Maryland

**MARC J. KHADPE**  
Slatington, Pennsylvania

**ALISON LOTHES**  
Wellesley, Massachusetts

**KATHLEEN HEATHER MCCANN**  
Madison, New Jersey

**AVRAHAM D. MEER**  
Jerusalem, Israel

**ADAM L. POLLOCK**  
Pittsburgh, Pennsylvania

**MORGEN N. SMITH**  
McLean, Virginia

**MATTHEW M. WEISBERG**  
Youngstown, Ohio

**LEON M. WILLIS**  
Conroe, Texas

**ABBY C. WRIGHT**  
Indianapolis, Indiana

reap major benefits. The Yale graduate, who is interested in community development, has been talking to a leading transactions lawyer in New York for several months. And it's been a good match. The attorney not only kept in touch during the holiday break but arranged an interview for a summer job at his firm.

Willis' mentor, Robert Sheehan L'69, lauds the Law School initiative. "I think it's wonderful that the Levy Scholars Program makes the Law School more attractive to a few of its most stellar applicants," says Sheehan, Executive Partner at Skadden, Arps, Slate, Meagher & Flom.

And Willis is just as happy with the way the program is unfolding. "It's incredibly helpful to have direction when you have a goal but aren't exactly sure how to reach it, or even if that direction is the right one," Willis says.

Willis is among a select group. The Admissions Committee reviewed hundreds of qualified applicants for the Levy Scholars Program, which includes only 15 students. Derek Meeker, Associate Dean for Admissions and Financial Aid, says the Committee based its decisions on several factors:



academic record, LSAT score, rigor of the undergraduate curriculum, and evidence of cross-disciplinary study or interest in an area, such as bioethics or business and economics, in which the University excels.

He says the overarching goal of the program is to groom leaders in disparate fields. As a budding academic, Heather McCann fits that profile. She graduated from Cornell with a bachelor of arts in biology and society and got a Masters of Arts in Teaching, after which she spent three years as a Life Science teacher in a public school system in New Jersey. Now, she wants to pursue a joint degree in law and bioethics.

Through the Levy Scholars Program, doors are opening for McCann, who, thanks to mentor Professor Feldman, has talked to the director of the bioethics program at the School of Medicine. She's also met a partner at a Philadelphia law firm who shares her interest in bioethics.

"I believe the real strength of the Levy program is the contact with people practicing law," McCann says. "When I came to Penn, I did not truly understand the wealth of opportunities available to me or how to find careers that would allow me to focus on both the law and bioethical issues. I am beginning to understand more about what I can choose to do after law school and how to go after what I want."

Another goal is to recruit the best students, to persuade them to choose Penn Law over other top law schools. On that score, so far, so good.

Willis, who worked for a publisher and law firms after college, says he considered several law schools before deciding on Penn, where he found the combination of the interdisciplinary environment and the Levy Scholars Program compelling reasons to enroll.

Alison Lothes, who graduated from Dartmouth with a biology degree, worked as a marketing analyst and paralegal at an intellectual property law firm before turning her attention to law school. Her interests range from Arbitration and Alternative Dispute Resolution to International Law. Predisposed to Penn Law after a visit, the Levy Scholars Program clinched the deal.

"The Levy Scholars Program was a huge incentive for me because I had received financial aid from other schools, and



TOP Paul Levy L'72 and his wife, Karen, meet Levy Scholars for first time. BELOW Paul and Karen Levy

this was a deciding factor," Lothes says.

Which pleases Paul Levy to no end. "I wanted to break the dynamic of top students choosing a law school solely based on school ranking because Penn Law offers students compelling opportunities that are simply not available at other schools, whatever their ranking," Levy says. "My hope is that over a long period of time Levy Scholars will go on to prove that Penn is a great place and that cross-disciplinary study is essential in a modern world and a key to success." **PLU**



# PHILANTHROPY

## Penn Law Announces Silverman-Rodin Scholars and Silverman Professor of Law

**NEW YORK BUSINESSMAN** and Penn Law alumnus Henry Silverman has made a major investment to develop future American scholars by designating the final \$5 million of his original \$15 million contribution to the University of Pennsylvania Law School to create the Silverman-Rodin Scholars program.

Beginning in the 2004-05 academic year, Mr. Silverman's gift will enable top students in each entering class at Penn Law to receive full scholarships in their first year. A total of 15 Silverman-Rodin scholars – five from each class – will be in the school every year, once the program is in full swing.

Mr. Silverman's endowment marks the first gift to Penn created in Penn President Judith Rodin's name. Rodin, a Philadelphia native and 1966 graduate of the University of Pennsylvania, attended the University on a scholarship.

"Creating the Silverman-Rodin Scholars program gives me the opportunity to not only honor and assist Penn Law, which nurtured my career, but to pay tribute to Judith Rodin, who has driven the University of Pennsylvania into the upper echelon of American colleges," Mr. Silverman said.

Mr. Silverman, chairman, CEO and president of Cendant Corporation, made a \$15 million commitment to Penn Law School in 1998. Eight million dollars financed a major restoration and renovation of the Law School's original building, now known as Silverman Hall. Another \$2 million established the Silverman Professorship, and \$5 million will now fund a scholarship program.



TOP LEFT Henry Silverman LOWER LEFT Dr. Judith Rodin TOP AND LOWER RIGHT Silverman Hall

Mr. Silverman, who graduated from the University of Pennsylvania Law School in 1964, is a trustee of the University of Pennsylvania and its healthcare affiliate Penn Medicine. He is also a Commissioner of the Port Authority of New York and New Jersey and a member of JP Morgan's National Advisory Board. In addition, he is a trustee of New York University and its School of Medicine and Medical Center, and a director of



the NYU Child Study Center.

In 1998, Mr. Silverman received the American Heritage Award from the Anti-Defamation League for lifetime achievement in fighting discrimination. He has been honored twice for his efforts to promote diversity in the workplace: in 2001 by the Jackie Robinson Foundation and in 2003 by the U.S. Hispanic Chamber of Commerce.

## Allen Named Silverman Professor of Law



**PROFESSOR OF LAW** and Philosophy Anita L. Allen has been named Henry R. Silverman Professor of Law. As author of three books and numerous articles on privacy law, Allen is considered one of the nation's preeminent scholars on that

subject. She is also recognized for her scholarship in the areas of jurisprudence, legal philosophy, law and literature, women's rights, and race relations.

Allen came to Penn Law in 1998 from the Georgetown University Law Center, where she was Associate Dean for Research and Scholarship. She has also been a visiting professor at Harvard Law and Yale Law Schools.

Her book – *Uneasy Access: Privacy for Women in a Free Society* (1988) – was among the first to explore the value of privacy from a philosophical point of view. She also co-authored an innovative textbook, *Privacy Law* (2002), and co-edited *Debating Democracy's Discontent* (1988). Her book, *Why Privacy Isn't Everything: Feminist Reflections on Personal Accountability* was published in April 2003. A prolific scholar, Allen's current book – *The New Ethics: A Tour of the 21st Century Moral Landscape* – will be released by Miramax Books in the summer of 2004. Her next book, *After Privacy*, for Oxford University Press, is in progress. Allen has penned more than 70 articles and essays that have appeared in a variety of scholarly publications, and serves on the boards of several academic journals and nonprofit organizations.

She has been the recipient of fellowships from the Ford Foundation, the American Association of University Women and the American Council of Learned Societies, and has been <https://scholarship.law.upenn.edu/plj/vol39/iss1/1>

a fellow at Princeton's Program in Law and Public Affairs.

Allen was an attorney with Cravath, Swaine and Moore, and has served as a legal consultant to law firms, businesses, and government. She has lectured at major colleges and universities across the United States and in Europe. As a commentator on legal issues, she has appeared on Good Morning America, ABC Nightline, Face the Nation, and other television and radio programs.

## Benefactors Dinner Proves Crowning Night for Myles Tanenbaum W'52, L'57

**THE NIGHT BELONGED** to Myles Tanenbaum W'52, L'57. At the gala Benefactors Dinner in October, Penn Law, on the 10th anniversary of Tanenbaum Hall, paid tribute to the man



Myles Tanenbaum W'52, L'57 and his family gather before celebration of Tanenbaum Hall.

who made it possible. Myles Tanenbaum contributed \$5 million to the building, which houses Biddle Law Library, classrooms, and a student lounge.

"Without Myles Tanenbaum, without his guidance, support and, yes, indomitable will there would be no Tanenbaum Hall," Dean Michael A. Fitts told the gathering of alumni, students, administrators, and faculty. After Fitts presented Myles a gift, a retrospective video on Myles' life was shown.

Earlier in the evening, Fitts thanked Stephen A. Cozen, founder and chairman of Cozen O'Connor in Philadelphia, for his firm's \$2 million gift to establish the Stephen A. Cozen Professor of Law Chair. It is the first time in Penn Law history that a law firm has endowed a professorship.



## PHILANTHROPY



Stephen A. Cozen

### Cozen O'Connor Establishes Chair in Founder's Honor

**COZEN O'CONNOR** has donated \$2 million to the University of Pennsylvania Law School to establish the Stephen A. Cozen Professor of Law, the first endowment from a law firm in school history. The chair is in honor of the firm's founder and chairman.

Cozen earned his bachelor of arts and law degree, both with honors, from The University of Pennsylvania in 1961 and 1964, respectively. He serves on Penn Law School's Board of Overseers and on the advisory board of the school's Institute for Law and Economics.

"Steve Cozen is one of the nation's top litigators, a lawyer-entrepreneur who has built a law firm with a national reputation, and a distinguished alumnus of Penn Law School," said Penn Law Dean Michael A. Fitts. "We are deeply honored that he chose to add to his legacy with a chair at Penn Law."

A leader in Philadelphia's legal and civic arena, Cozen is a noted litigator, counselor and nationally recognized lecturer and author whose texts and articles are cited in numerous judicial opinions. A Fellow in the prestigious American College

of Trial Lawyers, he has been named by the National Law Journal as one of the country's 100 most influential attorneys.

Cozen and his firm have represented businesses in high-profile transactions including Spectacor's purchase of the Philadelphia 76ers and its sale of the Philadelphia Flyers to Comcast – one of the largest deals in sports' history. Cozen has been called upon to chair and serve on numerous government commissions and boards; he served on the Insurance Department Transition Team for Governor Rendell in Pennsylvania and as chair of the U.S. Department of Energy Advisory Committee on Fire Safety.

In addition, Cozen serves on numerous education and philanthropic boards, including The Kimmel Center for the Performing Arts, the Federation of Jewish Agencies, and the National Museum of American Jewish History. In 2002, he was elected to the Board of Directors for the Shoah Foundation; he was also awarded the Anti-Defamation League's highest honor - the 25th Annual Americanism Award.

Founded by Steve Cozen in 1968, Cozen O'Connor has grown from six lawyers to a law firm with more than 470 lawyers practicing in the firm's 20 offices, 19 throughout the United States and an international office in London.

### Measey Foundation Gives \$1 Million Toward Chair in Law and Health Sciences

**IN A BOOST** to Penn Law's interdisciplinary program, The Benjamin & Mary Siddons Measey Foundation has contributed \$1 million to help establish the William Maul Measey Chair in Law and Health Sciences. Penn Law must match the gift.

The endowment stipulates that the chairholder have expertise in areas such as malpractice reform, bioethics, biotechnology, health care regulation, health care organization or comparative health law. The gift will strengthen the Law School's connection to the School of Medicine, which offers a joint J.D./M.B. degree program with Penn Law in Law and Bioethics.

This is the first time the Foundation has made a gift to any Law School. Previously, gifts have only gone to medical schools.



The Benjamin and Mary Siddons Measey Foundation, established by William Maul Measey in 1958 in memory of his parents, supports medical education in the Philadelphia area. As of the year 2000, it was listed among the top 50 local charitable foundations in Pennsylvania. William Maul Measey, who graduated from the Law School in 1898, was a corporate attorney in Philadelphia. He practiced law for a number of years, some of the time in partnership with former classmate Owen J. Roberts C'1895, L'1898, who later became a Justice on the United States Supreme Court and Dean of the Law School.



## Golkin W'74, WG'74, L'78 Finds Law School Merits More Support

**PERRY GOLKIN W '74, WG'74, L'78** has continued his tradition of support to the Law School with a new gift to Penn Law's merit-based scholarship program. The money will support a second Golkin Scholar.

Golkin is a member at Kohlberg Kravis Roberts & Co., the famed investment firm in New York. He is also a Director of Willis Group Holdings, Walter Industries, and PRIMEDIA Inc., among others. Prior to joining Kohlberg, Kravis, Golkin was with New York law firm Simpson Thacher & Bartlett, where he practiced corporate law.

A member of the Board of Overseers, Golkin has also taught a number of undergraduate courses at Wharton. He excelled as a student at Penn, serving as President of the debate team and a member of the Honor Court. He graduated summa cum laude.

<https://scholarship.law.upenn.edu/plj/vol39/iss1/1>



## Willigs Establish Scholarship Fund

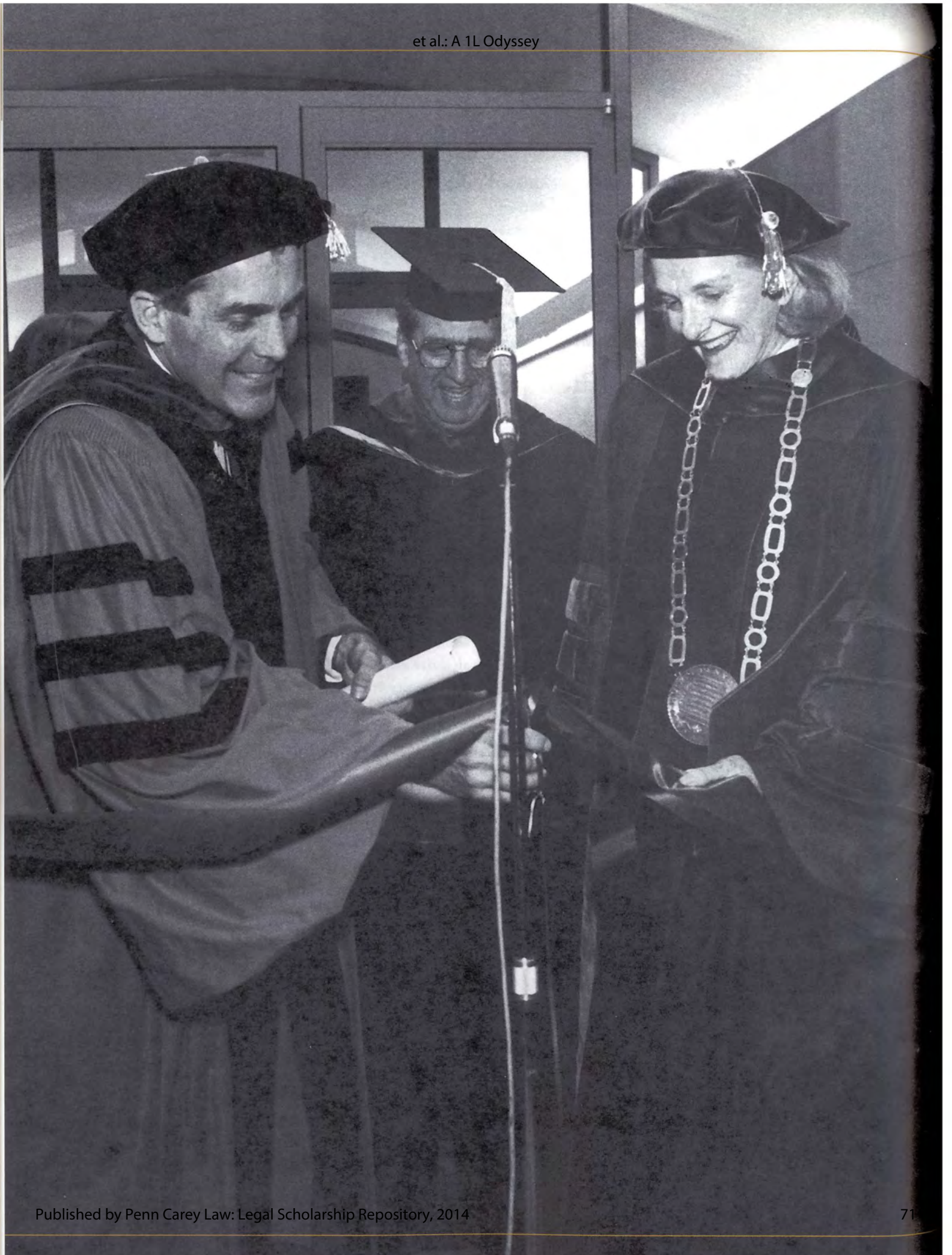
**KEN WILLIG GR'75, L'80**, and Rosette Willig GR '78, have established the Rosette & Kenneth Willig Endowed Scholarship Fund. The fund is for need-based scholarships. Ken is the head of the Global Structured and Project Finance Group of Piper Rudnick, LLP, and practices in the fields of international and domestic structured and project finance. In addition to his work for developers and other project participants in independent power, telecommunications, water, wastewater and other projects, Ken has extensive experience with the acquisition of equity interests and the placement of debt, and has acted as a government advisor with respect to various privatization programs. While at Penn Law, Ken taught an administrative law seminar and was an editor of the Law Review. Ken remains an active alumnus of the Law School and currently serves on the Advisory Board of the Journal of International Economic Law. Rosette started her law school career at Penn prior to the family's move to New York City and received her law degree from Columbia Law School. After over a decade of practice as a securities lawyer, Rosette now devotes her time to family and linguistic studies.

Rosette and Ken have two daughters, Lauren, a law student at Harvard, and Brooke, a ninth grader at the Chapin School in New York. Their son Spencer is a sophomore at Penn majoring in Political Science.

## Gift from Sirotnak Estate Sets Up Scholarship

**THE LAW SCHOOL** has received a gift from the Estate of Virginia Leo Sirotnak to establish The Joseph Sirotnak Scholarship Fund. The late Mrs. Sirotnak established the gift in memory of her husband, Joseph Sirotnak L'60, to provide a scholarship to a student with a strong interest in products liability law. Sirotnak was a partner at Sirotnak & Sirotnak in Scranton, Penna.







# 10

## Tanenbaum Hall Turns Ten.

After a regal dedication ceremony at Irvine Auditorium, Dean Colin Diver and Myles Tanenbaum L'57 led dignitaries and a regiment of bagpipers on a triumphant march to the Law School, where they cut the ribbon on a new era at Penn Law.

On that auspicious day in October 1993, the majestic Silverman Hall gained a glorious bookend, as another building block of the school's strategic plan tumbled into place. Tanenbaum Hall, which recently observed its 10th anniversary, produced a dramatic transformation. Immediately, the Law School acquired a modern sheen, as well as more space for students to gather and study.

The 72,000-square-foot Tanenbaum Hall, which took approximately 18 months to build, was the first major building on the Law School campus in 30 years and the largest addition since Silverman Hall. It contained seminar rooms, Career Planning and Placement and Public Service offices, areas for the student law journals, and a student lounge whose landmark is "The Clock."

With its vaulted ceilings, wall-length windows, private study areas, striking curved stairway, and high-tech accoutrements, Biddle Law Library formed the centerpiece, one in which 480 students – 160 more than previous capacity – could stretch out in the spacious and functional environment.

One hundred and ten miles of cable were laid throughout the building, making the new Biddle Law Library, in particular, a haven for research. The wired Library afforded students, alumni and faculty unfettered access to a worldwide network of data. All in all, the project represented a watershed in the Law School's history.

"There is no question that the building and the new Biddle Library helped the school at a crucial time," says former Library Director Elizabeth Slusser Kelly, who directed the building's design. "It is really a building for students and student services. It made the school instantly competitive with peer school facilities and provided a serene and luminous space for the library and its users.

"A benefit that we did not expect ... is how much more lovely and well used the courtyard became when a beautiful and heavily traversed building enclosed its west end," Kelly says.

Tanenbaum Hall, a center for industriousness, quiet reflection and socializing, has indeed become a magnet for



## TANENBAUM HALL

students. “Tanenbaum Hall was one of the first places I saw when I came to visit the Law School,” says third-year law student, Gregory Duffy. “It really made a measurable impact on my decision to enroll.”

Although Tanenbaum Hall went up when Colin Diver was Dean, his predecessor envisioned it. Dean Robert Mundheim, who served from 1982 to 1989, articulated a vision for the Law School during his tenure. That vision included bigger facilities, with space for more students and a new Biddle Law Library, which had showed serious signs of age.

As Cynthia Arkin, Associate Director for Collection Development in the Biddle Law Library, recalls, the library, then located on the second floor of Lewis Hall, had become a relic, overcrowded and incompatible with the new technology. It also afforded precious little room for the growing collection of books. “Every place you looked there were cords on the floor, going over stacks ... We had leaky ceilings. We had pigeons coming into the reading rooms. We spent a lot of time putting plastic over the book stacks.”

To correct these deficiencies, Mundheim hired an architectural firm in 1988 to draw up plans for a new building. He wanted something grand, to compete with peer schools, which had gone on a mid-1980s building boom. At the time, law schools such as Chicago and Columbia had libraries two to three times the size of Penn Law’s. To close that gap, a fund-raising campaign commenced in 1989. Mundheim approached Myles Tanenbaum, a successful developer who had built a number of malls in the Philadelphia area, to be the lead donor. Tanenbaum readily agreed.

“I knew that I owed something to that University and particularly to the Law School, where I learned how to think ... It’s something that changed my life. And fortunately, I was in a position (to help),” says Tanenbaum, who contributed \$5 million of the \$23 million construction cost, plus something



Entrance to Tanenbaum Hall

more – financial savvy that helped bring the building in under budget.

Tanenbaum served as Philadelphia area Co-Chair of the University’s Capital Campaign that included the Law School project. He had discovered he had a gift for fund-raising while he was a student collecting money for new dormitories. Ironically, the dorms were leveled to accommodate Tanenbaum Hall.

The building was named Nicole E. Tanenbaum Hall, in honor of Myles Tanenbaum’s daughter, who had died at 16 from leukemia.

The weekend of the dedication brimmed with excitement, as more than 2,000 people attended the Benefactors Dinner the night before Tanenbaum Hall’s official opening. At the dedication, Myles Tanenbaum overshadowed all of the speakers, including Attorney General Janet Reno, who received the University of Pennsylvania Medal for Distinguished Achievement. When he got up to speak, he was overcome by emotion and wept. “The fact that it bore my last name and my daughter’s name made it very special,” Tanenbaum remembers.

As its 10th anniversary passes, Tanenbaum Hall remains special as well to the few thousand students who have since passed through its halls. **PLU**



# Judge Rosenn

## Inspires A Following Among Former Clerks

**T**HE HON. MAX ROSENN L'32 was on the cusp of 60 when legendary U.S. Senator Hugh Scott of Pennsylvania sponsored him for a federal judgeship. Although impressed with his qualifications, Scott was concerned that other members of the Senate might question how long Rosenn would be able to serve as a judge. He needn't have worried. Now 94, Rosenn is among the oldest active judges in the country, and he is still going strong, still issuing thoughtful opinions.

And still inspiring allegiance from a cadre of Penn Law alumni who clerked for him. "Judge Rosenn was always very mindful of the great responsibility entailed in his position. He communicated that sense of obligation to his clerks," recalls Joseph L. Seiler III L'80, a partner at Le Boeuf Lamb Greene & MacRae in New York.

Richard Allan Matasar C'74, L'77, Dean of New York Law School, calls Rosenn the "single best role model" he could have wished for after law school. Judge Rosenn, now a Senior Judge on the U.S. Third Circuit Court of Appeals, displayed not only an extraordinary work ethic but treated everyone with respect – from the attorneys who came before him to his colleagues on the bench, says Matasar.

Adds James J. Sandman L'76, Managing Partner at Arnold & Porter in Washington: "Judge Rosenn taught me that human kindness and professional success need never be inconsistent, and that one can in promote the other. I've always hung his picture where I can see it easily from my desk, to remind me every day of what I aspire to be."

As a jurist, Sandman says, Judge Rosenn treated every matter before him with due diligence, giving thoughtful deliberation to each case, mindful of his responsibility to uphold public confidence in the judiciary.

Judge Rosenn, Matasar remembers, marshaled facts and integrated nuance into "elegant and beautifully written" opinions. "The core of decisions coming out of Judge Rosenn's chambers were impossible to define by ideology. He believed the law should be smart."



He also believes in maintaining ties to his clerks. Rosenn holds periodic weekend reunions for former clerks, who turn out to pay homage. Richard P. Schifter L'78 is among the clerks who speak to Rosenn every year, renewing a relationship that he has found rewarding.

"He cared about our happiness, rather than simply viewing us as temporary employees," says Schifter, partner at Texas Pacific Group. "When I chat with him now, 25 years after the clerkship, he always asks about my wife and children in a way that demonstrates that he still cares."

Rosenn, who graduated from Penn Law in 1932, forged a career in public service as well as private practice. He also served in the Army during World War II; he saw active duty in the South Pacific and was commissioned in the Judge Advocate's Department. An Assistant District Attorney in Luzerne County and Pennsylvania Secretary of Public Welfare, Rosenn was also a founder of Rosenn, Jenkins & Greenwald in Wilkes-Barre, Penna., an area to which he has always been devoted. For example, when Northeast Pennsylvania literally went under after Hurricane Agnes' torrential rains, Rosenn pitched in as Chair of a local task force to help rebuild the region. And he remains a revered figure there, with a federal courthouse named after him and an eponymous lecture series at Wilkes University, endowed by some of his former clerks, that draws big-time speakers and big audiences. Judge Rosen established his own scholarship fund at Penn Law.

"Judge Rosenn demonstrated to us that you could be an extremely successful professional and also lead a very full life and be involved in your community. This example has had an enormous effect on me," Seiler says. **PLJ**





# ALUMNI BRIEFS

## Daley L'79 Receives GE Chairman's Leadership Award



### **PAMELA DALEY L'79**

has brought good things to GE. That's why she recently received the Chairman's Leadership Award, an honor reserved for an employee making an outstanding contribution to the company's growth initiatives. The company donates \$25,000 to the

award winner's local charity of choice, in Daley's case the Connecticut Audubon Society.

She won the annual award, announced at the Global Leadership Meeting in January, for demonstrating extraordinary initiative in her job as Vice President and Senior Counsel for Transactions. In this role, Daley is responsible for GE's merger and acquisition activities worldwide, which in 2003 included GE's combination of Vivendi Universal and NBC, GE's acquisition of Amersham plc, and GE's spin-off of its life and mortgage insurance businesses.

In presenting the award, GE Chairman & Chief Executive Officer Jeffrey R. Immelt praised Daley's "tough mindedness, her ability to focus on a deal and do what's right for the company, but also being balanced ... with partners. I have just never seen anybody who could sustain the level of attention and the intensity that Pam can and I really want to recognize Pam for a great job this year."

Daley is a member of the Law School's Board of Overseers

and the Law Alumni Society. She taught Federal Income Taxation of Partners and Partnerships at Penn Law for eight years, and has also been a lecturer at Columbia Law School and Harvard Law School. A member of the Board of Advisors of the World Wildlife Fund, Daley appeared as one of 30 "Significant Women" in a 1998 feature in *Vogue*, *Elle*, *Harper's Bazaar*, and a number of other publications.

## Naidoff L'66 Named Philadelphia Commerce Director

**STEPHANIE W. NAIDOFF L'66** has been named Commerce Director for the City of Philadelphia. In the position, she will be the mayor's liaison to Philadelphia's business and cultural communities. She will also help shape the city's commerce strategy.

Naidoff assumes the job after years of experience in the cultural, health care and legal fields. Most recently, she was President of the Kimmel Center for the Performing Arts. She also was Vice President and University Counsel at Thomas Jefferson University, where she worked for 16 years, and a partner at Morgan Lewis and Bockius.

In addition, Naidoff served on the Law School's Board of Overseers and on the Trustees Council of Penn Women.



# 1950s

## NORMAN M.

**KRANZDORF L'55** has been named Senior Vice President, Retail, at Urdang & Associates Real Estate Advisors, an employee-owned real estate investment management firm in Plymouth Meeting, Pa. Prior to joining Urdang & Associates, Krantzdorf had been Chairman of Kramont Realty Trust, a public real estate investment trust company.

## PRESIDENT JUDGE

### EMERITUS STEPHEN J.

**McEWEN, JR. L'57** of the Superior Court of Pennsylvania has been elected President of the National Council of Chief Judges of State Courts of Appeal for the 2004 term. Judge McEwen has served as District Attorney of Delaware County, and was a Professor of Trial Advocacy at Villanova Law School for ten years.

# 1960s

**MICHAEL BARKOW L'62** has joined the New York office of Manatt Phelps Phillips as a partner in the firm's Advertising, Marketing & Media group. Barkow is a nationally recognized expert in promotion and <https://scholarship.law.upenn.edu/plj/vol39/iss1/1>

marketing law, and is a frequent lecturer and writer on promotion issues. He writes a legal column for *PROMO Magazine* and lectures at Promotion Marketing Association conferences.

**JIM STRAZZELLA L'64** has been selected President of the newly formed Board of Directors of the Smith Memorial Playhouse and Playground, located in Philadelphia's Fairmount Park. The Board is undertaking a major reorganization and renovation of the 104 year-old historic site, which serves an average of 100,000 children every year. Strazzella is the James G. Schmidt Professor of Law at the Temple University James E. Beasley School of Law.



**WILLIAM H. LAMB L'65**, former Justice of the Supreme Court of Pennsylvania, has rejoined Lamb McErlane as firm chairman. He returns after a one-year appointment to the Court. He has been with the firm for 37 years. Justice Lamb remains active on several state judicial committees including medical malpractice mediation and alternative dispute resolution.

## ROGER M. ADELMAN L'66

has been elected a Fellow of the American College of Trial Lawyers. Fellowship in the College is extended by invitation only to experienced trial lawyers who have mastered the art of advocacy according to the high standards set by the College. Adelman specializes in civil trial practice at The Law Offices of Roger M. Adelman in Washington, D.C.

**FRED BLUME L'66**, Managing Partner and CEO of Blank Rome, will be a panelist at the 2003 Forum on Practice Group Management, which is the first-ever national leadership conference for law firms. Blume's panel will discuss techniques for achieving the benefits of practice management. He is a Board Member of City Year, Greater Philadelphia Chamber of Commerce, and Temple University, among other organizations.

## KENNETH M. DAVIDSON L'66

is the author of *Megamergers: Corporate America's Billion-Dollar Takeovers*, which was originally published by Ballinger (HarperCollins) in 1985 and has recently been republished by Beard Books. The book describes the wave of large corporate mergers that began in the late 1970's and early 80's. Davidson is an attorney with the Federal Trade Commission.

## WILLIAM A. MOGEL L'66

has co-authored *The Energy Handbook* (Lexis/Nexis), which

features a 4,500-word glossary of a broad range of energy terms. *The Energy Handbook* is Mogel's sixteenth energy-related publication. He currently practices at Dorsey & Whitney in Washington, D.C, where he is Of Counsel in the Environmental, Natural Resources and Energy Group.



## WILLIAM V. STRAUSS L'67,

president of Strauss & Troy, has been invited to join the Cincinnatus Association, one of Cincinnati's oldest civic groups. Active membership in the group is limited to one hundred community leaders who explore issues of importance to the region and work to improve the quality of life in Greater Cincinnati.

## W. DENNIS KEATING L'68

was a Visiting Fellow during the fall semester of 2003 at the Department of Urban Studies at the University of Glasgow, Scotland. Keating is Professor of Urban Planning and Law, Chair of the Department of Urban Studies, and Associate Dean at the Maxine Goodman Levin College of Urban Affairs at Cleveland State University.



## ALUMNI BRIEFS

**PHILIP B. SEATON W'65 L'68** has joined Blank Rome as a partner in the Commercial Litigation Group at the firm's Cherry Hill, NJ office. Seaton concentrates his practice in commercial litigation, lender liability, and commercial real estate acquisitions, among other fields. He is a member of the Panel of Advanced Commercial Arbitrators of the American Arbitration Association and Masters of the Inns of Court.



**JAMES L. WINOKUR C'66, L'69** recently published his second property casebook, *J. Winokur, R. W. Freyermuth and J. Organ, Property and Lawyering* (West Group). The casebook, and a property course taught by Winokur at the University of Denver College of Law, received the 2002 CPR Institute for Dispute Resolution's Award for Problem Solving in the Law School Curriculum. Winokur is in his 33rd year on the faculty of the University of Denver College of Law.

## 1970s



**MITCHELL L. BACH W'68, L'71** a member in the Litigation Division of Eckert Seamans Cherin & Mellott in Pittsburgh, has been appointed Chair of the Committee on Business and Corporate Litigation of the American Bar Association's Section of Business Law. Bach was one of the original co-chairs of the Business Litigation Committee of the Philadelphia Bar Association, and played a key role in the development of the newly-established Commerce Case Management Program of the Philadelphia Court of Common Pleas. Bach previously practiced in the Philadelphia office of Fineman & Bach.

**CHARLES J. BLOOM L'71** was a featured presenter at the Pennsylvania Institute of Certified Public Accountants "Forensic and Litigation Services Conference" held in December. Bloom presented a seminar entitled "Analysis and Litigation of Fraud." He is a partner at Stevens & Lee in King of Prussia, Pa., where he concentrates his

practice in complex corporate litigation. He also serves as a Township Commissioner for Lower Merion Township and is a member of the Main Line Art Center Board of Directors.



**STEVEN L. FRIEDMAN L'71** was appointed by the U.S. Secretary of Commerce to the Joint High Level Advisory Panel of the United States-Israel Science and Technology Commission. Friedman is a senior partner in the Litigation Department of Dilworth Paxson in Philadelphia. He is also a member of the Board of Governors and Executive Committee of the Republican Jewish Coalition.



**THE HONORABLE RANDY J. HOLLAND L'72** was selected as the recipient of the American Judicature Society's Herbert Harley Award. The award is reserved for individuals who make

outstanding efforts and contributions that substantially improve the administration of justice in their states. A former director of the American Judicature Society, Judge Holland serves as an Associate Justice of the Delaware Supreme Court. In addition to several law review articles, he has published three books on governance in Delaware.

**DOUGLAS MCPHETERS L'72** is the founding President of Holotouch, Inc., a start-up company which develops "touchless" technology, such as a holographic keypad which floats in midair and can be operated without direct physical contact. In July, Holotouch licensed its technology to InfoPerks, which is planning to create "touchless" information kiosks to be used in New York City and Westchester County.

**CHARLES E. DORKEY III L'73** has been appointed Chairman of the Hudson River Park Trust Board, a New York state and city partnership charged with the design, construction and operation of the Hudson River Park. Dorkey is the Managing Partner at the New York office of international law firm Torys, where he heads the Litigation Department. He has also served as Director for the New York Parks and Conservation Association and is a Trustee of the New York Historical Society, the Historic Hudson Valley, and the New York City Water Finance Authority.





**LINDA A. FISHER L'73** has been named a Trustee of Wilkes University in Pennsylvania. Fisher is the Managing Director of Philanthropic Advisory Services at The Glenmeade Trust Company in Philadelphia, where she assists clients in the management of family foundations. Prior to joining The Glenmeade Trust Company, she specialized in personal financial and estate planning at Dechert. She is also a director of City Year Greater Philadelphia, among other civic activities.

**SHERRIE R. SAVETT CW'70, L'73**, Managing Principal and Chair of the Securities Litigation Department at Berger & Montague in Philadelphia, was invited to speak at a Corporate Governance panel at the First Circuit Judicial Conference. The author of several papers on various aspects of securities and complex litigation, Savett was named one of the best lawyers in the Philadelphia region by Philadelphia Magazine.

**MICHAEL L. BROWNE L'74**, a partner at the Philadelphia office of Reed Smith, was elected to the National Association of Independent Insurers' Board

of Governors. NAI is a leading property and casualty insurance company trade association. Browne is also the non-executive Chairman of the Board of Directors of Harleysville Insurance Companies.

**IAN COMISKY W'71, L'74**, Co-Chair of the White Collar, Internal and Government Investigations Group at Blank Rome, will be a faculty member at a seminar entitled "Money Laundering: Protecting and Defending Financial Institutions, their Management, and Customers under the USA Patriot Act." Comisky is the co-author of the two volume treatise *Tax Fraud and Evasion*.

**ARLENE FICKLER L'74** was elected chair of the Jewish Community Centers of Greater Philadelphia. She is a founding partner at Hoyle, Fickler, Hersher & Mathes in Philadelphia, where she concentrates her practice in complex commercial litigation, including cases involving securities laws, product liability, toxic torts, and consumer protection claims.

**GEORGE J. HARTNETT L'74** was elected Managing Partner and Chair of the Executive Committee of White & Williams in Philadelphia, where he is also a partner in the business department.

**RICHARD I. LAVINE L'75** has been elected to the Board of Directors of the National Tax Association. Lavine is a public

interest lobbyist representing the interests of low- and moderate-income families before the Texas Legislature on issues of taxation and school finance. A Chartered Financial Analyst and a member of the Board of Directors of the Travis Central Appraisal District, Dick was named "Best Lobbyist for the Little Guy" by *Texas Monthly* magazine.



**GENE E. K. PRATTER L'75** has been nominated for a federal judgeship in the Eastern District of Pennsylvania. Pratter is a partner and general counsel at Philadelphia firm Duane Morris, where she practices commercial and real estate law as well as employment contract and insurance coverage litigation.

**PAUL DIAMOND L'77** has been nominated for a federal judgeship in the Eastern District of Pennsylvania. Diamond is a partner at Obermayer Rebmann Maxell & Hippel. Previously he was a partner at Dilworth, Paxson, Kalish & Kauffman and an Assistant District Attorney in Philadelphia.

**DAVID F. SIMON L'77** has been named Chair of the Dean's Advisory Council of the School



of Management of the University at Buffalo, State University of New York. Simon currently is Senior Vice President and General Counsel of the Jefferson Health System, Inc., the largest hospital system in Southeastern Pennsylvania.

**FRANK THOMAS L'77** has opened a law office in Philadelphia, where he focuses his practice on commercial litigation, representation before federal and state agencies, and alternative dispute resolution services. Thomas was a partner at Morgan Lewis for 15 years, and has served as Deputy City Solicitor for Philadelphia. His articles on healthcare policy have appeared in the *Philadelphia Inquirer* and the *Philadelphia Business Journal*, among other publications.

**JULES M. EPSTEIN C'75, L'78** was awarded the Beccaria Award by the Philadelphia Bar Association's Criminal Justice Section and The Justinian Society. The award recognizes outstanding contribution to the cause of justice and the advancement of legal education. Epstein is a partner at Kairys Rudovsky Kalman & Epstein in Philadelphia.



## ALUMNI BRIEFS

### LAWRENCE R. COHAN L'79

was elected to a three-year term on the Philadelphia Trial Lawyers' Board of Directors. Cohan recently completed his term as Chairman of the Board of the Jewish Community Centers of Greater Philadelphia. He is a Managing Partner of Philadelphia firm Anapol, Schwartz, Weiss, Cohan, Feldman & Smalley, where he has practiced plaintiff's toxic tort litigation for 23 years.

### JOSEPH C. CRAWFORD '79

has become a Fellow of the American College of Trial Lawyers. Crawford is a partner in the Business Litigation Practice Group at Wolf Block Schorr & Solis-Cohen in Philadelphia. He served as Chairman of the Young Lawyers Section of the Philadelphia Bar Association in 1984 and as a member of the Board of Governors of the Philadelphia Bar Association from 1989-1991. He is also a member of the Antitrust Section of the American Bar Association and a member of the Telecommunications, Health Care, and Fuel and Energy Committees of this Section.

### GERALD AUSTIN MCHUGH, JR. L'79

was inducted into the American College of Trial Lawyers at its annual meeting. He was also selected by the President of the College to deliver the acceptance address on behalf of 124 inductees from across North America. McHugh is an attorney at Litvin,



Blumberg, Matusow & Young in Philadelphia.

**M. KELLY TILLERY L'79**, Senior Partner and Chair of the Intellectual Property and E-Commerce Group of the Philadelphia law firm Leonard, Tillery & Sciolla, spoke in October at a meeting of the International Anti-Counterfeiting Coalition. He also recently spoke to The Philadelphia Chapter of the Copyright Society of U.S.A. Tillery is an adjunct professor in the Legal Studies Department of the Drexel University LeBow Graduate School of Business.

### KENNETH J. WARREN L'79

was recently named Chair of the American Bar Association's Environment, Energy, and Resources Section. Warren is a partner and Chair of the Environmental & Land Use Practice Group at Wolf, Block, Schorr and Solis-Cohen in Philadelphia. He writes a regular column for The Legal Intelligencer on environmental law, and is the author of numerous articles on environmental litigation.



### STEVEN N. COUSINS L'80,

member of the Executive Committee and Chair of the Bankruptcy Practice at the St. Louis, Missouri office of Armstrong Teasdale, was named one of the nation's top black lawyers by Black Enterprise magazine. Cousins is a fellow in the American College of Bankruptcy and a member of the American Law Institute.

### RIKKI LAMATINO FIELD L'81

has rejoined Somerville, NJ firm Norris, McLaughlin & Marcus as a partner. She will practice in the firm's Banking and Financial Services and Real Estate and Land Use departments. Prior to joining Norris McLaughlin, she was an attorney at Reed Smith in the commercial real estate department. She also served as Senior Vice President and Assistant General Counsel at First Union Corporation for thirteen years.

### JUAN R. SANCHEZ L'81

has been nominated for a federal judgeship in the Eastern District of Pennsylvania. Sanchez is a Judge in the Chester County Court of Common Pleas. Previously he had been with MacElree, Harvey, Gallagher, Featherman & Sebastian, ran his own practice, and had been with County of Chester Public

Defender's Office.

### PAUL HUEY-BURNS L'82

has joined the Washington, D.C. office of Dechert as a partner in the firm's financial services and securities litigation group. Huey-Burns was formerly an Assistant Director of the Securities and Exchange Commission's Enforcement Division. He has appeared on numerous industry panels discussing securities regulatory issues and has published a number of articles on securities law.

### PAMELA J. WOOD L'84

was appointed by the Supreme Judicial Court as the new Jury Commissioner for the Commonwealth of Massachusetts. Wood has served as General Counsel and Deputy Director of the Board of Registration in Medicine since 1999. Prior to that, she was a senior attorney at the Federal Trade Commission. She is also a founding member and former Chair of the Young Lawyers.

### DAVID M. HOWARD L'84

was included in the International Who's Who of Business Crime Lawyers. Howard is a partner in the Litigation Department and Chair of the Criminal, Investigations, and Civil Fraud Group at the Philadelphia office of Dechert. He concentrates his practice in the areas of white-collar criminal defense, corporate investigations, and complex civil litigation.

### MELINDA P. RUDOLPH C'78,

L'86 was appointed General



Counsel at Adolor Corporation, a biopharmaceutical company in Exton, Pa. Rudolph joined Adolor from 3-Dimensional Pharmaceuticals, Inc., where she was Vice President and General Counsel. She has also practiced law at Harkins Cunningham and Pepper Hamilton.

**CATHERINE MORRISON L'87** received the "Faculty of the Year" award from Johns Hopkins University's Business Medical MBA Program. The award, which is voted on by members of the graduating class of MBA students, was given for her course on Negotiation. Morrison is a Lancaster, PA-based consultant and a principal in the executive search firm of Tandy, Morrison & LaTour.



**JONATHAN H. NEWMAN L'87**, Of Counsel to Obermayer Rebmann Maxwell Hoppel in Philadelphia, was named "Man of the Year" by Wine Enthusiast Magazine. Newman is the Chairman of the Pennsylvania Liquor Control Board, the largest wholesaler and retailer of wine and spirits in the United States. According to Wine Enthusiast, Newman has bought about a "wine revolution" in Pennsylvania.

**NANCY MARCUS NEWMAN**

**L'87** has been elected a Trustee of the Pennsylvania Academy of the Fine Arts. Newman is the founder of the Pennsylvania Adoption Legislation Coalition, has chaired the Pennsylvania Joint State Government Commission's advisory committee on adoption law, and has served as Vice-Chair of the Pennsylvania Children's Trust Fund Board. In 2001, she received the Adoption Advocate of the Year Award from the Pennsylvania Department of Public Welfare.

**SUZANNE K. STERLING '87**

was recently named Of Counsel at the Miami office of Ruden, McClosky, Smith, Schuster & Russell. Sterling is a member of the firm's Health Law Practice Group. She currently serves as Chairperson of Florida Atlantic University's Charles B. Schmidt College of Science Advisory Board, and is a member of the Programming Committee for BioFlorida, the Biotechnology Incubator Committee for the South Florida BioScience Consortium, and the American Health Lawyers Association.

**FRANK N. TOBOLSKY L'87**

served as course planner and speaker for "Drafting and Negotiating Pennsylvania Commercial Real Estate Leases" at a seminar presented by the National Business Institute. Tobolsky also recently presented "Documenting a 'Simple' Commercial Loan" through the Pennsylvania Bar Institute's annual Real Estate

Institute program. He is the sole shareholder of Frank N. Tobolsky, P.C. in Philadelphia.



**JENNIFER ROSATO L'87** is a visiting professor at Penn Law School this year, where she is teaching courses in family law and bioethics. Rosato is a Professor of Law at Brooklyn Law School and Co-Director of its Center for Health Law and Policy. She has written on issues related to reproductive technology and the family.



**MICHAEL J. YELNOSKY L'87**

has been named Associate Dean for Academic Affairs at Roger Williams University Ralph R. Pappito School of Law. He is a founding member of the Law School faculty. Yelnosky's primary research and teaching interests are employment discrimination law, employment law, and labor law. At present he is a Research Fellow at the Center

for Labor and Employment Law at New York University School of Law.

**MARK B. SCHOELLER L'89**

has joined the Doylestown, Pa. office of Fox Rothschild as Special Counsel in the firm's Litigation Department. Schoeller concentrates his practice in commercial litigation, including antitrust, franchise and distribution law, securities, intellectual property, and contract matters. He has written several articles on these areas which have appeared in The National Law Journal, Pennsylvania Law Weekly, and The Licensing Journal, among other leading publications.

**JAMES DENNY SHUPE L'89**

was elected Chairman of the Affiliate Council of the United Service Organizations, which provide services and support to active-duty members of the military and their families. A retired USAF command pilot, Shupe serves as Administrative Chair of the Litigation Department at Schnader, Harrison, Segal & Lewis in Philadelphia. He also serves as Chair of the firm's Aviation Group.



**JAY S. NEWMAN L'90** has joined the Washington, D.C. office of Fish & Richardson as a



## ALUMNI BRIEFS



principal in the firm's International Regulatory Group. He previously practiced at Shook, Hardy & Bacon. Newman provides business, regulatory and transactional advice concerning wireless telecommunications services, telephone and Internet services, advertising, marketing and promotion law. (have pic)



**STORM WILKINS '90** recently launched her own company, Precedent Corporate Training, LLC. Precedent is headquartered in Philadelphia and specializes in training insurance and risk management personnel in the legal aspects of the property casualty field. Wilkins recently completed her Chartered Property Casualty Underwriter insurance designation.

**MARK TUNG '91** is the new Headmaster at the Apprentice Jockey School in Hong Kong. Tung was formerly a Charities

Manager at the Hong Kong Jockey Club, which is the largest charitable trust in Hong Kong. Since graduation, he has also practiced law at Carlsmith Ball in Hawaii, worked as a news anchor, and has done corporate PR work.

**ALEXEI COWETT '92** was recently named Of Counsel to the Tysons Corner, Virginia office of Greenberg Traurig. There he represents clients in significant domestic and cross-border transactions, such as mergers, acquisitions and divestitures, strategic investments, alliances, partnerships and joint ventures. Previously, Cowett practiced at Davis Polk & Wardwell in New York City.

**THOMAS B. SHAPIRA '92** was elected partner at Much Shelist Freed Denenberg Ament & Rubenstein in Chicago. Shapira is a member of the firm's corporate department, where he focuses his practice on the health care industry. He is also on the Board of Directors of the Better Boys Foundation.

**DAVID J. SCHWARTZ '92** has been appointed Senior Vice President and General Counsel of worldwide toy retailer Toy's "R" Us, where he served as Deputy General Counsel for three years. Schwartz was formerly a partner at the New York office of Anderson, Kill & Olick.

**DENLEY CHEW WG'92, '93** was recognized by the National Asian Pacific American Bar



Association as one of its "Best Lawyers Under 40" of 2003 at the recent NAPABA Annual Convention in Honolulu, Hawaii. Chew is an Assistant Vice President & Counsel at the Federal Reserve Bank of New York, where he practices information security law. He is also Vice President and Treasurer of the Board of Directors at the Asian American Legal Defense & Education Fund.

**PETER T. SHIMABUKURO '93** has been named a partner at the Minneapolis law firm Parsinen Kaplan Rosberg & Gottlieb, where he practices in the Corporate and Business Planning Group.

**CHRISTINA SWARNS '93** has joined the NAACP Legal Defense & Education Fund, Inc., as the Director of their Criminal Justice Project. Prior to joining the NAACP, Swarns served for seven years as an Assistant Federal Defender and Supervising Assistant Federal Defender with the Capital Habeas Corpus Unit of the Philadelphia Public Defender. In that capacity, she represented Pennsylvania inmates facing the death sentence in their state post-conviction and

federal habeas corpus appeals.

**AMY M. BUXBAUM '95** is the new Athletic Director at Chatham College in Pittsburgh. Buxbaum is responsible for the College's seven NCAA Division III varsity teams, which include the first female varsity collegiate ice hockey team in Pennsylvania. She was formerly the Associate Director and Women's Basketball Coach at Juniata College in Huntingdon, Pa.

**LISA STEINMAN GLASSMAN '95** has been named Best of the Bar for Real Estate Law by the South Florida Business Journal. She was also a finalist for Community Excellence in Real Estate Law, an award sponsored by the March of Dimes. Glassman runs several law offices in South Florida, where she specializes in commercial and residential real estate transactions.



**JEFFREY B. GRILL, '95**, has been elected partner at Shaw Pittman in Washington, D.C., where he advises public and private companies on corporate and securities matters. Grill also counsels companies on structural and governance mat-



ters, including the organization, reorganization and dissolution of businesses. He is the co-author of a number of articles for the annual Regulation D Offerings and Private Placements Conference, which is jointly sponsored by the American Law Institute-American Bar Association and the Federal Bar Association.



**ELIZABETH A. NEDROW L'95**

was named partner at the Billings, Montana office of Holland & Hart, where she concentrates her practice in employee benefits and business law. In 2002, Nedrow was named to a list of "40 under 40" by the Western Business News. This award is given annually to men and women under the age of 40 who have made significant contributions in business and civic activities.



**BRIDGET CRAWFORD L'96**

has been appointed to the full-

<https://scholarship.law.upenn.edu/plj/vol39/iss1/1>

time faculty at Pace Law School, where she will teach courses in Taxation, Feminist Legal Theory and Estate Planning. Before transitioning to academia, Crawford practiced law for more than six years in the Trusts & Estates department at Milbank, Tweed, Hadley & McCloy LLP in New York.



**JONATHAN I. SHAPIRO L'96**

has joined the Philadelphia office of Saul Ewing as an associate in the firm's Litigation Department. Shapiro focuses his practice on commercial litigation and white collar criminal matters, including investigations. Prior to joining Saul Ewing, he was an associate at Kronish Lieb Weiner & Helman in New York City.

**MICHAEL P. WILLIAMS L'96**

has been named the Governor's Appointee to the Board of Trustees of Temple University in Philadelphia. Williams is the Deputy Director of Community Legal Services, Inc., a provider of free legal services to Philadelphia's low-income communities. He received Penn Law's Young Alumni Award of Merit in 2003.



**HUSSAM "SAM" HAMADEH**

**WG'97, L'97**, the founder of Vault, Inc., was honored as one of Deloitte & Touche's New York Fast 50. The award is presented each year to the 50 fastest growing technology companies in New York. Vault, Inc. is a leading publisher of career information, and is part-owned by American Lawyer Media and Hollinger International. This is the second year that the company has been included in the Deloitte & Touche list.

**BRIAN M. MCCALL L'97**

has been named a partner in the London office of Dechert. He practices in the firm's Mergers & Acquisitions and Corporate Finance groups. He has experience in both fields in a variety of cross-boarder transactions and has advised corporate clients and private equity sponsors on acquisitions of both private and publicly traded companies in the U.S. and Europe.

**ELIZABETH C. SURIN '97**

has become a name partner in the immigration law specialty firm Morley Surin & Griffin, P.C. in Philadelphia. Surin was formerly an associate at Drinker Biddle & Reath.

**ORESTE R. RAMOS C'95, L'98**

has been elected partner at Pietrantonio Mendez & Alvarez in San Juan, Puerto Rico. Ramos focuses his practice in civil and commercial litigation and employment litigation.





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ers about 130 countries.

We also have an outstanding collection of books and periodicals on public international law in English as well as a strong research collection for selected private transnational law subjects, also in English. Biddle acquires documents including treaty collections of major international organizations, both global and regional, as well as treaty collections from the United States and the United Kingdom. We have an exhaustive collection of bilateral tax treaties. Our human rights collection is very strong as well. Other organizations for which we collect extensively include the United Nations, the European Community, the Council of Europe, GATT/WTO, and others.

Research in international and foreign law need not be restricted to your ability to visit the library in person. A substantial amount of international and foreign law research can be done today on the internet, and we have created a web page providing you with an extensive set of research links. These include links to the United Nations, the World Trade Organization, the European Union, the World Intellectual Property Organization, and the Hague Conference of Private International Law. Non-governmental organizations such as the International Chamber of Commerce are also represented. You may visit the web page at <http://www.law.upenn.edu/bll/eresources/forint.html>

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Paul George  
Director, Biddle Law Library





## IN MEMORIAM AND IN TRIBUTE

# BARRIER BREAKERS: Justice Nix; Judge Arsht



Painting by Dick Perez

Robert N. C. Nix, Jr, L'53



Roxana Arsht L'39



## Nix L'53 Blazed Trails as First African American on a State High Court

**ROBERT N.C. NIX, JR., L' 53**, who as the first African American to serve on a state's highest court became a role model for the black community, died last August at the age of 75.

"He didn't have anything handed to him. Everyone admired him for achieving something so unusual," said Frederica Massiah-Jackson L'74, President Judge of the Philadelphia Court of Common Pleas and one of Justice Nix's former clerks.

Nix exuded dignity and high morals during his career, maintaining a commitment to individual rights, bred by a keen awareness of discrimination. He spent 24 years on the Pennsylvania Supreme Court, the last 12 as Chief Justice.

His ascension to Chief Justice began in 1971, when Justice Nix confounded conventional wisdom and won election to the Court in a landslide – no small feat in Pennsylvania, where no African American had ever won a statewide election. But breaking barriers came naturally to Nix, who watched his grandfather rise out of slavery to become a minister and dean of South Carolina State College, and his father, Robert N.C. Nix Sr., become not only the first African American elected to Congress from Pennsylvania but a powerful voice in the corridors of Washington.

After serving as a Deputy Attorney General in Pennsylvania, he joined his father's law firm, Nix, Rhodes and Nix, as a partner. Nix was a skilled criminal defense lawyer and an articulate litigator, which served him well first on the Philadelphia Court of Common Pleas, to which he was elected in 1967, and later on the Pennsylvania State Supreme Court.

"He was thinking out of the box before that phrase became popular," said Massiah-Jackson. As an example, she cited *Commonwealth v. Graves*, among the 700 opinions Justice Nix issued during his years on the state Supreme Court.

The 1975 case involved a Northampton County man who had been convicted of first degree murder committed during a burglary and robbery. The lower court did not allow evidence of his substance use on the day of the crime. Writing for the majority, Justice Nix found that alcohol and drugs could mitigate specific intent in homicide, and the high court overturned the ruling and awarded the defendant a new trial.

"That was something very unusual at the time," said Massiah-Jackson. "It was new law."

Court observers also remember Judge Nix as a protector of individual rights. He once wrote, "It is my firm belief that the emergence of state constitutional law affords the potential of fifty separate laboratories of social engineering, providing unlimited possibilities for assuring social justice to all in our culturally diverse nation."

And he practiced what he preached on the high court, according to Arlin Adams L'47, former Judge on the U.S. Court of Appeals Third Circuit. "The legacy of decisions during Justice Nix's term encompass great empathy for those suffering the excesses of government authority," Judge Adams said when presenting a portrait of Nix to the Pennsylvania Supreme Court in 1998. "This empathy may be expected from one who was born African American in a nation that had for too long institutionalized racial segregation. What is remarkable is the grace and dignity with which he conducted himself over the years when he encountered the distasteful actions of those who continued that type of discrimination."

Nix always took pains to be courteous. Said Richard A. Sprague, L'53 Nix classmate and Senior Partner at Sprague & Sprague: "He was a gentleman on the court. He did not make lawyers feel foolish, even if the lawyers were making foolish arguments. He kept things civil."

However, his civility was sorely tested in a long-running series of clashes with fellow Justice Rolf Larsen, who allegedly tried to remove Justice Nix from the court by privately campaigning against his reelection in 1981. The imbroglio lasted into the 1990s, when Nix and a colleague publicly reprimanded Larsen for court misconduct and he retaliated by filing similar charges. That move backfired on Larson, who, following a grand jury investigation, was himself removed from the court in 1994.

"I thought he felt it keenly," Judge Adams, now with Schnader Harrison Segal & Lewis, said of the controversy. But, he said, "The Chief maintained his dignity and composure and the Court continued to handle its matters in a business-like fashion."

Nix was also involved in community and national life, serving on a number of boards and committees, including Penn Law's Board of Overseers and the President's Committee on Civil Rights. He was also a member of the NAACP and the Electoral College.

Nix is survived by his wife, Renate; his sons, Robert N.C. Nix III, Michael, Jude Steven, and Anthony; a stepson, Timothy Bryant; a stepdaughter, Kimberly Bryant; and nine grandchildren.

- LARRY TEITELBAUM



## Arsht L'39, Delaware's First Lady of the Judiciary, Dies at 88

**ROXANA CANNON ARSHT L'39**, a diminutive lady who cast a giant shadow as the first woman judge in Delaware, died last October. She was 88.

A trailblazer and mentor to women in her home state who aspired to the judiciary, Judge Arsht served twelve years on the Family Court of Delaware after being appointed at age 56.

Her philanthropy cut a wide swath as well. She contributed to many causes in Delaware and to Penn Law, from which she graduated in 1939, one of only two women in her class.

"Roxana had a sparkle in her eye and an interest in women's place in the law," said Gil Sparks L'73, a partner at Morris Nichols Arsht and Tunnell in Wilmington. "She was a generation or maybe two generations ahead (of her time). Just by force of her interests and personality she was able to make (enormous) contributions to our community."

Among those contributions, she established the S. Samuel Arsht Professorship in Corporate Law at Penn Law in 2001. The \$2 million endowment honored her late husband, a mastermind behind the overhaul of the Delaware General Corporation Law in 1967 and a longtime dean of the Delaware corporate bar. Arsht and her husband jointly received the Penn Law Alumni Award of Merit in 1992.

"She was interested in thinking and learning and recognized the quality of Penn as an institution, and saw that this (the professorship) was an appropriate way to honor Sam," Sparks said.

At a public memorial service in Delaware attended by several hundred people, state Family Court Judge Barbara Crowell L'80 praised Judge Arsht for her thoughtful, practical, and progressive decisions. Arsht, Crowell said, was a good listener who made each litigant feel important.

"She was just human," said Delaware Family Court Judge Aida Wasserstein L'73 in her eulogy to Judge Arsht. Wasserstein, an Arsht protégé, recalled one case that typified Judge Arsht's humanity. It involved an alcoholic mother whose drinking jeopardized her family. Judge Arsht called the woman over to the bench, held her hand and convinced her to get treatment.

"For Judge Arsht, it was not enough to render a judgment," said Judge Wasserstein, who represented the petitioner in the case. "She went further and touched the woman, both physi-

cally and emotionally, at a significant enough level to motivate her to change."

To preside over that case, Arsht had to beat long odds. She was born in Wilmington in 1915, when Delaware's constitution barred women from becoming lawyers. Her Russian immigrant father, Samuel, who earned a master's at the University of Pennsylvania, stressed the value of education. Following her father's example, Arsht graduated from Goucher College and earned a J.D. from the University of Pennsylvania Law School in 1939.

Few opportunities existed back then for women in any field, much less law. So Arsht took time to raise two daughters with husband Sam, to whom she was married for 59 years.

As her children grew older, Arsht began to serve the community, most prominently as president of Planned Parenthood from 1954 to 1957. Steeped in family issues, and eager to use her legal training, Arsht decided to volunteer as a Master in Delaware's Family Court, serving without pay for nine years.

In 1971, then-Governor Russell Peterson, impressed by Arsht's work, appointed her to a judgeship on the Family Court, which opened the doors for other women. Today, 11 women judges sit on Delaware courts.

After hanging up her robe in 1983, Judge Arsht devoted her time to community service, making lasting contributions to her beloved State of Delaware. With her husband Sam she funded the University of Delaware's Academy of Lifelong Learning and the Roxana Cannon Arsht Surgicenter at Wilmington Hospital. She also underwrote the Cancer Care Connection of Christiana Care, after Sam's death in 1999 from cancer.

"To say that she enriched the Judicial Branch of Delaware and this community would be a colossal understatement," said Chief Justice of the Delaware Supreme Court Norman Veasey L'57, speaking at the memorial service.

Judge Wasserstein added: "The Honorable Roxana Cannon Arsht was short in physical stature but, in her soul, she was a giant. A giant with broad, strong shoulders on which all of us can stand."

Arsht is survived by her daughter Adrienne and son-in-law Myer Feldman; nephews Eric S. Cannon and Dr. Robert Cannon; and niece Claudia Rash.

- LARRY TEITELBAUM



## IN MEMORIAM AND IN TRIBUTE

### Koether L'65 Repaid Her Debt to Penn in Spades

**NATALIE KOETHER CW'61 L'65**, Vice Chairwoman of the School of Arts and Sciences Board of Trustees and revered member of the University community, died in October at the age of 63.

“Some people have debts but don’t acknowledge them. Others acknowledge them but don’t repay. Natalie acknowledged her debt to the School and repaid it a hundredfold,” says School of Arts and Sciences Dean Samuel Preston.

In the decades following her graduation from Penn Law, Koether held more than two dozen positions on boards or committees at the University. She was a member of the SAS Board of Overseers for 17 years, and chaired the board for nine of those years. Her tenure as Chair was longer than that of any of her predecessors – or any dean, for that matter. When she stepped down as Chair in 1999, the members of the Board made a significant contribution in her honor to a new life sciences building fund, inspired by her ardent dedication to creating such a facility.

Among her numerous roles at the University, Koether was a University trustee and Vice Chairperson of the Trustees Executive Committee. In addition, she was a founding member of the Trustees’ Council of Penn Women and the University Committee for Undergraduate Financial Aid, as well as the Penn Club. In addition, she served as Chair of the Academic Policy Committee and of the Subcommittee on Proxy Voting, and as a member of the Board of Overseers of the Annenberg Center for the Performing Arts. She joined the School of Arts and Sciences Board of Trustees in 1989. At the time of her death, she was serving on the Consultative Committee that eventually named Amy Gutmann as the new University president.

Koether also chaired the committee that selected Dean Preston to lead the school. Fittingly, in 1999 Dean Preston presented Koether with the first-ever School of Arts and Sciences Dean’s Medal, in recognition of her extraordinary service to the School. “Natalie did not accumulate the large number of roles that she played at Penn because she was a resume builder,” Preston recalls. “Everything she did, she did because she believed in the cause to which she was donating her efforts and energies.”

One such cause was the creation of opportunities for those who otherwise could not afford a top-notch liberal arts education. In 1997 Koether conceived the highly successful Penn Published by Penn Carey Law: Legal Scholarship Repository, 2014

Pals program, a fund-raising effort to provide financial aid for students in need. She was the first donor to this program. She later established the Natalie Koether Endowed Scholarship for a student in financial need. In honor of her high school English teacher Catherine Bryson ED’22 G’47, Koether also created the Catherine Bryson Endowed Professorship in the English department.

After graduating from Penn Law in 1965, Koether built a notable career as an attorney. She became the first female lawyer to practice at Morgan Lewis and Bockius in Philadelphia. She then established the firm of Koether & Harris in New York, which later became Keck Mahin Cate. She served as its Managing Partner until 1994. Along the way she became an authority on hostile takeovers and proxy battles, appearing on television and being quoted in major publications.

In the mid-1990s she became President of Pure World Botanicals, a manufacturer of botanical extracts based in Hackensack, NJ. During that time she also served as an executive with Kent Financial Services of Bedminster, NY, and as counsel to New York-based firm Katten Muchin Zavis Rosenman.

Koether is survived by husband Paul; a daughter, Jennifer Healey; a sister, Marilyn Todisco, and a grandchild.

– TASNEEM PAGHDIWALA



## Waldman L'69, Distinguished Jurist and Counsel to Former Pa. Gov. Thornburgh, Dies



**THE HONORABLE JAY C. WALDMAN**, United States District Judge for the Eastern District of Pennsylvania, passed away last May. He was 58.

Judge Waldman had a varied and impressive career. After graduating from the

University of Pennsylvania Law School in 1969, he clerked for the Honorable Gwilym A. Price, Jr. Following a brief stint in private practice, Judge Waldman spent several years as an Assistant U.S. Attorney in Pittsburgh, where he met Richard Thornburgh, who at the time was the U.S. Attorney for the Western District of Pennsylvania. Judge Waldman later served as Deputy Assistant Attorney General to Thornburgh, who was then Assistant Attorney General for the Criminal Division at the U.S. Justice Department.

After successfully managing Thornburgh's 1978 campaign for Governor of Pennsylvania, Judge Waldman was appointed as the Governor's general counsel, a position he held for the next eight years. Those who had the good fortune to know and work with Judge Waldman during these years, witnessed the workings of a brilliant political mind.

After being nominated to U.S. District Court for the Eastern District of Pennsylvania in 1988, only a few years later Judge Waldman was nominated to the U.S. Court of Appeals for the Third Circuit. The nomination never came for a confirmation vote. Shortly before his death in 2003, Judge Waldman was once again nominated to the Court of Appeals.

I had the distinct honor of clerking for Judge Waldman after graduating from the University of Pennsylvania Law School in 2001. It was apparent that he loved being a judge. He had high standards for the attorneys who appeared before him. As should any good Judge, he expected them to be prepared and fully versed in the issues before the court. There were few complaints over his rulings, which were usually right. Impressively, after such a long and successful career in politics, on the

<https://scholarship.law.upenn.edu/plj/vol39/iss1/1>

bench Judge Waldman was widely-recognized as non-partisan and evenhanded. Under his tutelage I learned a lifetime of legal knowledge in a single year.

Last May, the City of Philadelphia lost an exceptional jurist. He is missed deeply by his family, friends and colleagues. Judge Waldman is survived by his wife Roberta.

- DIANE FERRONE L'01



## IN MEMORIAM

- Joseph H. Grubb L'19  
 R. Gray Hall C'23, L'26  
 Walter A. Gay, Jr. C'26, L'29  
 Herbert G. Lowenstein L'30  
 Bernard S. Magen C'29, L'32  
 Andrew S. L. Naglak C'29, L'32  
 Arthur K. Molyneux C'31, L'34  
 David W. Yaffe L'34  
 Nimson S. Eckert L'35  
 Alberta L. Lum L'35  
 Nicholas A. Maffeo L'35  
 Joseph M. Shestack L'35  
 Edward P. Frankel C'33, L'36  
 Maria Phillips Nathanson L'36  
 Henry S. Sahm L'36  
 J. Shipley Troth L'36  
 David Stotland L'37  
 Wallace H. Webster, Jr. L'37  
 William Zeidel W'34, L'37  
 The Honorable Roxana  
 Cannon Arshnt L'39  
 Alfred I. Camitta W'36, L'39  
 Robert S. Gawthrop L'39  
 Thomas P. Glassmoyer L'39  
 Baird King W'37, L'40  
 Robert C. Koury, Sr. L'41  
 William P. O'Neill C'38, L'41  
 Alphonsus R. Romeika L'42  
 Robert L. Thayer L'42  
 Harrison G. Ball Jr. L'43  
 Albert Makler L'43  
 James B. Scott L'43, WG'46  
 Ruth Chase Tomlin CW'40, L'43  
 Stanley E. Gilinsky L'44  
 Albert G. Driver L'47  
 Roy M. Good L'47  
 James C. Bowen L'48  
 Jules M. Goldstein C'40, L'48  
 Arthur J. Shadek L'48  
 Richard H. Beardsley L'49  
 Bernard P. Carey Jr. L'49  
 Jerome H. Ellis W'44, L'47  
 Thomas S. Miller L'47  
 Charles B. Van Pelt L'49  
 Warren M. Jones L'49  
 Jay Rosenfeld L'49  
 William J. Ryan L'51  
 John P. Connors L'52  
 Paul R. Duke L'53  
 The Honorable Robert N.C. Nix Jr. L'53  
 Richard B. Smith L'53  
 Thomas F. Meehan, Jr. L'54  
 Bertram Smith Murphy L'54  
 Samuel E. Ewing III L'55  
 William Kinkead III L'59  
 Thomas B. Moorhead L'59  
 Felix Albert L'60  
 Hillard N. Zebine L'60  
 David M. Jones L'62  
 Robert L. Kaminsky W'60, L'63  
 Donald M. Tucker L'64  
 Natalie I. Koether CW'61, L'65  
 James J. Martin L'65  
 William N. Levy C'63, L'66  
 Robert M. Rosenblum L'66  
 Joseph T. McHale L'69  
 The Honorable Jay Waldman L'69  
 Paul Bernbach L'70  
 R. Michael Kemler C'67, GL'72  
 Olena Stercho Hendler L'80



## REUNION WEEKEND SCHEDULE OF EVENTS

### FRIDAY, MAY 14, 2004

#### 6:00pm – 7:30pm LAW ALUMNI SOCIETY AWARDS

- The James Wilson Award
- The Distinguished Service Award "The Goat"
- The Alumni Award of Merit
- The Young Alumni Award

### SATURDAY, MAY 15, 2004

#### 8:45am – 11:30am TOUR OF NATIONAL CONSTITUTION CENTER

11:45am – 12:15 pm WELCOME BACK & STATE OF THE LAW SCHOOL, Michael A. Fitts, Dean and Bernard G. Segal Professor of Law

12:30pm – 2:00pm FAMILY PICNIC, Law School Courtyard

12:30pm – 2:00pm REUNION LUNCHEONS for the classes of 1939, 1944, & 1949

2:30pm CLASSES WITHOUT QUIZZES, The Law School

#### 6:30pm INDIVIDUAL CLASS REUNION DINNERS

- 1954 Law School, Levy Conference Center
- 1959 Moshulu
- 1964 City Tavern
- 1969 Rembrandt's
- 1974 Law School, The Clock
- 1979 London Grill
- 1984 Sofitel Hotel
- 1989 Faculty Club
- 1994 Jack's Firehouse
- 1999 Blue Horseshoe

# aca

## alumni council on admissions

- functions as an on-campus resource answering questions about the Penn application process for alumni children and grandchildren
- offers on-campus interviews during the admissions process for legacy applicants once they have completed the 11th grade

### Please Remember:

- The best use of the alumni tie is to apply Early Decision.
- Applicants who would like an on-campus interview with the Alumni Council should plan to complete it before application deadlines (Early Decision—Nov.1, Regular Decision—Jan. 1). Please call 8 weeks in advance.
- We encourage you to arrange your interview during the summer months before you complete your application.



alumni council on admissions Please contact our office with any questions you may have.  
E. Craig Sweeten Alumni House • Philadelphia, PA 19104-6226