

SPRING 2003

# LAW ALUMNI NEWS



UNIVERSITY OF MINNESOTA LAW SCHOOL

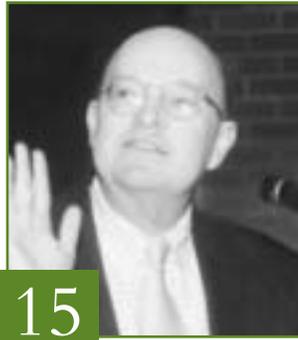


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# Dean's Perspective

Greetings! I have now had the privilege of being Dean for one year, and a great year it has been. It has also been a year of learning and adjustment for me as well as the faculty. After Tom Sullivan's excellent stewardship as Dean, the Law School experienced a year in transition as I sought both to lead this great institution and to learn what makes this Law School unique one of the elite public law schools in the United States. And learn I did, about the commitment to excellence in teaching and scholarship embraced by our faculty and demanded by our students and alumni. And so, I address you wiser, more knowledgeable about the Law School, its faculty, alumni, students and friends, and with a firm grasp of the core commitment to values that we all share.

This past year has been a busy one as I set out to meet as many alumni as possible in order to share with them my vision for the Law School. To that end, I visited almost every major law firm in the Twin Cities, scores of alumni in Minnesota, and alumni in seventeen cities outside of Minnesota. What I discovered during these visits is that we have one of the most loyal and supportive alumni families in higher education. Indeed, one of the many privileges of my job is the opportunity to meet with our alumni as they share with me recollections of their experiences at the Law School and their continuing commitment to the Law School.

These meetings, however, served a dual role. Not only did I listen and learn from the alumni, I shared with them the current financial situation we find ourselves in as a consequence of the severe budget crunch in the State of Minnesota. The budget deficit is in excess of \$4.5 billion and resulted in a state cut in funding to the University of \$185 million over the next biennium. In light of this unforeseen financial crisis, I shared with them the current state of affairs at the Law School, which I will now share with you. To do that, I need to borrow a quote from Charles Dickens with a slight revision, "It was the best of times, it was the worst of times..."

*It is the worst of times* because the Law School's portion of the budget cut has eliminated almost one-third (or \$1.4 million) of our state support and necessitated raising tuition by 12 percent for the 2003-04 academic year with more than two-thirds (or 8.25 percent) of that 12 percent going directly to the University's central administration. Thus, while our students

will bear a significantly heavier financial burden, the Law School will realize from the 12 percent tuition increase only a 3.75 percent net financial gain with which to counteract severe cuts in our state funding and support.

*It is the worst of times* because faculty and staff will have to do more with less. With limited exceptions involving promotions and matching competitive offers, faculty and staff have had to forego raises and are faced with increased health care and other costs as the University looks to shift the increases for such costs to its employees. Not only are our dedicated and loyal employees not receiving raises, they are, in effect, absorbing the equivalent of salary reductions.

*It is the worst of times* because my goal to increase the faculty by a net gain of two each year over the next five years, in order to provide a deeper curriculum with smaller classes, is imperiled when there are no state funds to support new hires.

*It is the worst of times* because our investments continue to follow the market and continue to lose value resulting in diminished endowment pay-outs. These losses, which number in the millions of dollars, have reduced the amount of money available for scholarships and other stipends to attract the best and brightest students to the Law School.

*It is the worst of times* because we are unable to compete with our peer schools for the best and brightest Minnesotans who choose to attend law school and who are offered incredible financial aid packages by the Harvard's, Yale's and Michigan's of the academic world. *It is the worst of times* because we cannot attract the most highly sought after minority students who, likewise, receive incredible scholarship offers from our peer schools.

On a more positive note, *it is the best of times* because, due to the hard work of our admissions staff and faculty, we were still able to enroll the strongest class ever in the fall of 2002, when measured by LSAT score and undergraduate grade point average, and hope to improve on that with the class that enrolls in the fall of 2003.

*It is the best of times* because our faculty remains one of the most productive faculties in the country and based on student evaluations, one of the best teaching faculties in the country.



Dean Alex M. Johnson, Jr.

Although it may not be perceived as such by firms that recruit our graduates, it *is the best of times* because when I visited law firms in the Twin Cities, they advised me that too many of our graduates were leaving the state to practice elsewhere thus depriving them of a stable supply of excellent lawyers. Conversely, when I visited alumni in other states, they told me that not enough Minnesota grads were choosing to practice out of state leaving them with a short supply of well-trained, excellent lawyers. That is a tribute to the excellent education and training our students receive at the Law School.

Lastly, it *is the best of times* because we have just completed a successful capital campaign with contributions and pledges in excess of \$50.5 million, including \$9.9 million, which paid for our new addition, added chairs for faculty, and provided additional scholarship support for students. In addition to their generous and timely support of the capital campaign, this past year the alumni contributed an additional \$4 million plus dollars in restricted and unrestricted gifts that helped pay for core programmatic initiatives at the Law School. Without alumni support, the caliber of education at this top twenty Law School would quickly sink into mediocrity.

What all of this means is that we, as an institution, are at a crossroads. The days of significant and stable financial public support are gone. As we look to the future, my vision for the Law School is a law school funded predominantly or entirely by tuition and private

dollars, e.g., endowment income and annual giving. That future is almost here and we need to begin engaging in a dialogue regarding how we plan for that future in order to maintain the excellence built by my predecessors, Deans Pattee, Vance, Fraser, Pirsig, Lockhart, Auerbach, Stein and Sullivan in light of the fundamental changes that are occurring in the funding of higher education, particularly professional school education.

I look forward to meeting with you and listening to your ideas as we begin this dialogue that is critical for the future of this Law School. To that end, I encourage you to visit your alma mater to see for yourself what a difference your contributions make and to discover how vibrant and productive we are notwithstanding limited public support.

A handwritten signature in green ink that reads "Orlin M. Johnson Jr." The signature is written in a cursive, flowing style.

*Dean and William S. Pattee Professor of Law*

# A Tribute to Robert E. Hudec

Robert E. Hudec died on March 12, 2003 at his vacation home on North Captiva Island, Florida. He was 68. Professor Hudec was an expert on international trade law and one of the world's leading authorities on the World Trade Organization (WTO) and its predecessor, the General Agreement on Tariffs and Trade (GATT).

Professor Hudec was a *summa cum laude* graduate of Kenyon College. He received a M.A. degree from Jesus College, Cambridge University and a LL.B., *magna cum laude*, from Yale University, where he was Editor-in-Chief of the *Yale Law Journal*. He also was awarded an honorary LL.D. degree from Kenyon College. After graduating from law school, Professor Hudec served as a law clerk to Justice Potter Stewart of the United States Supreme Court and then as Assistant General Counsel to the Office of the Special Representative for Trade Negotiations. He served on the faculty of the Yale Law School before joining the University of Minnesota Law School faculty in 1972. Professor Hudec was the first law professor to be appointed to an endowed chair, the Melvin C. Steen and Corporate Donors Professorship in Law. He retired from the University in 2000 and joined the faculty of the Fletcher School of Law and Diplomacy at Tufts. Professor Hudec was the author of five books and 45 law review articles.

During a memorial service held at the Law School on May 3, 2003, Professor Hudec's family, friends, and colleagues from around the world shared memories and anecdotes. His son Michael told the audience his father was the same man at home as you saw him. Michael also said his family was the central core of his life. Hudec made sure he was home in time to attend Michael's basketball games. The three classmates who spoke at the service described Bob Hudec as someone who came from humble circumstances, loved the life of the mind, was a good athlete, had an excellent memory (allowing him to remember and critique every play in a bridge game), liked to socialize, and was a gracious host. E. Christian Schoenleb, a Kenyon College classmate, and his wife set up Hudec on a blind date with Marianne Miller, who was attending Denison College. They were married in 1956.

A sample of the descriptions used by his colleagues included: a man of integrity, a scholar who "transcended the extensible," sharp intellect, deep knowledge, mentor, and truly interdisciplinary in his study. One of his collaborators said it was a great pain and a great joy to have Hudec edit his work. Hudec had the wonderful ability to tell a colleague "you're brilliant, but wrong." Hudec had a great sense of humor and he respected peoples opinions, he was willing to change his mind.

Professor Hudec is survived by his wife, Marianne of 47 years; daughter, Katharine Wright Hudec of West Newton, Massachusetts; son, Michael Robert of Austin, Texas; five grandchildren; and two sisters Marlene Schmiermund of Avon, Ohio, and Elain Urban of Kearney, Nebraska.



# Faculty Research and Development

## Law School Faculty

**Edward S. Adams** published an update to his Bankruptcy Practice Manual and a 2003 edition of his book entitled *Federal Securities Laws*. Professor Adams also published an article entitled “The Hybrid Entity of Law Firms” which appeared in the book *Corporate and Organizational Identities*, an article entitled “Ten Common Mistakes of Entrepreneurs” which was published in *Minnesota Journal of Business Law and Entrepreneurship*, an article entitled “Using Evaluations to Break Down the Male Corporate Hierarchy: A Full Circle Approach” in the *Colorado Law Review*, and a book review entitled “The Trusteeship of Legal Rulemaking” in the *Hofstra Law Review*. In addition, Professor Adams attended various bar and academic conferences and delivered presentations and lectures in Raleigh-Durham, Charlotte, Atlanta, Albuquerque, Pittsburgh, Philadelphia, Minneapolis, Toronto, Chicago and Indianapolis.

**Beverly Balos** recently completed an article entitled “the Wrong Way to Equality: Privileging Consent in the Trafficking of Women” which has been accepted for publication. She participated in the Oxford Round Table, Oxford University, England this past August, where she presented a paper entitled “The Wrong Way to Equality: Privileging Consent in the Trafficking of Women.” In September, Professor Balos traveled to the University of California at Berkeley Law School where she co-presented with Professor Mary Louise Fellows on the topic of “The Problem of Prostitution: The Ideology of Consent.” She participated in a panel discussion at the William Mitchell College of Law where she commented on the topic of “Legal Scholarship for Equal Justice” and she also participated in the Minnesota Coalition for Battered Women Statewide Conference where she spoke on the topic “Gender Discrimination and the Provision of Services to Battered Women.” Professor Balos will give a presentation on “The Consent/Equality Divide: International Human Rights and the Trafficking of Women for Sexual Exploitation.” at the Minnesota Advocates for Human Rights Speaker Series. Professor Balos was recognized as the 2002 Legislative Session Honoree by OutFront Minnesota.

**Stephen F. Befort** continues to be active on a number of projects relating to labor and employment law. He has published three law review articles during this past year: “Revisiting the Black Hole of Workplace Regulation: A Historical and Comparative Perspective of Contingent Work,” published in the *Berkeley Journal of Employment and Labor Law*; “Labor and Employment Law at the Millennium: A Historical Review and Critical Assessment,” published in the *Boston College Law Review*; and “The Most Difficult ADA Reasonable Accommodation Issues: Reassignment and Leaves of Absence,” published in the *Wake Forest Law Review*. He also authored a 2002–03 Supplement to his *Employment Law and Practice* book published by West Group. In addition, Professor Befort has published two professional education articles. In



**Stephen F. Befort**

May 2002, he presented a paper at the Upper Midwest Employment Law Institute entitled “Mental Illness and Long-Term Disability Plans Under the Americans with Disabilities Act,” which was published in *Employment Law Handbook 2002*. In November of 2002, he published a paper entitled “Advanced Supreme Court Update” in *Labor and Employment Law Institute 2002*, and moderated a panel discussion of the Supreme Court’s labor and employment decisions of the 2001–02 term. Professor Befort has been appointed to the Gray, Plant, Mooty Professorship of Law and will give his inaugural chair lecture in April 2003. He also has been appointed as the Secretary-Elect of the Labor and Employment Section of the American Bar Association. Professor Befort currently serves as the Law School’s Associate Dean for Academic Affairs.

**Brian Bix** recently completed the third edition of *Jurisprudence: Theory and Context*, which will be published later this year. In March, he presented “State Interest and Marriage—The Theoretical Perspective” at “A Conference on Marriage, Democracies, and Families,” held at Hofstra University School of Law. Recent publications include “Law as an Autonomous Discipline,” which will appear in the *The Oxford Handbook of Legal Studies*, and “Legal Positivism,” which will appear in the *Blackwell Guide to the Philosophy of Law*.

**Dan L. Burk** was recently honored as the Oppenheimer, Wolff and Donnelly Professor of Law at the University of Minnesota, and continues to pursue a highly visible program of international scholarship in areas of high technology law. This past October, Professor Burk traveled to Maastricht in the Netherlands for the 3rd Annual Meeting of the Association of Internet Researchers, where he spoke on “Copyright’s Black Box,” and presented a workshop on “Intellectual Property for Internet Researchers” together with Severine Dusollier of the Belgian Centre de Recherches Informatique et Droit. While in Europe, Professor Burk also spoke on “The Convergence of Patent and Copyright” to the Faculty of Law at the Universitaires Notre-Dame de la Paix in Namur, and on “Tailoring Patent Law to Specific Industries” at the Institute for Information Law at University of Amsterdam. On returning to the United States, he stopped at Boston College to participate in a conference on “Intellectual Property, E-Commerce and the Internet.” In November, Professor Burk presented his paper on “DNA Rules: Regulation Through Biological Code” at the Legal Studies workshop held at the Wharton School of Business, University of Pennsylvania. In December, he presented his paper on “Is Patent Law Technology Specific?,” co-authored with Professor Mark Lemley of the University of California, Berkeley, at a seminar at the

UCLA School of Law. This paper appeared in January in the *Berkeley Technology Law Journal*. Also in January, Professor Burk attended the national meeting of the Association of American Law Schools in Washington D.C., where he chaired a program on Intellectual Property and International Human Rights, which featured among other presentations papers by University of Minnesota Professors David Weissbrodt and Ruth Gana Okediji. Professor Burk then spent two weeks as a Distinguished Visitor at the University of Toronto Faculty of Law, where he taught an intensive seminar on "Patents, Technology, and Society." While in Toronto, he also spoke on "Open Source Genomics" at a colloquium sponsored by the Centre for Innovation Law and Policy. In February, Professor Burk presented revised versions of his paper on "DNA Rules" at intellectual property seminars at Georgetown Law Center and the University of Michigan. On the same trip, Professor Burk returned to University of Toronto to present "Reflections in a Darkling Glass: Comparative Perspectives on the Harvard College Case," at a symposium exploring the Canadian Supreme Court's recent "Harvard Mouse" patent opinion. Returning to Minnesota, he presented his inaugural chair lecture on "Reductionism in Copyright Law." During February he also presented his paper on "Policy Levers in Patent Law," co-authored with Professor Mark Lemley of the University of California, Berkeley, at a workshop sponsored by Initiative for Studies in Technology Entrepreneurship at the University of Wisconsin. This paper is forthcoming in the *Virginia Law Review*. During the University's March spring break, Professor Burk taught an intensive course in Cyberlaw to students in the Master's program on Information in the Networked Economy at the Università Cattolica del Sacro Cuore, in Piacenza, Italy. Upon his return to the United States, he spoke on "Intellectual Property Issues Related to Transgenic Plant Varieties" at a biotechnology conference sponsored by the McCarthy Institute at the University of San Francisco. He is currently preparing to spend the Fall semester as a visitor at Boalt Hall at the University of California, Berkeley.

**Brad Clary** (with co-author Pamela Lysaght of the University of Detroit Mercy School of Law) published *Successful Legal Analysis and Writing: The Fundamentals* for West Group. Professor Clary continues to serve on the governing council of the Minnesota State Bar Association Appellate Practice Section, for which he is newsletter editor. He is serving a term on the Communications Skills Committee of the American Bar Association Section Of Legal Education, and a term on the Executive and Moot Court Committees of the Association of Legal Writing Directors, where he is a member of the Board of Directors.

**Laura J. Cooper's** article, "Teaching ADR in the Workplace Once and Again: A Pedagogical History," presented at the Law School's Works-in-Progress series, will be published in *The Journal of Legal Education*. In January she gave a talk at a meeting of the Labor and Employment Law Section of the Association of American Law Schools, reviewing sixty years of contributions to labor law scholarship and pedagogy by University of Pennsylvania Law School Professor Clyde W. Summers.

**Oren Gross** continues his research in the areas of national security law, counter-terrorism, and international trade law. His most recent article "Chaos and Rules: Should Responses to Violent Crises Always Be Constitutional?" was published in the March issue of the *Yale Law Journal*. His book (co-authored with Professor Fionnuala Ni Aolain of the University of Ulster in Northern Ireland) on law in times of crisis has been accepted for publication by the Cambridge University Press. In December 2001 he participated in a written symposium, published in the *Boston Review*, on the treatment of aliens in times of national crises. His article "Constitution and Crisis: The Use of Emergency Powers in the United States" was published in a book entitled *American Democracy: The Real, The Imagined and the False*. In October he presented to the law faculty on the issue of the legal implications of a possible war with Iraq (together with Professors Weissbrodt and Morrison), and took part in a conference in honor of Professor E. Thomas Sullivan. He presented a paper on legal responses to terrorism to the annual meeting of Society of American Law Teachers, participated in a colloquium on the war on terrorism at the University of Michigan Law School, and presented a paper on constitutional models of dealing with emergencies to the constitutional studies colloquium at the University of Texas Law School. In February 2003 he presented before the International Trade Consortium of the University of Minnesota on the issue of the economic implications of the Israeli-Palestinian conflict and peace process.

**Daniel Farber** was the Centennial Visitor at Chicago-Kent Law School. He taught in the spring semester at the University of California at Berkeley. Professor Farber published several books: *Lincoln's Constitution*, the third edition of *Cases and Materials on Constitutional Law: Themes for the Constitution's Third Century* with Professors Eskridge and Frickey, the sixth edition of *Cases and Materials on Environmental Law* with Professors Findley and Freeman and the second edition of his book *The First Amendment*. He also has been working on three articles: "Judicial Review and Its Alternatives: An American Tale," forthcoming in *Wake Forest Law Review*; "What (If Anything) Can Economics Teach Us About Fairness?," forthcoming in *Michigan Law Review*; and "Building Bridges Over Troubled Waters: Reflections on the Future of Environmental Regulation" forthcoming in *Minnesota Law Review*.



**Richard S. Frase**

**Richard S. Frase** presented a paper at the 2002 Annual Meeting of the American Society of Criminology. This paper, co-authored with criminologist Robert Weidner of the Law School's Institute on Criminal Justice, analyzes felony sentencing practices in a national sample of counties in 1998, merging sentencing data from the Department of Justice with county-level data on crime and arrest rates, political climate, and socio-economic variables obtained from the FBI, census, and labor departments. In November, the *Fordham Law Review*

published Professor Frase's article, "What Were They Thinking? Fourth Amendment Unreasonableness in *Atwater v. City of Lago Vista*." This case upheld the arrest and jailing of a woman for a seat belt violation punishable only with a \$50 fine; such violators are normally released on citation, and the officer had no reason to believe Ms. Atwater would fail to pay the fine or continue to violate the law if not arrested. The article provides a thorough critique of the majority opinion in *Atwater*, identifies a broader trend in the Court's opinions which helps to explain this puzzling and troubling holding (but does not justify it), and suggests a narrow and workable arrest-limiting rule which should be adopted under state statutes, criminal procedure rules, or constitutions.

**Joan S. Howland** has recently completed an article with Nancy J. Lewis, to be published in the *Journal of Legal Education*, entitled "A Decade of Disappointment: A Second Look at the Effectiveness of Law School Legal Research Training Programs." She also completed an article "Let's Not 'Spit the Bit' in Defense of 'The Law of the Horse': The Historical and Legal Development of American Thoroughbred Racing Law," published in the proceedings of the 2002 Equine Law Conference Proceedings. Professor Howland will participate as a speaker at the Sovereignty Symposium 2003, presented by the Oklahoma Supreme Court and other entities. At the Symposium, Professor Howland will address the topic of information access for native populations. She also has been invited to speak at the 2003 American Library Association Annual Conference on the topic "Mentoring for Diverse Leadership." The focus of her presentation will be mentoring strategies for increasing the number of individuals in law and librarianship from traditionally underrepresented populations. Professor Howland has recently been appointed co-chair of the American Association of Law Libraries Campaign Committee to raise funding for the George A. Strait Minority Scholarship. She also is on the Steering Committee and serves as programming/local arrangements co-chair for the Third International Indigenous Librarians Forum to be held in Santa Fe, New Mexico in November, 2003. Professor Howland continues to serve as Treasurer and as an Executive Board Member of the American Indian Library Association. Professor Howland has been appointed to a committee charged with formulating educational policy for the Smithsonian's National Museum of the American Indian. She also has been appointed to serve on the American Bar Association Section on Legal Education and Admissions to the Bar Committee on Accreditation. Professor Howland also is a member of the Association of American Law Schools Curriculum and Research Committee.

**Maury Landsman** was appointed the Vaughan Papke Clinical Professor for 2002-04. He will be teaching Introduction to American Law in the Law School's Uppsala, Sweden exchange program, Spring 2003. Professor Landsman will continue his research on moral judgment in law students. He gave two presentations: "Privilege and Confidentiality: What is the Difference?" for the William E. McGee National Civil Rights Moot Court judges' training in March 2003 and in May 2002, "Interviewing Techniques." Course for The State of Minnesota, Office of the Legislative Auditor. He also was a

panelist in June 2002 for "Ethics for Administrative Law Judges" at the National Association of Administrative Law Judges Midyear Educational Conference.

**John H. Matheson** supervised the inaugural year of the Minnesota Multi-Profession Business Law Clinic at the Law School, which involved eleven third-year student attorneys and assisted approximately fifteen start-up businesses. Professor Matheson continued to serve as Director of Continuing Legal Education Programs for the Law School, which this past year included Super CLE Week XXII and the Twenty-Third Annual Summer Program of Continuing Legal Education Seminars. He published a second edition of his treatise, *Minnesota Business Law Deskbook*, as well as an article, "Choice of Organizational Form for the Start-Up Business," which appeared in the *Minnesota Journal of Business Law and Entrepreneurship*.

In June 2002, **Brett H. McDonnell** presented a paper called "Getting Stuck Between Bottom and Top: State Competition for Corporate Charters in the Presence of Network Effects" at a meeting of the Society for the Advancement of Socio-Economics held at the University of Minnesota. The paper will be published in the *Hofstra Law Review*. In September, Professor McDonnell presented a paper he co-wrote with Professor Dan Farber at a symposium on Global Antitrust Law and Policy honoring former Dean Tom Sullivan. The paper, "Are Efficient Antitrust Rules Always Optimal?" will be published with the symposium proceedings in the *Antitrust Law Bulletin*. In January 2003 he presented a paper called "Expectation Damages and the Theory of Overreliance" to the Law and Economics Workshop at the University of Michigan. The paper, co-written with Mel Eisenberg (Boalt Hall), will be published in the *Hastings Law Journal*. In February Professor McDonnell and Professor Dan Farber presented their paper "Why (and How) Fairness Matters at the IP/Antitrust Interface" at the *Minnesota Law Review's* annual symposium. The paper will be published in the *Minnesota Law Review*. At the end of February he traveled to the William and Mary Law School for a conference on Property Rights and Economic Development. His presentation was entitled "The Rise and (Possible) Fall of Chinese Township-Village Enterprises." In February Professor McDonnell also talked to the Human Resources Executive Council, run by the Carlson School of Management, about the effect of the Sarbanes-Oxley Act on employees. He was on leave from teaching for the Spring 2003 term.

**George Mundstock** presented a paper on February 15, "The Trouble with FASB" at a symposium entitled "International Accounting Standards in the Wake of Enron.," hosted by the *North Carolina Journal of International Law & Commercial Regulation*. The paper will be published in a forthcoming issue of the journal.

**Michael Stokes Paulsen** edited a recently-published special symposium issue of *Constitutional Commentary* devoted to the 50th anniversary of *Youngstown Sheet & Tube v. Sawyer* and issues of presidential power, war, and foreign policy, and published "Youngstown Goes to War" in that issue. He



**Michael Stokes Paulsen**

assembled a 200th anniversary “birthday party” symposium for the case of *Marbury v. Madison* at the Law School on February 24, 2003, attracting nationally recognized constitutional law scholars from across the nation, with articles to be published in a forthcoming issue of *Constitutional Commentary*. Professor Paulsen participated in a 30th anniversary conference on *Roe v. Wade* at the Yale Law School, presenting his “Opinion” as part of a group of nine constitutional scholars, on “What *Roe v. Wade* Should Have Said” (essays to be collected in a book forthcoming from NYU Press). He participated in a symposium at University of Michigan Law School, presenting “The Irrepressible Myth of *Marbury*” (forthcoming in *The Michigan Law Review*). Professor Paulsen addressed audiences at two different national conventions of lawyers and professors concerning vouchers, school choice, and conditions on such benefits. He briefed and argued in the U.S. Court of Appeals for the Tenth Circuit the case of *Axson-Flynn v. Johnson*, concerning university students First Amendment rights not to be compelled to engage in expression contrary to religious conscience (decision pending). Professor Paulsen has just published two other articles, “The Worst Constitutional Decision of All Time” (*Notre Dame Law Review*) and, with Vasan Kesavan, “The Interpretive Force of the Constitution’s Secret Drafting History” (*Georgetown Law Journal*). He is currently doing research for a book on the constitutional law of war powers and is also working on a new constitutional law casebook with Professor Steve Calabresi of Northwestern and Judge Michael McConnell of the Tenth Circuit. Next year, Professor Paulsen will be a visiting professor at the University of St. Thomas School of Law.

**E. Thomas Sullivan** delivered the Irving Younger Professorship of Law Lecture in January at the Law School while on leave from the Law School for the 2002–03 term. In November, he chaired the ABA reinspection visit to the University of Virginia Law School. In March, he gave the Lewis Bernstein Memorial Lecture in Antitrust Law at St. John’s University in New York City. He was honored in September when the Law School hosted a symposium in his honor entitled: “Global Antitrust Law & Policy,” the papers of which will be published by the *Antitrust Bulletin* in 2003. He has finished articles that will be published, including: “Comparing Antitrust Remedies in the U.S. and E.U.: Advancing a Standard of Proportionality,” to be published by the *Antitrust Bulletin*; “Judicial Sovereignty: The Legacy of the Rehnquist Court,” to be published by *Constitutional Commentary*; “Faculty as Public Intellectuals,” published in *Syllabus* in the fall of 2002; “The Public University as a Public Good,” published by *Minnesota Law & Politics* in February of 2003; “Academic Self Reflection,” published in *Syllabus* in January of 2003. The Fifth Edition to *Antitrust Law, Policy and Procedure* (with Professor Herbert Hovenkamp) will be published this spring by *Lexis Nexis*. It continues to be the leading antitrust casebook

in the country. He also has joined the Board of Trustees of the National Association for Law Placement Foundation, which focuses on research and education. In the winter semester, he was a visiting faculty member at the University of Arizona in Tucson where he served as dean from 1989–95. While in residence at Arizona, he was a commentator for a Federalist Society lecture, entitled “Why the Antitrust Laws Should be Abolished.” In February, he spoke at the mid-year ABA meeting in Seattle, and he also spoke at the University of Missouri, Columbia at the portrait unveiling in honor of Dean Tim Heinz. In April, he gave invited lectures in Europe at the University of Amsterdam, University College London, Tilburg University, Uppsala University and University College Dublin. He continues to serve as the Chair of the American Bar Association’s Section on Legal Education and Admission to the Bar. As Chair of the Section, he participated in writing the ABA’s amicus brief before the United States Supreme Court in *Grutter v. Bollinger*, the Michigan affirmative action case. In May, he rejoined the full-time faculty at the University of Minnesota Law School.

**Michael Tonry** continues to split his time between the University of Minnesota and the University of Cambridge, where he is director of the Institute of Criminology and Professor of Law and Public Policy. He has given a number of public lectures and invited presentations: on “Reform of English Sentencing Policy” to the Sentencing Advisory Panel of England and Wales in November 2002 and to a May 2002 joint meeting in London of the British Society of Criminology and the Institute on Public Policy; on “Capital Punishment in the U.S.” to the annual meeting of the Swiss Criminology Society in Interlachen, Switzerland, in May 2002 and a festschrift conference honoring Professor Peter Tak at the University of Nijmegen, the Netherlands, in September 2002; on “Criminology and Criminal Justice in Europe” at the Tenth Anniversary Symposium of the Netherlands Institute for the Study of Crime and Law Enforcement in September 2002 in Leiden; on “Youth Justice in Comparative Perspective” to the International Youth Justice Policy Conference convened in November 2002 by the Home Office of England and Wales; on “Managing Prison Populations” to the Correctional Review Panel of England and Wales in December 2002; and on “Criminal Justice in the United States” in a five-part series at the University of Lausanne, Switzerland, in March 2002. In April 2002 he convened the final session in Cambridge of the Cambridge Sentencing Policy Study Group. In October 2002 he convened a “Crime Policy Conference” of scholars, practitioners, and policy makers to examine proposals in an English government White Paper on reform of the criminal justice system. Selected papers prepared for that conference will be published as *Justice for Some Crime Control Policy in England and Wales* by Willan Publishing in July 2003. He continues to serve as editor of *Criminology in Europe*, the newsletter of the European Society of Criminology, and of *Crime and Justice A Review of Research*. A number of publications have appeared since the last *Law Alumni News Magazine*; these are shown in the reference list in this issue.

**Kevin Washburn** presented a paper to the United

States Sentencing Commission's Advisory Group on Native American Sentencing Issues proposing that tribal court sentences be treated like state court criminal sentences in computing criminal history of criminal defendants under the federal sentencing guidelines. He also testified before the Minnesota Supreme Court on a proposal to adopt a rule of civil procedure providing for recognition of tribal court judgments in state court proceedings. His speaking events during the spring semester included a presentation on "Individual Rights and Tribal Revitalization" at the Arizona State University College of Law, participation on a panel on "Tribal Civil Disobedience" at the University of Iowa College of Law, and presentation of the Third Annual Northern Plains Indian Law Center Distinguished Lecture at the University of North Dakota Law School, where he presented a paper entitled "Indian Gaming and the Future of Indian Policy." He also recently joined the Board of Directors of the Innocence Project of Minnesota, an organization that investigates convictions and seeks release of innocent people wrongfully convicted.

**David Weissbrodt** continued his membership as the U.S. member of the U.N. Sub-Commission on the Promotion and Protection of Human Rights. The Sub-Commission is comprised of 26 members from all over the world. The membership of the Sub-Commission is allocated by region, so that seven members always come from Africa, six come from Latin America, six come from Asia, three from Eastern Europe, and the remainder come from Europe and North America. The Sub-Commission develops human rights legal standards and engages in studies about path-breaking subjects. For example, members of the Sub-Commission are presently studying terrorism and human rights, the impact of globalization on human rights, the right to drinking water, etc. Professor Weissbrodt is preparing a report as the U.N. Special Rapporteur on the rights of non-citizens. He also drafted norms of responsibility of transnational corporations and other business enterprises in regard to human rights which were provisionally adopted by the Sub-Commission's Working Group on the Working Methods and Activities of Transnational Corporations. During September 2002 Professor Weissbrodt spoke to the Rotary Club in Minneapolis on "Minnesota's Role in Human Rights." During September 2002 through February 2003 he conducted a distance learning course on Human Rights Monitoring through the World Wide Web and Email. In October 2002 Weissbrodt addressed the Annual Conference of the National Association of Women Judges on the "Use of International Human Rights Law in U.S. Courts" and the Youth Conference of the International Leadership Institute. In January 2003 he gave a presentation on "Human Rights and Intellectual Property" at the American Association of Law Schools conference in Washington, D.C. Professor Weissbrodt has recently published a book chapter on the human rights responsibilities of non-state entities, a monograph on hate speech, a U.N. report on abolishing contemporary forms of slavery, an article on the work of the U.N. Sub-Commission, and a review article for *Foreign Policy*.

**Judith T. Younger** published "Premarital Agreements" in the *International Encyclopedia of Marriage and Family* (2003) and "Post Divorce Visitation for Infants and Young Children—the Myths and the Psychological Unknowns," in *ABA Family Law Quarterly* (2002). The latter was the subject of a conference for lawyers and judges at the Association of the Bar of the City of New York in November. Unfortunately, Professor Younger had to cancel her appearance at the last moment because of the illness of her late animal companion, William the Conqueror. Luckily, colleague Robert Levy was able to stand in for her. Professor Younger became a member of the panel of scholarly contributors to the 8th edition of *Black's Law Dictionary* and continues to work on a series of articles about fiduciary relations and the family.



**Susan M. Wolf**

Professor Wolf also drafted model state legislation on assisted reproductive technologies and collaborated on an article on disclosure of conception by gamete donation. In addition to directing the Joint Degree Program, Professor Wolf continues to chair the University's Consortium on Law and Values in Health, Environment & the Life Sciences. These two programs sponsored nine events in 2002–03 including the Faegre & Benson Lecture Series on Law, Health & the Life Sciences; a Lunch Series on the Societal Implications of the Life Sciences; a symposium on "Revamping the Law on Assisted Reproduction: From IVF to Surrogate Motherhood"; and a conference on "The Limits of Personal Privacy: Biomedical Information in Public Health, Population Genomics and Mass Disasters." The Consortium's first federal grant proposal recently succeeded; NIH will fund a two-year project starting in July on the legal and ethical implications of haplotype mapping of the human genome. Prof. Wolf continues to serve on the Board of Directors of the American Society for Bioethics & Humanities (ASBH), the Ethics Committee of the American Society for Reproductive Medicine (ASRM), and the University's Stem Cell Ethics Advisory Board.

**Susan M. Wolf** has recently drafted two articles as lead author, one on preimplantation genetic diagnosis to create a stem cell donor and the other on the proper role of genetic testing in disability insurance. The latter is the culmination of a project funded by a National Institutes of Health (NIH) grant to the Center for Bioethics and Joint Degree Program in Law, Health & the Life Sciences, which Professor Wolf directs.

## Affiliated Faculty

**William G. Iacono** has stepped down as Director of the Clinical Psychology Training Program and was on leave this year. He has expanded his interest in the detection of deception to voice stress analysis as a form of lie detection. This technology has become widely used by police departments in the wake of the terrorist attacks on 9/11.

**Jane E. Kirtley** was the Seventy-Fifth Cleveland-Marshall Fund Visiting Scholar at the Cleveland-Marshall College of Law at Cleveland State University in October 2002, where she delivered the Seventy-Fifth Cleveland Marshall Fund Lecture, "Secrecy and Security are not Synonymous: Freedom of the Press in the Post-9/11/01 World" on October 17. She was a panelist for "Posted No Journalists: Newsgathering Laws in Foreign Countries," at the 2002 NAA/NAB/LDRC Libel Conference "Searching for the First Amendment," in Alexandria, Virginia on September 25, 2002, and for "Terrorism: The First Amendment and Responsible Journalism" at the 109th Annual Conference of the International Association of Chiefs of Police in Minneapolis on October 6, 2002. Other panel appearances include: "Access" at the Practising Law Institute's Communication Law 2002 conference on November 14, 2002 in New York, and "Anti-Terrorism: Subpoenas, Sources and Access" at the 2002 National Media Law Conference on November 15-16, 2002, sponsored by Ad Idem in Toronto, Canada, where she also presented a paper, "Democracies Die Behind Closed Doors: A Selective Overview of Recent Developments in the United States." Professor Kirtley's article, "Hidden Justice: The Ethics of Secret Settlements" was published in the November 2002 issue of the *LDRC MediaLaw Letter*. She submitted comments on behalf of the Silha Center for the Study of Media Ethics and Law on a proposed amendment to Local Rule 5.03 governing secret settlements in the U.S. District Court for the District of South Carolina on September 27, 2002. She was assisted by Silha Fellow and University of Minnesota law student Kirsten Murphy. Professor Kirtley and Ms. Murphy also co-authored comments on proposed Freedom of Information Act implementing regulations for the Department of Homeland Security on February 20, 2003. Among her numerous media interviews, Professor Kirtley appeared on National Public Radio's "Morning Edition" on December 2, 2002, to discuss "U.S. Press Freedom Debated in Canadian Murder Trial," and on Minnesota Public Radio's "Future Tense" on December 11, 2002, to discuss the Australia High Court's ruling in an Internet libel case.

**Scott McLeod** continues to serve as project director of the University of Minnesota School Technology Leadership Initiative, a \$2.1 million project designed to prepare K-12 school administrators to be better leaders in the area of information technology. Recent publications include an article in *Catholic Education: A Journal of Inquiry and Practice on the Supreme Court school voucher decision*, an article in the *Minnesota State Bar Association Journal* on the legality of school holiday decorations, and a looseleaf chapter for *Law Journal Press* on the legal aspects of K-12 collective bargaining. He also recently completed the first of several reports to the United States Department of Education North Central

Regional Educational Laboratory on the results of a funded national study of school district technology coordinators. Dr. McLeod was recently named as a member of the International Society for Technology in Education Administrators' Advisory Team and was the keynote speaker for the College of Education and Human Development's Urban Leadership Academy workshop on data-driven decision-making.

**C. Ford Runge** completed work on a four-year Ford Foundation study of global hunger issues. Together with colleagues from Minnesota and the International Food Policy Research Institute (IFPRI) in Washington, D.C., the result was *Ending Hunger in Our Lifetime: Food Security and Globalization* (Johns Hopkins, 2003). During 2001-2002 he co-chaired the Council on Foreign Relations Study Group on Trade, Science and Genetically Modified Organisms in New York with David Victor of Stanford University. Together they published "Farming the Genetic Frontier" in *Foreign Affairs* (May/June, 2002) and *Sustaining a Revolution: A Policy Strategy for Crop Engineering* (Council on Foreign Relations Press, 2002). In April, 2002, he will assume the directorship of the Center for International Food and Agricultural Policy at the University of Minnesota, a position he held for three years after starting the Center in 1988.

**Robin Stryker** researches American regulatory law and comparative welfare state law and politics from a sociological perspective. She maintains a longstanding scholarly interest and research project on the politics of science in American regulatory law. She has shown how politics shape the use of economics and other social sciences in labor law and antitrust law. Currently she is working on the politics of equal employment-affirmative action law, as well as on the political and cultural processes through which legal and economic actors and institutions inter-relate more generally. Among her recent law-related publications are: "A Sociological Approach to Law and the Economy" (with Lauren Edelman) in the *Handbook of Economic Sociology, 2nd Ed.*, edited by Neil Smelser and Richard Swedberg, Princeton University Press (In press); "Mind the Gap: Law, Institutional Analysis and Socio-Economics," in the *Socio-Economic Review* (In press); "A Political Approach to Organizations and Institutions" in *Research in the Sociology of Organizations* (2002); "Disparate Impact and the Quota Debates: Law, Sociology and Equal Employment Policies" in the *Sociological Quarterly* (2001) and "Political Culture Wars 1960s Style: Equal Employment-Affirmative Action Law and the Philadelphia Plan," (with Nicholas Pedriana) in the *American Journal of Sociology*. In 2001-02 Stryker was awarded a Jean Monnet Fellowship from the European University Institute's Robert Schumann Center, in Florence, Italy. In 2002, from her research projects on political partisanship and comparative welfare state policies (joint with Scott Eliason), she gave invited research talks and papers, among other places, at the Swedish Institute for Social Research and the Department of Sociology, University of Stockholm, the Faculty of Political Sciences at the University of Milan, and the Max Planck Institute for the Study of Societies in Cologne. She also spoke on law and the economy at the Russell Sage Foundation in New York. Among her recent professional contributions and honors, she was President of



Former Dean Tom Sullivan, professorship recipient, Professor Judith T. Younger, donor, and Dean Alex Johnson.

**Professor E. Thomas Sullivan** delivered his inaugural lecture as the Irving Younger Professor of Law on January 21, 2003. His lecture was entitled “Comparing Antitrust Remedies in the U.S. and E.U.” Professor Sullivan served as the eighth Dean of the Law School from 1995 to 2002. His teaching areas include antitrust, civil procedure, regulation of business, and trial practice. He is a nationally recognized authority on antitrust law and complex litigation, having authored or co-authored 8 books and more than 30 articles and essays on antitrust. He has received the Stanley V. Kinyon Teacher of the Year Award for Excellence in Teaching in May 2002. During the Fall Semester of 2002 he was a Visiting Professor at the University of California, Berkeley School of Law (Boalt Hall).

the international, interdisciplinary Society for the Advancement of Socio-Economics (2000–2001), chair of the Sociology of Law Section of the American Sociological Association (1999–2000), a Council Member for the Theory Section of the American Sociological Association (2001–04), and a member of the Article Prize Committee of the Law & Society Association (2002–03).

**David Eugene Wilkins** received a Minnesota Humanities Commission grant and carried out research in Montana in the Summer of 2002 interviewing Indian lawmakers serving in that state’s legislature. A survey questionnaire was also completed and mailed to the 35 Indian state lawmakers to assess their legislative goals, strategies, and relationships. Professor Wilkins gave three presentations on tribal governments to participants in a National Endowment for the Humanities summer institute held at Lafayette College in Easton, Pennsylvania in July 2002. He presented a draft essay titled “Seasons of Change, Reform, Revolt, and Revolution in Indian Country,” at the 3rd Executive Session of American Indian Constitutional Reform, hosted by the Harvard Project on Indian Economic Development and the Mashantucket Pequot Tribe, held at the Foxwoods Resort and Casino in Ledyard, Connecticut in October 2002. Professor Wilkins presented a keynote speech at a conference on “The Role of Jurisdiction in the Quest for Sovereignty,” held at the New England School of Law, Boston, Massachusetts, October 2002. He also delivered keynote addresses on the Rehnquist Court’s Indian law decisions at the University of Arizona, November 7, 2002; at Macalester College, November 18, 2002; and at the University of Michigan, Ann Arbor, Michigan, February 10, 2003. ■

# Faculty News and Events

## William B. Lockhart Lecture

The William B. Lockhart Lecture entitled “Constitutional Dimensions of Intellectual Property” was delivered on November 21, 2002 by Professor Pamela Samuelson. Pamela Samuelson is a Professor of Law at the University of California, Berkeley School of Law. She came to Boalt Hall in 1996 from the University of Pittsburgh School of Law, where she had taught since 1981. She also has practiced with the New York firm of Willkie Farr & Gallagher and served as the principal investigator for the Software Licensing Project at Carnegie Mellon University.

In 1997, Samuelson was named a fellow of the John D. & Catherine T. MacArthur Foundation. In 1998, she was recognized by the *National Law Journal* as being among the 50 most influential female lawyers in the country and among the eight most influential in Northern California. She was recently elected to membership in the American Law Institute and named a fellow of the Association of Computing Machinery. In 2001, she was appointed to a UC Berkeley Chancellor’s Professorship for Distinguished Research,



Pamela Samuelson

The Lockhart Lecture is the oldest and most distinguished lecture at the Law School. The lecture series, named after the fifth Dean of the Law School William B. Lockhart, is now in its 25th year. Through the lecture series distinguished scholars, judges and lawyers enrich the education program and challenge the thinking about important issues at the Law School.

teaching and service for her contributions to both Boalt Hall and the School of Information Management and Systems. Professor Samuelson received her B.A. and M.A. degrees from the University of Hawaii and her J.D. from Yale Law School.

Professor Samuelson has given numerous presentations and has published

widely in the areas of copyright, software protection, and cyberlaw. Recent publications include “Privacy as Intellectual Property?,” “Intellectual Property and the Digital Economy: Why the Anti-Circumvention Regulations Need to Be Revised,” and “A New Kind of Privacy? Regulating Uses of Personal Data in the Global Information Economy.” ■

## John Dewey Lecture of Philosophy and Law

Robin West, Professor of Law at Georgetown Law Center, presented The John Dewey Lecture in the Philosophy of Law titled “The External Morality of Law” on April 2, 2003. Professor Robin West came to the Georgetown Law Center from the University of Maryland School of Law, where she taught constitutional law, contracts, legal methods, jurisprudence, law and literature, and a legal theory workshop. She has been a visiting professor at the University of Chicago and Stanford Law Schools, the Cleveland-Marshall College of Law at Cleveland State University, and, most recently, at the Georgetown Law Center.

Professor West has written three widely acclaimed books and more than 70 law review articles in the fields of gender issues and feminist legal theory, jurisprudence, law and literature and constitutional theory. She has presented papers



Robin West

The Lectureship is named in honor of John Dewey, American philosopher, educator, and scholar. A proponent of the philosophy of legal realism, Dewey’s philosophy of pragmatism related his conception of a moral life to a variety of contemporary social, economic, and political issues. Dewey lived from 1859 to 1952 and spent one year as a professor of philosophy at the University of Minnesota.

at over 50 conferences, including law faculty workshops at New York University Law School, the University of Chicago School of Law, and Yale Law School. She has given endowed lectures at two universities, and was invited to write the prestigious foreword to the *Harvard Law Review Supreme Court* issue. Pro-

essor West received B.A. and J.D. degrees from the University of Maryland and J.S.M. degree from Stanford Law School. ■

# New Affiliated Faculty Join Law School

**M**ahmood A. Zaidi is a Professor of Human Resources and Industrial Relations and the Director of International Program Development for the Curtis L. Carlson School of Management at the University of Minnesota. He also is a Research Associate for the University's Center for Health Services Research and an Adjunct Professor at the University of Minnesota Hubert H. Humphrey Institute of Public Affairs.



**Mahmood A. Zaidi**

Professor Zaidi received his B.A. degree, with honors, and M.A. degree in Economics from the University of California, Los Angeles. In 1966 he earned his Ph.D. from the University of California, Berkeley. He served as an Instructor in the Department of Economics and the School of Business Administration (1958–1959), Head Instructor in the Department of Economics (1959–1962) and Graduate Research Assistant in the Institute

of Industrial Relations (1962–1964) at UCLA. In 1965, Professor Zaidi joined the faculty of the University of Minnesota as an Assistant Professor in the Industrial Relations Center, where in 1969 he was promoted to Associate Professor and in 1972 to Professor. Zaidi served as an Adjunct Professor in the department of Urban Studies from 1973 to 1985, as Director of Graduate Study for the Industrial Relations Center from 1980 to 1982, and in 1984 he became an Adjunct Associate at the Hubert H. Humphrey Institute of Public Affairs. He was appointed Director of the Department of International Program Development for the Curtis L. Carlson School of Management in 1985.

He has been a Visiting Professor at several schools including the: University of Western Australia, Université Jean Moulin-Lyon III, the Graduate School of Business in Zurich, Switzerland, Wirtschaftsuniversität Wien in Vienna, Austria and the Warsaw School of Economics, in Warsaw, Poland.

In addition to many other awards, Professor Zaidi was selected by the jury of the Graduate School of Business, Zurich to receive the Lifetime Achievement Award in recognition of his work concerning internationalizing academic programs and building relations between universities and organizations in Europe and across the world. The award was presented to him on October 4, 2002 in Zurich.

Professor Zaidi's current research areas are global skill shortages and management education in transition economies. His research specialties are in the areas of international labor market analysis, human capital and multinationals, and international human resource management.

**G**eorge Sheets is an Associate Professor in the Department of Classical and Near Eastern Studies at the University of Minnesota. He specializes in historical linguistics, Latin literature (especially prose) and legal history (especially Roman).

Professor Sheets received his A.B. degree in Latin, with honors, in 1970 from the University of North Carolina, Chapel Hill and in 1974 his Ph.D. in Classical Studies from Duke University. In 1990, he received his J.D., *magna cum laude*, from William Mitchell College of Law.



**George Sheets**

Professor Sheets served as an Instructor of Greek and Latin at Portsmouth Abbey School in Rhode Island from 1970 to 1971 and he was a Visiting Professor in the Department of Classics at the University of Texas from 1974 to 1975. He served as a Research Associate and Technical Writer at Southwest Educational Development Laboratory in Austin, Texas from 1975 to 1976. In 1976, he became an Andrew W. Mellon Fellow and

Lecturer at Bryn Mawr College in Pennsylvania. Professor Sheets joined the University of Minnesota faculty as an Assistant Professor in the Department of Classics in 1977. He was promoted to Associate Professor in 1982 and teaches in the department of Classical and Near Eastern Studies. ■

## Marbury v. Madison Symposium Celebrates 200th Anniversary

For 200 years, the U.S. Supreme Court has reviewed cases with the power to strike down Acts of Congress and of the President as unconstitutional. While this power is accepted as a given today, the judiciary was nowhere near an equal third branch of government when our country was founded. February 24, 2003, marked the 200th Anniversary of the watershed 1803 *Marbury v. Madison* Supreme Court decision, which provided the critical underpinnings for judicial review today, as Chief Justice John Marshall declared it was the role of the judiciary “to say what the law is.”

On Marbury’s 200th anniversary, leading constitutional law scholars from around the country gathered at the University of Minnesota law school for a symposium entitled “*Marbury* at 200: A Bicentennial Celebration of *Marbury v. Madison*.” The symposium drew nearly 250 students, faculty and attorneys throughout the day.

In three separate panel discussions, scholars analyzed the meaning and historical significance of the case; whether the case was correctly decided; and the status and proper treatment of the case today. University of Minnesota Law School Professors Guy-Uriel Charles, Adam Samaha and Shayna Sigman each moderated one of the panels. The first panel consisted of Sandy Levinson from the University of Texas, Dr. Sylvia Snowis from California State University-Northridge, and Larry Kramer from NYU. Unfortunately, William Van Alstyne from Duke had to cancel his scheduled keynote address due to illness, but the other scholars had no problem filling his time with interesting commentary. The second panel included Elena Kagan from Harvard, Edward Hartnett from Seton Hall, John Copeland Nagle from Notre Dame and Richard Fallon, Jr. from Harvard. The final panel was com-



prised by Daniel Farber from the University of Minnesota, Larry Alexander from the University of San Diego, Patrick Gudridge from the University of Miami and Dale Carpenter from the University of Minnesota. The *Marbury v. Madison* 200th Birthday Bash followed the panels, complete with refreshments, mingling and a cake imprinted with pictures of Justice John Marshall and William Marbury.

Professor Michael Stokes Paulsen and his student assistants, Heather Olson and Kate Jaycox, organized the symposium, which was presented by the law school’s faculty-edited journal, *Constitutional Commentary*. The panelists’ presentations will be published in an upcoming issue of *Constitutional Commentary*. Briggs & Morgan, P.A. and Robins, Kaplan, Miller & Ciresi, L.L.P. generously sponsored the symposium, and Mansfield Tanick & Cohen, P.A. provided additional much-appreciated support. The event was taped for future airing by C-SPAN. ■



Pictured with Professor Dan Burk (2nd from left) are Barbara Wrigley, Jim Schatz and Christopher Hillberg from the Oppenheimer Wolff & Donnelly law firm.

On February 18, 2003, **Professor Dan L. Burk** presented, “Reductionism in Copyright Law” on the occasion of his appointment to the Oppenheimer Wolff & Donnelly Professorship of Law. Professor Burk is an internationally prominent authority on the law of intellectual property, who specializes in the areas of cyberlaw and biotechnology. After visiting at the University of Minnesota during the 1999–2000 academic year, Professor Burk joined the Law School faculty in the Fall of 2000 as Professor of Law and Vance K. Opperman Research Scholar. He held the 2001–02 Julius E. Davis Chair in Law.

## The University of Minnesota Law Library Distinguished Lecturer Series

By Katherine Hedin, Curator of Rare Books and Special Collections

On April 3, 2003, Rennard Strickland, the Philip H. Knight Professor of Law at the University of Oregon, delivered the Inaugural Lecture of the University of Minnesota Law Library Distinguished Lecturer Series. Professor Strickland's lecture, "The Book and the Bow: Shifting Battlefields in the Five Hundred Year War for Native American Conquest and Survival," explored the diverse campaigns in the Native American's fight for survival—legal, economic, cultural, and military.



Professor Rennard Strickland

*"The spirit and goals of Native warriors from Black Hawk to Sam and Vine Deloria, from Pocahontas and Pablita Velarde to Wilma Mankiller remain much the same. There are many campaigns, arenas and battlefields but only one war. It is the same war for survival whether fought with book or bow."*

—Rennard Strickland

Professor Strickland painted a panoramic picture of five hundred years of Native American resilience. He spoke of Dr. Emmet Starr, a Cherokee Indian medical doctor and historian, who devoted himself to the preservation of his people's traditions following the abolition of the Cherokee Nation by Congress in 1906. Starr's *History of the Cherokee Indians*, published in 1921, is a testament to the greatness of the Cherokee people. The spirit of Starr's work to preserve the identity of his people continues as the Cherokees strive to achieve 90 percent Cherokee language literacy for their young people.

Professor Strickland spoke of the first Native American tribal member in space, Commander John Herrington, who played a traditional Plains flute as the Shuttle Columbia soared over Oklahoma, Colorado and Wyoming. He told of the brilliant career of Navajo flutist Raymond Nakai, who was denied admission to Julliard because "American Indians do not," wrote the school, "have a music culture of which to speak." Strickland described a recent ceremony at the University of Oregon where historic Indian documents, collected from the Smithsonian and other depositories, were returned to area tribes. "The Native American struggle for survival," asserted Professor Strickland, "has been a single war with varied battles and battlefields—the Five Hundred Year War. All campaigns are part of the same action, but each is fought in different ways with unique weapons."



Dean Alex Johnson, Professor Strickland and Associate Dean Joan Howland.



Lakota George Estes presents Professor Strickland with a Native American Flute.



Professor Strickland visits with Marvin Anderson.

In conjunction with Professor Strickland's lecture, the Law Library staged an exhibit of rare American Indians treaties and laws from the Arthur C. Pulling Rare Books Collection. The exhibit, titled *This Country is Sacred to My People: American Indian Laws and Treaties 1820–1890*, includes rare copies of treaties, laws of American Indian governments (many in both English and native languages), and scarce secondary sources. In honor of the Inaugural Lecture, Rennard Strickland presented the Rare Books Collection with the Indian Heritage Edition of Starr's *History of the Cherokee Indians*, which he edited with Jack Gregory. ■

## Faculty Scholarship Presentations

The Law School hosts a weekly luncheon presentation by members of the Law School faculty, faculty from other departments of the University, visitors from other universities and practitioners. Listed below are the 2002–03 presentations.

### FALL 2002

#### August

*Supreme Court review*  
Professors Adam Samaha, Donald Dripps, Barry Feld, and Dale Carpenter, University of Minnesota Law School

#### September

*Anti-Circumvention Misuse*  
Professor Dan Burk, University of Minnesota Law School

*Pharmaceutical Corporations and Access to Drugs: The "Fourth Wave" of Corporate Human Rights Scrutiny*  
Professor Sarah Joseph, Associate Director, Castan Centre for Human Rights Law, Monash University, Melbourne, Australia

*Law Takes a Holiday: The Last Five Years of the GATT Dispute Settlement System*  
Robert E. Hudec, Melvin C. Steen and Corporate Professor Emeritus, University of Minnesota Law School

*Teaching ADR in the Workplace Once and Again: A Pedagogical History*  
Professor Laura J. Cooper, University of Minnesota Law School

#### October

*Untangling the Myth of the Model Minority*  
Professor Miranda McGowan, University of Minnesota Law School

*Iraq: International Law and Constitutional Law Issues*  
Professors Fred Morrison, Oren Gross and David Weissbrodt, University of Minnesota Law School

*Lochner v. New York As Economic Theory*  
Professor Christopher Wonnell, University of San Diego School of Law

*A Different Kind of Labor Law: Vagrancy Law and the Regulation of Harvest Labor, 1913–1924*  
Professor Ahmed White, University of Colorado School of Law [Pattee Lecture Series]

*Some Effects of Identity-Based Social Movements on Constitutional Law in the Twentieth Century*  
Professor William Eskridge, Yale Law School

*Echo-pragmatism and Ecology: What's Leopold Got to Do with It?*  
Amy Wildermuth, Law Clerk to Justice John Paul Stevens, United States Supreme Court

#### November

*The Federal Appointments Process As Constitutional Interpretation*  
Professor Michael Gerhardt, William & Mary Law School [Pattee Lecture Series]

*INTO THE FIRE: How to Avoid Getting Burned by the Same Mistakes Made Fighting Terrorism in Northern Ireland*  
Professors Michael P. O'Connor and Celia M. Rumann, University of St. Thomas School of Law

*Generality and Justice*  
Professor Frederick Schauer, John F. Kennedy School of Government, Harvard University

#### December

*Fair Use and the Ethics of Hacking*  
Professor David McGowan, University of Minnesota Law School



### SPRING 2003

#### January

*Is the Party Over? Courts and the Political Process*  
Professor Elizabeth Garrett, University of Chicago Law School [Pattee Lecture Series]

#### February

*Parole Release Discretion: A Case Study in Sentencing System Design*  
Professor Kevin Reitz, University of Colorado School of Law [Pattee Lecture Series]

*The Bush Tax Proposal*  
Professor Gregg Polsky, University of Minnesota Law School

*The Frontiers of Legal Analysis: Reframing the Transition in Northern Ireland*  
Professor Fionnuala Ni Aolain, University of Ulster, School of Public Policy, Economic & Law and Visiting Fellow, Program in Law and Public Affairs, Woodrow Wilson School, Princeton University

*Cutting Through Tying Theory with Occam's Razor: A Simple Explanation of Tying Arrangements*  
Professor Christopher Leslie, Chicago-Kent College of Law

*From Social Friction to Social Meaning: What Expressive Uses of Code Tell Us About Free Speech*  
Professor David McGowan, University of Minnesota Law School

#### March

*Gender on the Agenda: How the Gender of Judges Becomes a Political Issue*  
Professor Sally Kenney, Hubert H. Humphrey Institute of Public Affairs, University of Minnesota

#### April

*Measuring Harm in the Voting Rights Cases: An Experimental Research Design*  
Professor Guy Charles, University of Minnesota Law School

*A Nobel Prize in Legal Science: Theory, Empirical Work, and the Scientific Method in the Study of Law*  
Professor Thomas Ulen, University of Illinois College of Law

*Webs of Life: Biodiversity Conservation as a Species of Information Policy*  
Professor Jim Chen, University of Minnesota Law School

*Against Clarity in the Law of Freedom of Association*  
Professor Andrew Koppelman, Northwestern University School of Law

#### May

*Spreading the Costs of Paid Family Leave*  
Professor Gillian Lester, University of California, Los Angeles School of Law

# Terrorism and the Constitution



Professor Oren Gross

[W]e urgently require new constitutional concepts to deal with the protection of civil liberties. Otherwise, a downward cycle threatens. After each successful attack, politicians will come up with repressive laws and promise greater security—only to find that a different terrorist band manages to strike a few years later. This disaster will, in turn, create a demand for even more repressive laws, and on and on.<sup>1</sup>

I often wonder whether we do not rest our hopes too much upon constitutions, upon laws and upon courts. These are false hopes... Liberty lies in the hearts of men and women; when it dies there, no constitution, no law, no court can save it; no constitution, no law, no court can even do much to help it. While it lies there it needs no constitution, no law, no court to save it.<sup>2</sup>

By *Oren Gross*<sup>†</sup>, *Professor of Law*

## I. Introduction

Times of crisis pose the greatest and most serious danger to constitutional freedoms and principles. In such times, the temptation to disregard constitutional freedoms is at its zenith, while the effectiveness of traditional checks and balances is at its nadir. Yet, it is precisely in such times that constitutional safeguards for the protection of rights, freedoms, and liberties are put to the test. A continued commitment to preserving and maintaining rights, freedoms, and liberties ought to be reconciled with the caution against turning a constitution into a suicide pact.<sup>3</sup> The question then arises to what extent a democratic, constitutional government can defend the state without transforming itself into an authoritarian regime. The dilemma has been famously captured by Abraham Lincoln's rhetorical question: "[A]re all the laws *but one* to go unexecuted, and the Government itself go to pieces, lest that one be violated?"<sup>4</sup>

Several distinct constitutional frameworks have dominated both the practice and the theoretical debate concerning responses to national crises. According to the **Business as Usual model**, ordinary legal rules and norms continue to be followed strictly with no substantive change even in times of emergency and crisis. The law in times of war remains the same as in times of peace. Other models of emergency powers may be grouped together under the

general category of "**models of accommodation**" insofar as they attempt to accommodate, within the existing normative structure, security considerations and needs. Though the ordinary system is kept intact as much as possible, some exceptional adjustments are introduced to accommodate exigency.

In this Article I suggest that these traditional models may not always be adequate. I argue that there may be circumstances where the appropriate method of tackling grave dangers and threats entails going outside the constitutional order. Such a response, if pursued in appropriate circumstances and properly applied, may strengthen rather than weaken, and result in more rather than less, long-term constitutional fidelity and commitment to the rule of law.

My proposed alternative, the **Extra-Legal Measures model**, informs public officials that they may act extralegally when they believe that such action is necessary for protecting the nation and the public in the face of calamity, provided that they acknowledge openly and publicly the nature of their actions. It is then up to the people to decide how to respond to such actions. The people may decide to hold the actor to the wrongfulness of her actions. The acting official may be called to answer, and make legal and political reparations, for her actions. Alternatively, the people may act to approve, *ex post*, the extralegal actions of the public official.

It ought to be clear, from the start, that the Extra-Legal Measures model must not be confused with what may be called political realism. Political realists have often made the argument that when dealing with acute violent crises, democracies ought to forgo legal and constitutional niceties. The **Extra-Legal Measures model** reflects a diametrically opposite approach. It seeks to preserve the long-term relevance of, and obedience to, legal principles, rules, and norms. While going outside the legal order may be a “little wrong,” it is advocated here in order to facilitate the attainment of a “great right,” namely the preservation not only of the constitutional order, but also of its most fundamental principles and tenets.<sup>5</sup> The Extra-Legal Measures model promotes, and is promoted by, ethical concepts of political and popular responsibility, political morality, and candor.

## II. The Traditional Models of Emergency Powers

### A. The Business as Usual Model

Under the Business as Usual model of emergency powers, a state of emergency does not justify a deviation from the “normal” legal system. No special “emergency” powers are introduced. The occurrence of any particular emergency cannot excuse or justify a suspension, in whole or in part, of any existing piece of the ordinary legal system. Thus, Justice Davis could state in *Ex parte Milligan* that the Constitution applied equally in times of war as well as in times of peace.<sup>6</sup> While the occurrence of emergencies and acute crises is acknowledged, such events are of no constitutional significance because no distinct legal emergency regime is recognized under the constitution.

While the model offers certain important benefits, it is also open to critical challenges. One argument is that the model can only be supported by those who are either naive or hypocritical. When faced with serious threats to the life of the nation, government will take whatever measures it deems necessary to abate the crisis. Regardless of whether government *ought* to do so, history demonstrates that it *does*. Adopting the Business as Usual model means either being unaware of the reality of emergency management, or ignoring it and knowingly maintaining an illusory facade of normalcy.

Linked to that charge of hypocrisy is the related argument that application of the Business as Usual model may result in public realization that law and actual governmental practice

diverge systematically when emergencies arise. That may lead, in turn, to portrayal of the legal system as unrealistic because it fails to adjust to the needs of fighting national crises. As a result, particular norms, and perhaps the legal system in general, may break down, as the ethos of obedience to law is seriously shaken and challenges emerge with respect to the reasonableness of following these norms.

### B. Models of Accommodation

Several constitutional models may be grouped together under the general category of “models of accommodation.” They all countenance a certain degree of accommodation for the pressures exerted on the state in times of emergency, while, at the same time, maintaining normal legal principles and rules as much as possible. This compromise, it is suggested, enables continued adherence to the principle of the rule of law and faithfulness to fundamental democratic values, while providing the state with adequate measures to withstand the storm wrought by the crisis.

1. *Interpretative Accommodation.* The first model of accommodation focuses on interpretation of existing legal rules in a way that is emergency-sensitive. Existing laws and regulations are given new understanding and clothing by way of context-based interpretation without any explicit modification or replacement of any of their provisions. Thus, the need for additional powers to fend off a dangerous threat is accommodated by an expansive, emergency-minded interpretative spin on existing norms through which various components of the ordinary legal system are transformed into counter-emergency facilitating norms. While the law on the books does not change in times of crisis, the law in action reveals substantial changes that are introduced into the legal system by way of revised interpretations of existing legal rules.

2. *Legislative Accommodation.* Another method of accommodating security needs in times of crisis is arrived at by way of introducing legislative amendments and modifications into the existing ordinary legal terrain. While it is acknowledged that *existing* legal rules do not supply a fully adequate answer to the acute problems facing the community in crisis, the

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belief is that such answers may still exist within the confines of *some* legal framework that does not require a complete overhaul of the existing system. The exceptional circumstances of crisis lead to an accommodation within the existing normative structure of security considerations and needs. The ordinary system is kept intact as much as possible; yet some exceptional adjustments are introduced. Ordinary norms are modified or supplemented by emergency-specific provisions.

...officials will need to acknowledge openly the nature of their actions. The public will then need to decide whether to ratify those extralegal actions.

### 3. *Executive Inherent Powers.*

President Lincoln's actions during the Civil War, especially in the first twelve weeks between the bombardment of Fort Sumter, on April 12, 1861, and the convening of Congress on July 4, 1861, have been the subject of much study and debate. During this period Lincoln demonstrated perhaps the most awesome display of executive power in American history. Whereas some of these measures could be construed as falling within the constitutional or statutorily delegated presidential powers, others were more questionable.

A possible explanation considers such actions to be within the boundaries of the Constitution under the doctrine of the "war powers" of the federal government. Lincoln's wartime presidency ushered in a new theory of crisis government based on the claim that the President enjoys a wide range of constitutionally inherent powers, including emergency powers, and therefore acts legally and constitutionally, rather than outside the constitutional and legal framework.

If the Business as Usual model can be charged with naiveté and out-of-context idealism, the models of accommodation present an answer in the shape of constitutional and legal flexibility. But, just as the prior model could be charged with utopianism, the models of accommodation could be charged with being unprincipled and apologetic. The claim is that these models enable the authorities to mold and shape the legal system under the pretense of fighting off an emergency. Experience also informs us that neither the judicial nor the legislative branches function as meaningful guardians of individual rights and liberties in times of great peril. Thus, it seems extremely

dangerous to allow any modifications to the constitutional and legal terrain to take place at such times, regardless of whether such changes are introduced by way of judicial interpretation of existing legal and constitutional provisions, or by way of new legislative initiatives.

### III. The Extra-Legal Measures Model

Each of the two general categories of constitutional emergency models is open to strong challenges. I suggest that there is a third alternative, the Extra-Legal Measures model. I argue that there may be circumstances where the appropriate method of tackling extremely grave national dangers and threats entails going outside the legal order. Going completely outside the law in appropriate cases may preserve, rather than undermine, the rule of law in a way that constantly bending the law to accommodate emergencies will not.

Under the proposed model, categorical rules are possible and may be desirable with respect to various important values. At the same time, the model also recognizes that when great calamities (real or perceived) occur, governmental actors tend to do whatever is necessary to neutralize the threat. Yet, it would be extremely dangerous to provide for such eventualities within the framework of the legal system (as the models of accommodation may suggest) because of the large risks of contaminating and manipulating that system, and the deleterious message involved in legalizing such actions.

Instead, the Extra-Legal Measures model calls upon public officials to act outside the legal order while openly acknowledging their actions. They must assume the risks involved in acting extralegally. It is then up to the people to decide how to respond *ex post* to such extralegal actions. The people may decide to hold the actor to the wrongfulness of her actions, demonstrating commitment to the violated principles and values. They may determine that such actions are abhorrent, unjustified, and nonexcusable. In such a case, the acting official may be called to answer for her actions and make legal and political amends therefor. Thus, for example, she may need to resign her position, face criminal charges or civil suits, or be subjected to impeachment proceedings. Politically speaking, she may jeopardize her chances for reelection and may be characterized as someone who is willing to act illegally. Alternatively, the people may act to approve retrospectively the extralegal actions.

In any event, even where the illegal actions performed by public officials are taken to preserve and protect the nation, that alone does not make those actions legal. Necessity does not make legal that which otherwise would have been illegal. It *may* excuse the actor from subsequent legal liability, but only subsequent ratification may (but does not have to) justify such extralegal conduct.

The Extra-Legal Measures model calls for an ethic of responsibility not only on the part of public officials but also the general public. To be able properly to invoke the Extra-Legal Measures model, public officials will need to acknowledge openly the nature of their actions. The public will then need to decide whether to ratify those extralegal actions. In the process of deciding that latter question, each member of the public becomes morally and politically responsible for the decision.

The Extra-Legal Measures model puts the burden squarely on society to decide the consequences of official extralegal action. Society retains the role of making the final determination whether the actor ought to be punished and rebuked, or rewarded and commended for her actions.

### The Case for Rule Departures

There are strong arguments in support of the Extra-Legal Measures model. The strongest case for the Extra-Legal Measures model can be made by recognizing the fact that it combines the strengths of both categories of constitutional models. Consider, for example, the models of constitutional accommodation of emergency powers. Each of these models takes into account such considerations as emergency-related necessity. One method of achieving this goal is by limiting the scope of applicability of individual rights and liberties by way of reading exceptions into their scopes of protection. The “clear and present danger” doctrine and the doctrine<sup>7</sup> developed in *Brandenburg v. Ohio*<sup>8</sup> are examples of such a limitation on the scope of First Amendment protection. Now take the Extra-Legal Measures model. That model offers a wider scope of individual rights’ protection. Courts need not be concerned with the prospect of taking an expansive view of constitutional rights coming back to haunt the nation when faced with critical threats and dangers that call for limitations on the exercise of such rights. The courts need not worry because if the situation is serious enough, there is always the possibility of gov-

ernment officials acting extralegally to protect the nation and its citizens. Thus, the Extra-Legal Measures model permits the judicial branch to fulfill its role as protector of individual rights without having to fear that by doing so it compromises the security of the state. The possibility of extralegal action reduces the pressures for incorporating built-in exceptions to protected rights.

#### *i. Crossing the Threshold (and Giving Reasons for It)*

In a democratic society, where such values as constitutionalism, accountability, and individual rights are entrenched and are traditionally respected, we can expect that the public would be circumspect about governmental attempts to justify or excuse illegal actions even if such actions have been taken, arguably, in the public’s name. For the moment, however, we may focus on the actors themselves, i.e., those public officials who are faced with the decision whether to violate the law for the greater good of the nation. We can and should expect those public officials to feel quite uneasy about possible resort to extralegal measures even when such actions are deemed to be for the public’s benefit. This feeling of uneasiness would be even more pronounced in nations where the “constitution is old, observed for a long time, known, respected, and cherished.”<sup>9</sup> The knowledge that acting in a certain way means acting unlawfully is likely to have a significant restraining effect on government agents even during the emergency itself. The mere need to cross the threshold of illegality would serve, in and of itself, as a limiting factor against a governmental rush to assume unnecessary powers.

The need to give reasons, i.e., the need to justify or excuse one’s actions before the people, is a critical ingredient of the Extra-Legal Measures model. By requiring transparency, it facilitates public accountability of government agents. The commitment to giving reasons, even *ex post*, adds another layer of limitations on governmental action.<sup>10</sup> Moreover, the public acknowledgment of the nature of emergency actions taken by government may contribute not only to reasoned discourse and dialogue between the government and its domestic constituency, but also between the government and

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other governments as well as between the government and nongovernmental and international organizations.

The elements of transparency and accountability that are built into the model also involve very real political and legal consequences for the acting official. With the need to obtain ex post ratification from the public, the official who decides to act illegally takes a significant risk. That risk is based on the uncertain prospects for subsequent public ratification. The risk is that her actions would not eventually be ratified because the public disagrees in hindsight with her assessment of the situation or with her assessment of the need to step outside the legal system in order to meet the exigency. The public may also determine that the actions under consideration violated values and principles that are too important to be encroached upon as a matter of general principle or in the circumstances of the particular case. The higher

the moral and legal interests and values infringed upon, the less certain the actor should be of the probability of securing ratification. Legally speaking, the actor would then face the possibility of civil claims, and perhaps even criminal charges brought against her. Hence, the uncertain prospect of ratification in any given case should also be considered as having a deterrent effect on government officials contemplating extralegal action.

I believe that Justice Jackson was right when he suggested that “[t]he chief restraint upon those who command the physical forces of the country... must be their responsibility to the political judgments of their contemporaries and to the moral judgments of history.”<sup>11</sup> This accords with F.D.R.’s Attorney General, Francis Biddle, sobering observation that the Constitution never greatly bothered any wartime President.<sup>12</sup> At the end of the day, it is those political, moral, and—one may add to the list—legal judgments of the public that serve as the real restraint on public officials. A sense of self-indignation when rules are violated, coupled with uncertainty about the chances of ratification, militates against too easy a rush to use extralegal powers.

#### *ii. Open and Informed Public Deliberation*

The need for ratification, with the concomitant demand for transparency and candid acknowledgment of what has been done, forces the

public to become vested in the outcome. It also promotes public deliberation and discourse about the actions that have been taken on the people’s behalf. Such deliberation is important both as a deterrent against governmental agents exercising too easily unlawful powers and as a means of providing opportunity for an open discussion of such matters in light of the recent crisis and in anticipation of possible future ones.

Take this example of how opportunities for deliberation and responsibility sharing work together. The use of extralegal measures by government during an emergency involves the risk of exposing the actors to, for example, criminal charges or civil suits. Thus, it is quite likely that upon the termination of the crisis the legislature will be called upon to ratify governmental actions by, for example, passing acts of indemnity.<sup>13</sup> This process presents the legislative branch of government with an opportunity to review the actions of the government and assess them ex post, relieved from the pressures of the crisis, before deciding whether to ratify them. The appeal to the legislature to ratify the actions of the government may further invoke public deliberation and force the legislative branch to take an affirmative stand on issues connected with the emergency. This is of special significance when one considers the reluctance of legislatures to assume responsibility in times of emergency, thus satisfying themselves with acquiescence in actions taken by the executive.<sup>14</sup>

The Extra-Legal Measures model is a process-oriented model. It seeks to promote deliberation, both among members of the public at large and among public officials. At the same time, ex post ratification may be accorded to egregious actions that practically subvert the foundations of the constitutional and legal structures. Taken to its logical extreme, the model does not seem to incorporate substantive limitations on the range of possible extralegal actions taken in the face of emergency that may later be ratified. If no substantive restraint on the ability to obtain public ratification for extralegal actions exists, are we left with anything short of totalitarianism? As Judge Learned Hand suggested, if the people elect to go down that route, no constitution, no law, and no court would save them from the loss of liberty.<sup>15</sup> Eventually, ideas such as liberty, freedom, democracy, and rule of law must exist in the hearts of the people if they are to survive the whirlwind of crisis and emergency. If they are not there to begin with, neither model of emergency powers is likely to help much. At the same time, the Extra-Legal Measures model

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does not make extralegal actions and constitutionally permissible acts equal in obligation and force under the constitutional scheme.<sup>16</sup> The former are not made legal or constitutional as a result of the necessity of the situation. Furthermore, as the legal consequences (including the individual liability of acting officials) of the two categories of actions are markedly different, the fact that an action is branded “extralegal” raises the costs of undertaking it. Permitting extralegal actions under the proposed Extra-Legal Measures model does not undermine the theory of a written constitution.

Violating the law seems to undermine a habit of rule obedience. At the same time, open acknowledgment of the extralegal nature of an act minimizes the risks of depreciation in the value of the rule of law. Such depreciation may result from public perceptions that either (1) the government can provide itself with whatever powers it wishes while acting within the framework of the legal system, thus exercising an almost unfettered discretion under the aegis of the law (under the models of accommodation), or (2) the legal system is utopian and must not be allowed to interfere with the effort to overcome the crisis (under the Business as Usual model). This may lead to a loss of confidence in the protection that the legal system affords individual rights. The idea of legal and constitutional constraints will thus be gravely assaulted. Demonstration of elasticity and flexibility may be interpreted by members of the relevant community as a sign that “everything goes,” i.e., that everything can be made legal if only the government wishes it to be so.

### *iii. Precedents: Hard Cases Make Bad Law*

The unlawfulness of extralegal measures and powers should serve as a warning that such actions are for “this time and this time only”—i.e., resulting from the exceptional nature of the threat forced on the nation. By refraining from introducing any changes into the existing preemergency legal system, either by way of direct modification or by way of interpretation, the Extra-Legal Measures model avoids the creation of legal precedents that would be integrated into the normal system of laws. Justice Jackson’s celebrated dissenting opinion in *Korematsu*<sup>17</sup>, charts a similar course. Rejecting the Business as Usual model, Justice Jackson suggested that:

When an area is so beset that it must be put under military control at all, the paramount consideration is that its measures be successful, rather than legal. The armed services

must protect a society, not merely its Constitution...Defense measures will not, and often should not, be held within the limits that bind civil authority in peace.<sup>18</sup>

He then went on to reject the possibility of accommodation and express his support for taking extraconstitutional measures:

But if we cannot confine military expedients by the Constitution, neither would I distort the Constitution to approve all that the military may deem expedient...[A] judicial construction of the due process clause that will sustain this order is a far more subtle blow to liberty than the promulgation of the order itself. A military order, however unconstitutional, is not apt to last longer than the military emergency...But once a judicial opinion rationalizes such an order to show that it conforms to the Constitution, or rather rationalizes the Constitution to show that the Constitution sanctions such an order, the Court for all time has validated the principle of racial discrimination in criminal procedure and of transplanting American citizens. The principle then lies about like a loaded weapon ready for the hand of any authority that can bring forward a plausible claim of an urgent need.<sup>19</sup>

Indeed, recognizing a separate reality of extralegal activity in the face of emergency may help in maintaining the integrity of the ordinary legal system. Hard cases make bad laws. Times of emergency make some of the hardest of cases. Keeping the ordinary legal system clean and distinct from the dirty and messy reality of emergency prevents the perversion of that system in order to give answers to the hard, exceptional cases. Ordinary rules need not be modified or adapted so as to facilitate governmental crisis measures. Insofar as exceptional measures are required to deal with the crisis, these measures are viewed precisely as such, “exceptional.” They are not allowed to penetrate the ordinary legal system and “contaminate” it. Once an emergency has terminated, a return to normalcy may be possible without the ordinary legal system being marred by scars of emergency legislation or by interpretive stretch marks. One of the main goals of terrorism is to push the state to adapt itself to meet the terrorist threat on its own turf. Under the Extra-Legal Measures model, while government and its agents sink lower in their fight against terrorism, the legal system remains afloat above the muddy water’s surface.

#### IV. Concluding Remarks

National emergencies are a test of faith—faith in ourselves, in our ability to cope and emerge victorious in the face of adversity, and in principles that we hold to be “fundamental.” Crises and exigencies put to the test our faith in the rule of law, in human rights and civil liberties, and in their application not only to ourselves but to those different from us. Such times are also a test of our faith in government and in its ability to “do the right thing” even in hard times, in our moral convictions, and in our political and legal processes and institutions. Experience tells us, however, that times of emergency call for something more than faith.

This Article suggests that it is time to examine carefully the basic assumptions that underlie the fight against terrorism and other emergencies.

Now—when the world is trying to come to terms with the aftermath of the terrorist attacks of September 11th, the implications of the war on terrorism, and the war in Iraq—may be the worst of times to engage in such probing review. But as issues pertaining to emergency powers are now more on the public’s mind than they have ever been before, it may also be the best of times.

#### Footnotes

† Associate Professor, University of Minnesota Law School. For a fuller exposition of the ideas presented in this Article see Oren Gross, *Chaos and Rules: Should Responses to Violent Crises Always Be Constitutional?*, 112 YALE L. J. 1011 (2003).

1. Bruce Ackerman, *Don’t Panic*, LONDON REV. BOOKS, Feb. 7, 2002, at 15.

2. LEARNED HAND, *THE SPIRIT OF LIBERTY: PAPERS AND ADDRESSES OF LEARNED HAND* 189–90 (Irving Dilliard ed., 3d ed. 1960).

3. See *Haig v. Agee*, 453 U.S. 280, 309–10 (1981); *Kennedy v. Mendoza-Martinez*, 372 U.S. 144, 160 (1963) (“[W]hile the Constitution protects against invasions of individual rights, it is not a suicide pact.”); *Terminiello*, 337 U.S. at 37 (Jackson, J., dissenting) (warning that the majority decision in that case might lead to the conversion of the Bill of Rights into a suicide pact).

4. Abraham Lincoln, Message to Congress in Special Session (July 4, 1861), in 4 THE COLLECTED WORKS OF ABRAHAM LINCOLN 421,

429–30 (Roy P. Basler ed., 1953) [hereinafter COLLECTED WORKS].

5. “To do a great right, do a little wrong” is the advice given by Bassanio to Portia. WILLIAM SHAKESPEARE, *THE MERCHANT OF VENICE* act 4, sc. 1, l. 211 (S. Greenblatt ed., W.W. Norton & Co. 1997).

6. 71 U.S. (4 Wall.) 2, 120–21 (1866).

7. See *Schenck v. United States*, 249 U.S. 47, 52 (1919) (adopting the “clear and present danger” test).

8. 395 U.S. 444, 448–49 (1969) (offering the modern “incitement test”).

9. GUY HOWARD DODGE, *BENJAMIN CONSTANT’S PHILOSOPHY OF LIBERALISM: A STUDY IN POLITICS AND RELIGION* 101 (1980) (quoting Benjamin Constant).

10. See Frederick Schauer, *Giving Reasons*, 47 STAN. L. REV. 633, 656–57 (1995).

11. *Korematsu v. United States*, 323 U.S. 214, 248 (1944) (Jackson, J., dissenting).

12. FRANCIS BIDDLE, IN *BRIEF AUTHORITY* 219 (1962).

13. See *Mitchell v. Clark*, 110 U.S. 633, 640 (1884).

14. See, e.g., HAROLD HONGJU KOH, *THE NATIONAL SECURITY CONSTITUTION: SHARING POWER AFTER THE IRAN-CONTRA AFFAIR* 117–33 (1990).

15. See HAND, *supra* note 2, at 189–90.

16. See *Marbury v. Madison*, 5 U.S. (1 Cranch) 137, 176–77 (1803).

17. *Korematsu v. United States*, 323 U.S. 214 (1944).

18. *Id.*

19. *Id.* at 244–46 (Jackson, J., dissenting). ■

# RACE TO THE COURTHOUSE



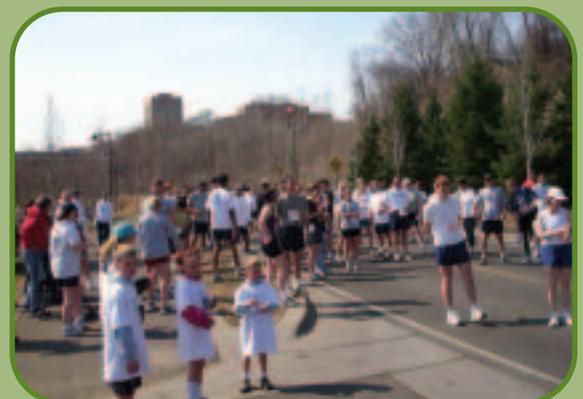
## LRAP/MN 5K Fun Run Walk

Held Sunday, April 13, 2003



In an effort to **raise awareness** of the Loan Repayment Assistance Program (“LRAP”), and to **build community spirit** both inside and outside of the Law School, the first 5K Fun Run and Walk was held on Sunday, April 13, 2003. It was a **fun-filled** “Race to the (Federal) Courthouse” along River Road from the Law School.

More than **170** men, women, and children came to enjoy the early spring day, and **contribute** to a **worthy cause**. The LRAP program provides financial assistance for repayment of educational loans for those lawyers who choose to pursue public-interest work. Dean Alex Johnson hopes the 5K Fun Run and Walk becomes an annual **tradition**, and one which provides continuous support to LRAP.

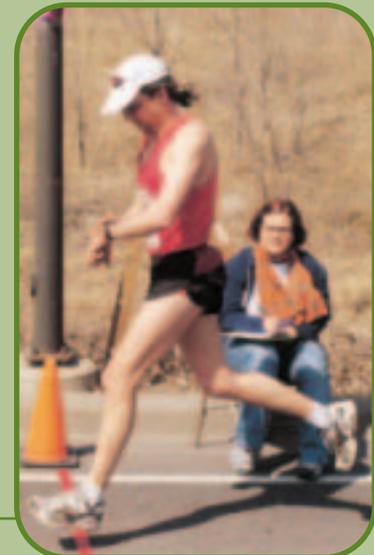
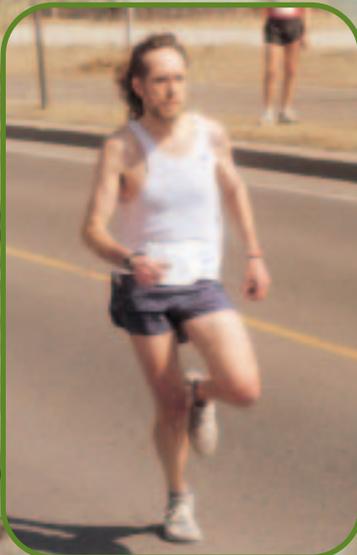






# FINISHERS

1. Austin Miller (#1670) 16:31
2. Kirt Gortlke (#600) 17:47
3. David Krall (#592) 17:59
4. Unknown (#584) 18:42
5. Dan Sacco (#1639) 18:52
6. Ryan Strom (#1657) 19:54
7. Larry McDonough (#1659) 20:03
8. Dan Lund (#547) 20:15
9. Joe Kurr (#579) 20:50
10. Thomas Basting (#538) 21:00
11. Kate Glover (#557) 21:19
12. J.D. Schmid (#1638) 21:24
13. David McGowan (#883) 21:26
14. Joshua Dubois (#594) 21:46
15. Eric Gottwald (#553) 21:48
16. Unknown (#562) 21:50
17. Adrian Egger (#1606) 21:52
18. Eric Sjoding (#1653) 22:01
19. Shane Simonds (#1637) 22:17
20. Michelle Steffen (#1658) 22:22
21. Justin Page (#596) 23:20
22. Dean Alex Johnson (#551) 23:48
23. (TIED) Ryan Miske (#1633)  
AND Martina Sailer (#1646) 23:54
24. Brian Shekleton (#1668) 24:22





# What About Bob?

## The Bruininks Era Begins

By *Burl Gilyard*

There's a plaque prominently displayed in the office of University President Robert Bruininks which touts a quote from Winston Churchill, "No hour of life is lost that is spent in the saddle." The quip speaks to the Bruininks's passion for riding and showing saddlebred horses, a pastime he took up at the age of 57 as "a form of personal therapy," but it could just as well refer to his new job.

Bruininks, now 61, hasn't had much time to lose since settling into his saddle as the fifteenth president of the University of Minnesota. After President Mark Yudof announced his departure from the University, Bruininks was asked to serve as Interim President last August. The Board of Regents unanimously selected Bruininks as the permanent President in November. Bruininks inherited a particularly difficult budget climate for the University, with the state of Minnesota facing billions in deficits and looking to cut spending at every turn.

Bruininks, an effective lieutenant to Yudof, is widely seen within the University community and beyond as a man with the right combination of intellect, creativity, political savvy, and pragmatism to guide the University through difficult times. Bruininks makes no bones about the bleakness of current fiscal realities, but also stresses the importance of maintaining excellence at the University during tough times.

"I think we have to be fiscally responsible and use the state's resources, and the resources that we get through other sources, in highly efficient and productive ways. That's all about retaining a high level of accountability as a leading academic institution," says Bruininks. "I have adopted a theme for this administration which is, 'Advancing Knowledge: A Partner for the Public Good.' The spirit of the University of Minnesota for the past 152 years has been to

continually advance the frontiers of knowledge, but to do so in a way that contributes substantially to the state's economy and quality of life."

Bruininks came up through the ranks the old-fashioned way, beginning his career in the classroom. He joined the University staff in 1968 as an assistant professor in educational psychology. He served as dean of the College of Education and Human Development from 1991–1997, then Executive Vice President and Provost under Yudof from 1997–2002. The depth and range of his experience at the University gives Bruininks a unique perspective into how the University functions from the ground up. Despite his new title, everyone still refers to the down-to-earth Bruininks as Bob.

Russ Bennett, L.L.B. '52 and a principal at the Minneapolis law firm of Gray Plant Mooty, has long been active in philanthropic efforts on behalf of the University. He currently serves as National Chairman for the successful private fundraising drive Campaign Minnesota, slated to conclude this year. "I have had the pleasure of working for nine University presidents as a volunteer, dating back to Dr. [James] Morrill in 1946," reflects Bennett. "I am very, very high on Bob Bruininks and his wife Susan [Hagstrum]. We're really served, I think, by two outstanding people."

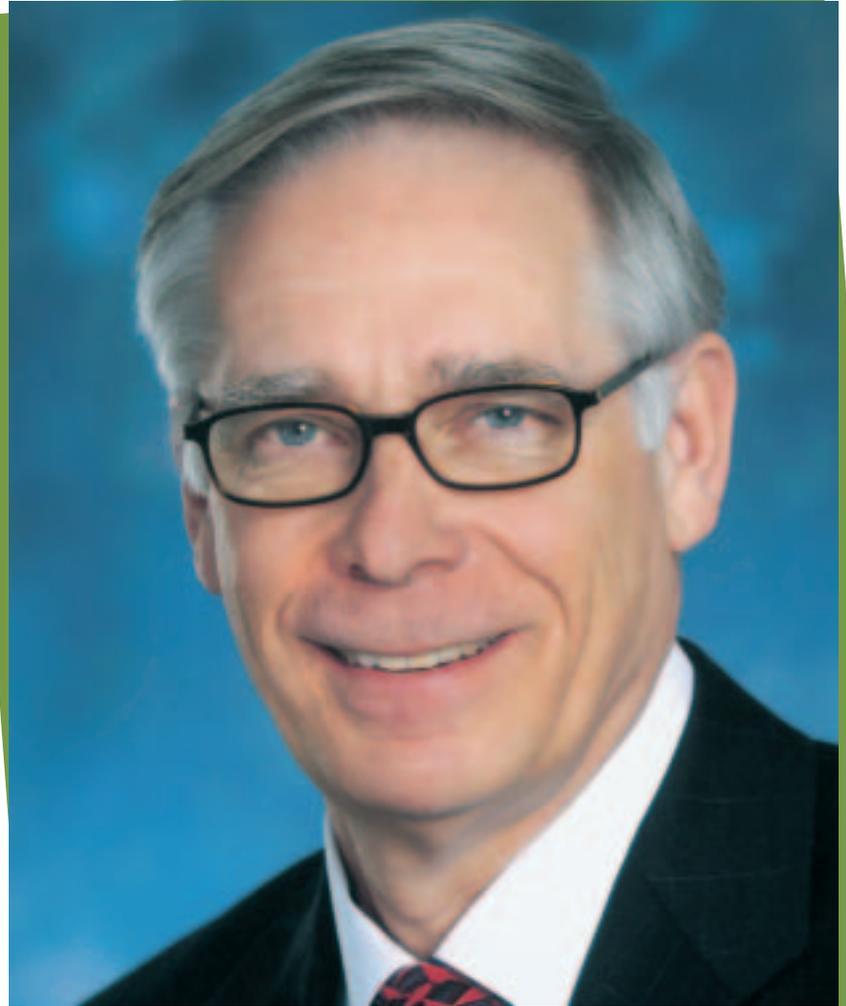
Bennett has already been impressed with Bruininks's stewardship of the University during the current fiscal and political climate. "I really admire his upbeat, positive attitude because I think confronted with those facts it would be easy to get depressed, and he hasn't done that," says Bennett. "He knows the place better than anybody else after 30 years. He has a very good sense of humility and humor. Sometimes in academia you can run into prima donnas. He takes the job very seriously, but he does not take himself very seriously, and I think that's an ideal combination for a president."

Bruininks was instrumental in the hiring of University of Minnesota Law School Dean Alex M. Johnson, Jr., in 2002, conducting the initial final interviews with three finalists for the job. Johnson touts Bruininks as the right kind of president in uncertain times for the University and public higher education in general.

“He’s realistic, he’s honest: he knows the people, he knows the institution. He’s talented, knowledgeable, communicates well, and has a great love for the University and I think will do very well in these tough budgetary times in protecting its core,” says Johnson. “Instead of submitting a budget that would be DOA, he put together a budget that was very realistic.” Johnson says that according to what he’s heard from his contacts at the Capitol, “There was great respect for what Bob and his staff have put forward.”

Johnson praises Bruininks as a “straight shooter.” Johnson says, “He doesn’t play games. You don’t get a sense that he’s only telling you what you want to hear. You don’t get a sense that he’s some bureaucrat that’s far removed—he’s been one of us. His style is open, inclusive, but informative. At other schools there have been, on occasion, presidents who have an antipathy towards the professional schools, and there’s none of that with Bob. He’s worked with me to protect our resources and augment our resources where necessary.”

Bruininks, in turn, has high praise for Johnson’s leadership of the Law School. “My sense is we have one of the nation’s finest public law schools, and it’s not only outstanding for its research and scholarship, but its approach to education,” says Bruininks. “It’s one of the best, most productive law schools in the United States.”



Despite the uncertain economic outlook for the University, Bruininks pledges that he is committed to maintaining that level of excellence at the Law School. “As Executive Vice President and Provost I worked with Dean [E. Thomas] Sullivan and Dean Johnson to make some very important investments in the Law School,” reflects Bruininks. “We’ve made some very powerful investments in the Law School and I believe our Law School must continue to be a priority.” ■

*Burl Gilyard is a Minneapolis-based freelance writer and a 1992 graduate of the University of Minnesota.*

# A World of Opportunity

By Joel Hoekstra

For several years, Naoya Yoshida has worked in Tokyo as a lawyer for Mitsubishi Heavy Industries. His education at a Japanese law school helped the 30-year-old attorney land the job, but quite often his daily tasks for the global manufacturing giant require a familiarity with American law. "It's important for me to have a vast knowledge of the U.S. legal system," he says. "It's not the world system, of course, but it is very important in international business."



Naoya Yoshida

To expand and hone his understanding of the U.S. courts and American business practices, Yoshida spent the past academic year as a student at the University of Minnesota Law School. Enrolled in the school's LL.M. Program for Foreign Lawyers, he sampled widely from the curriculum available to J.D. candidates, choosing courses in contracts, corporations, and other topics that are likely to surface in some of the product-liability cases and other matters that he'll face when he returns to Mitsubishi. "I'm currently taking a seminar on international contracts, where students are hypothetically negotiating a contract," Yoshida said earlier this spring. "It's just like a real situation."

Exposing foreign students to "real" situations and "real" Americans lies at the heart of the Law School's LL.M. program. The 10-year-old program has become increasingly popular in recent years, drawing more than 380 applicants last year, says Meredith McQuaid, Associate Dean of Students and Director of International and Graduate Programs. From this competitive pool, just 40 individuals, ranging in age and experience, are accepted each year. Past partici-



pants have hailed from Korea, China, Thailand, Egypt, Saudi Arabia, Russia, Panama, Columbia, Brazil, France, Germany, and Italy, among other countries. Along with foreign students enrolled in the J.D. program and American attendees who have spent time overseas, the LL.M. students lend an international perspective to Law School classes.

"I think the faculty are often thrilled to have a French person or a Russian, for example, in their environmental law classes," McQuaid says, "because they bring a comparative perspective to American traditions."



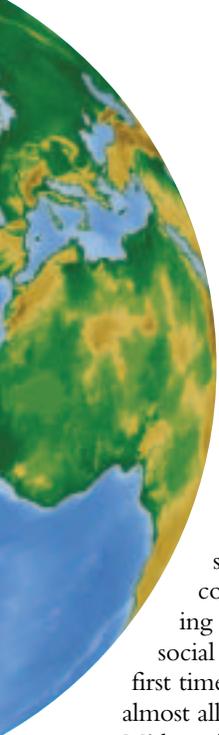
Meredith McQuaid

Many of the top U.S. law schools have developed LL.M. programs for foreign lawyers in recent years, eager to capitalize on overseas interest in American law and the revenues that such programs generate. Many multinationals are willing to pay handsomely for a chance to have their attorneys educated at a top U.S. law school. The University of Minnesota, McQuaid says, earns more than \$700,000 annually from its international LL.M. program. "There's a benefit all around," she says.

But Minnesota's program is unique in two ways: First, participants are allowed to enroll in any of the Law School's courses, rather than just courses tailored specifically for foreign LL.M. candidates, as is the case at other institu-



Université Jean Moulin,  
Lyon, France



tions. Second, each new batch of LL.M. students is given a crash course in the basics of American law and legal education prior to taking on a full course load. The three-week intensive session, taught by McQuaid each August, features lectures from faculty in civil procedure, torts, constitutional law, and criminal law. Students tour Minnesota's capitol building and the judicial center in St. Paul. They meet with state Supreme Court justices, and connect with fellow participants during group lunches and specially planned social events. "For many of them, it's their first time in the United States, and for almost all of them, it's their first time in the Midwest," McQuaid says, "so we cover some cultural issues too."



**Rafael Pablo Canedo**

Rafael Pablo Canedo, a 29-year-old lawyer from Bolivia, came to the United States in March 2002 to work on his English and enrolled in the LL.M. program last August. A native of Tarija, in southern Bolivia, he earned his law degree from the Universidad

Juan Misael Saracho in 1999 and spent several years prosecuting government-corruption cases. But recent reforms in the Bolivian courts, enacted by the national government at the behest of international organizations, have changed the country's criminal procedure so that it now resembles the American system. Lawyers must meet higher standards, and citizens play a greater role in the process. "Cases used to last two or three years," Canedo says. "There was huge retardation of justice. Now it's improving. Trials finish in two or three days."

Canedo, who eventually plans to return to Bolivia to work on government or social issues, says his time in Minnesota has been invaluable in understanding the contrasts between a common law legal system and a statutory system. "We've had the opportunity to listen to different lectures from professionals and to learn much about American law," he says. "Many of us [in the LL.M. program] had no idea what U.S. law was like before we came here."

**W**hile the LL.M. Program for Foreign Lawyers injects some international perspectives into the Law School's classes and community, it's not the only way in which the Law School encourages international exchange.



**Susan Reed**

Each year, roughly 30 American students take advantage of the Law School's international exchange programs, says Meredith McQuaid, Associate Dean of Students and Director of International and Graduate Programs. "Primarily they are students who have never had the chance to go abroad," she says. Participants can choose among six exchange opportunities. J.D. candidates with skills in French, German, or Spanish can study international and comparative law through exchange programs with universities in Lyon, France; Berlin or Hamburg, Germany; or Barcelona, Spain. Those who prefer to deal with coursework in a more familiar tongue can take advantage of exchanges with institutions that offer classes in English: Katholieke University in the Netherlands, University College Dublin in Ireland, or the University of Uppsala in Sweden.



**Sumbal Mahmud**

Law School student Sumbal Mahmud spent fall semester of her final year studying in the Netherlands. "I'm paying for it now," she said, midway through spring semester. "I'm taking three bar classes. But I wasn't going to pass up the opportunity." The experience was well-worth it—particularly the grounding she got in European Union law. "I wanted to meet international law students," Mahmud says of her reasons for going. "And I got a better appreciation of the American legal system."

Susan Reed, a third-year student, says her experience studying law in Barcelona gave her a fresh perspective on American legal education. "There was a lot of focus on memorization," she says with amazement. "We [in Minnesota] don't even have closed book tests. But in Spain, I had to memorize a great deal of legislation."

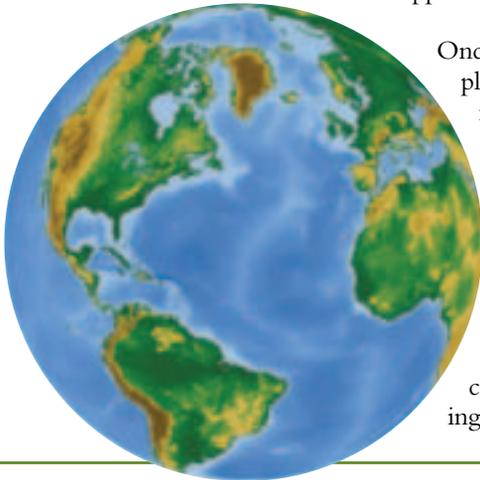
The experience also fueled Reed's interest in immigration law. Spain, with its proximity to North Africa, attracts many immigrants.

Part of Reed's decision to enroll at Minnesota was the Law School's openness to international education. "A lot of schools make it seem like something you could do if you work hard and set it up yourself," Reed says. "But the University promotes itself as a place that encourages study abroad."

McQuaid says the international experiences also often push American students, like it or not, to become more articulate—particularly when it comes to explaining U.S. culture, politics, and foreign policy. "They find that they're constantly called upon to speak for or defend America," she observes. "In some ways they're forced into the experience of minorities in this country: They may not be the best person to speak for their country or way of life, but they're the only candidate. Students are challenged to articulate things that they've never had to explain before."

The Law School also provides foreign students a chance to view the American legal system through a judge's eyes. Each spring McQuaid offers to pair participants with area judges working in state and municipal courts. This year, 15 students took advantage of the opportunity.

Once the intensive August session is completed and the academic year has begun, foreign LL.M. participants find themselves in regular classes, grappling with standard coursework. Some work out special arrangements with faculty for taking tests or writing papers, but the Law School generally assumes their study skills and English are proficient enough to carry them though. (McQuaid interviews each potential candidate over the phone before accepting them to the program.)



But these newcomers-to-America are not left without a safety net. Each student is matched with an American mentor, a Law School student who can assist them with renting an apartment or parsing American culture. Each relationship is unique, depending on the needs of the foreign student, but mentors and foreign students are invited to special events, like a hayride and square dance, and often bump into each other in classes.



Alison McElroy

Second-year student Alison McElroy served as a mentor for a student from Russia, Tamirlan Kurbanov, this past year. "We had a class together in the fall, and this spring we were both in a seminar on national emergency and

When people from different countries connect, attitudes change. And for some, like Matt Thibodeau ('97) and the children he met in a Bolivian orphanage a few years ago, the effects can be life-changing. Thibodeau is the founder of Fondo Soñar—literally "Dream Fund" in Spanish—a fledgling non-profit organization that raises money to help orphaned Bolivian teens attend technical school or college. In addition to paying fees for tuition and books, the fund offsets students' living costs. Without such financing, Thibodeau says, the youth would have to devote themselves full-time to low-paying jobs, rather than spending half their day studying and attending classes.

"It's the best thing I've ever done in my life," Thibodeau says of his volunteer efforts to cull contributions for the fund.

To date, more than \$150,000 has been raised for Fondo Soñar, including a \$5,000 contribution from the Twin Cities law firm of Sieben, Grose, Von Holtum and Carey, where Thibodeau worked while enrolled at the Law School. A 97-year-old St. Paul woman made the largest gift, placing \$100,000 in a trust for the program.

A civil litigator, Thibodeau currently works at a small Duluth firm established by his father, Thibodeau, Johnson & Feriancek. But he spends most of his free time talking to Rotary clubs and church groups about the challenges faced by Bolivian orphans, and twice a year he travels to Cochabamba, a city of 200,000 residents and the site of the scholarship program. Thibodeau worked at the orphanage, Amanecer, while living and working in Bolivia in the late 1990s.

More than 350 kids live in the 12 houses of Amanecer, which is run by an 80-year-old nun and roughly 50 paid staff members and volunteers. Most of the kids are boys—young men aged 4 to 20 who have been abused, abandoned, or driven from home. Thibodeau was surprised at how bright and energetic the older boys were. Yet they seemed without role models and without ambitions.

One night he asked a pair of them what they hoped to become as adults. "I said, 'What do you dream of being?' And they said, 'Huh?' I thought, 'Oh no, my Spanish is incorrect. This isn't getting through.' But when I asked the question again, they said, 'You don't understand. We're poor; we're the wrong race. We don't have a chance to dream.'"

Thibodeau returned to the United States determined to find a way to expand the opportunities available to these kids. Education, he believed, was the answer. A small amount of money would allow them to enroll at a technical school or university. He set up Fondo Soñar.

Staff at the orphanage and other authorities were initially resistant to the idea, but Thibodeau put to use the advocacy skills he learned in law school and won them over. An inhouse tutor now helps the kids develop their study skills, and several high-school-age students are prepping for college. Next January, two or three will enroll at Catholic University, Thibodeau predicts. One kid is already enrolled at a technical college—studying in the morning, working in the afternoon, and taking classes in the evening,

"I've learned a whole different value system," Thibodeau says of his volunteer work. "These have been the most personally rewarding three years of my life."

Matt Thibodeau can be reached at [mrt@trialgroupnorth.com](mailto:mrt@trialgroupnorth.com)

the law,” McElroy says. Mentors sometimes help the foreign students with buying books and choosing classes, but McElroy and Kurbanov mostly talk politics. “I have a lot of interest in international studies,” says McElroy, who spent a summer in Russia as an undergraduate and plans to study in France next year. The best part of being a mentor, she adds, “is learning about another culture.”



Jenny Ryan

Being a stranger in a strange land isn't easy, however. Jenny Ryan, a third-year student, has worked with students from Ireland and the Netherlands during the past two years, helping them with cultural and logistical issues. Both found Midwesterners to be reserved and hard to

engage, Ryan says. They also weren't always sure what they could ask of their professors. Could they request extensions or not? How many hours did most students spend preparing for class. “They want the same experience as everyone else,” Ryan says of the LL.M. students, “but the study norms here are very different from those in the places they come from.”

Surprisingly, it's often the most mundane needs that raise the biggest hurdles, Ryan says. “It's often difficult if you don't know the campus to know where to go for a variety of daily stuff and things that happen,” she explains. “They're fully capable of finding friends who they can socialize with. But it's a different thing to have someone who you can call to take you to the airport or who can tell you where to find a bike. That's more of a family role.”

Despite the occasional cultural gaffe or vocabulary gap, most foreign LL.M. participants have little difficulty navigating Law School life. American students, say many, go out of their way to be helpful and accommodating, and the faculty and staff readily offer assistance when asked. “Every day is busy,” says Naoya Yoshida. “I'm interested in taking all kinds of classes here, including tort and criminal stuff, but given the time restrictions, I've had to concentrate on the things I need to learn most.” ■

*Joel Hoekstra profiled Law School Dean Alex M. Johnson Jr. in the Fall issue. He writes for numerous regional and national publications.*



Jason Hutchinson and Melanie Kleiss

## Three Law Students “Impress the President”

On Wednesday, February 26, 2003, the University student community held the first “Student Expo on Public Engagement and Research Initiatives” at the University of Minnesota as part of the Presidential Inaugural Activities during Founder's Week. Each department on the Twin Cities campus was invited to nominate students for participation in the event. The “Impress the President” event was an excellent opportunity for the Law School to highlight student research and public engagement initiatives to the University President and community, state legislators, and the general public.

Among the many talented students at the Law School, three were nominated and all were selected for participation in the event. **Jason Hutchinson** (class of 2003), was invited to give a demonstration of his work on the International Human Rights website, and in particular its extensive library; **Melanie Kleiss** (class of 2004) presented her work on “Environmental Justice Now: A Proposal for the Twin Cities;” **Andrew Pritchard** (class of 2004), presented his work on “News Coverage and Legal Affairs—How a Legal Education Can be Useful in Journalism,” and was invited to participate in a roundtable discussion with President Robert Bruninks. Congratulations to all three students, and thanks for spreading the word about our outstanding student body! ■



# The Wizard of Fritz

Performed by Theater of the Relatively Talentless (TORT)

*“Blame it all on my grades,  
They couldn’t be saved  
At the end of my first year.  
And so I gave up,  
I bought a big truck  
And I started to drink lots of beer.”*

So sang 1L Patrick Stura in the crowd-pleasing number “Friends in Both Dakotas,” set to the tune of Garth Brooks’ “Friends in Low Places.” Stura and nearly 50 other students, faculty, and alumni teamed up to put on the first ever Minnesota Law School Musical at the Open Book, a small theater on Washington Avenue, on February 27 and 28, 2003.

The musical was put on by Theater of the Relatively Talentless (TORT), a new student organization at the University of Minnesota

Photo above: Technical Producer Aleava Hager (2L) pauses to check the credits during rehearsal at The Loft.

Law School. TORT was founded in 2002 for the sole purpose of writing, producing, and staging a full-scale satirical parody of a well-known Broadway musical set in the context of a law school. This year's production was entitled *The Wizard of Fritz*, a parody of *The Wizard of Oz*.

The show was a raging success, thanks to a hilarious original script written by a four-member team of students lead by 3L Matt Moore, and excellent direction by 3L Margaret Kaplan. In fact, the show was so popular that TORT easily sold out a last-minute encore performance on March 6.

The show featured a seven-piece pit band under the direction of 1L Peter Rasmussen, who also arranged most of the music. Faculty actors included Dean Alex Johnson and Professors Maury Landsman, Jim Chen, John Matheson, Guy-Uriel Charles and Ann Burkhart. Justice Paul Anderson, Justice Joan Erickson Lancaster, and Vice President Walter Mondale made cameo appearances. The student body produced some incredible hidden talent in the areas of acting, singing, and technical work.

The plot followed a starry-eyed Dorothy (1L Talia Kolluri) through three years of law school, who is hounded by the Wicked Witch of the West Bank (1L Areti Georgopoulos). Fortunately she has the help of a brainless Snowman (1L Ben Rudolf), a Cowardly Gopher (1L Nick Wallace), and the silver-clad but heartless Tim Weisman (1L Matt Helland). The show poked fun at everything from law school social life to job interviews to Minnesota geography.

Producers Eric Hanson (3L) and Bethany Tkach (3L) were among TORT's founding members. They believed that beginning theater tradition at Minnesota would serve an array of worthwhile goals. First, it provides a creative outlet that is otherwise notably absent from the narrowly focused, competitive law school experience. It allows students and faculty alike to step out of their traditional roles and take a fresh look at their institution and their profession. Perhaps most importantly, it might also help foster a stronger sense of community within the law school and between the school and its alumni.

It seems that TORT is well on its way to achieving its goal of starting an annual tradition at the Law School. Plans for next year's production are already underway, so be on the lookout for upcoming information on TORT.



Professor Maury Landsman portrays Professor Censure, admonishing the Cowardly Gopher on his first day of Torts.



Walter Mondale, former U.S. Vice President, met the cast before the March 6th encore performance.

Fortunately for those who missed the show, *The Wizard of Fritz* was caught on tape. If you would like a copy of the DVD, contact TORT at [MNDancinlawyers@hotmail.com](mailto:MNDancinlawyers@hotmail.com). ■



## Human Rights Center Hosts Youth Summit on Indigenous Peoples' Human Rights

**O**n March 14-16, 2003, a National Youth Summit on the Rights of Indigenous Peoples was held at the Law School. This three-day event was sponsored by the University of Minnesota Human Rights Center and Amnesty International USA.

Amnesty International is well-known for its work defending civil and political rights worldwide; however this conference illustrated the recent shift in Amnesty's mission to include the protection of social, economic and cultural rights. This new direction for Amnesty International resonates with the work that the

The Opening Reception for the Youth Summit was sponsored by the Human Rights Center and numerous student organizations, including The American Indian Studies Department, La Raza Student Cultural Center, and Amnesty International Law Chapter at the University of Minnesota, Hamline Law School's Latino Law Student Association and Native American Law Student Association, and William Mitchell College of Law's Office of Multicultural Affairs.

Top: Susana De Leon of the Quetzal Coatlicue Mexica-Aztec Dancers performed in Spannaus Commons at the Law School.



Pictured from backrow left: Michelle Dann, Tonya Gonnella Frichner (Onondaga), American Indian Law Alliance, Bill Means (Lakota) International Indian Treaty Council, Chief Oren Lyon (Onondaga National Council of Chiefs, Haudenosaunee), Steven Newcomb (Shawnee/Lenape), Indigenous Law Institute, Joshua Cooper, Amnesty International USA, and Amalia Anderson, the Human Rights Center. Front Row from left: Carrie Dann (Western Shoshone), Chief Raymond Yowell (Western Shoshone), Mililani Trask (Kanaka Maoli), Jim Anderson (Mendota Mdewakanton Dakota), Folabi Olagbaju, Amnesty International USA, and Kristi and Skyler Rudelius-Palmer, the Human Rights Center.

Human Rights Center has been doing through its Indigenous Peoples' Human Rights Project. The conference was attended by activists youth and elders from many Indigenous nations and countries around the world, including many who have worked for decades in their communities and in the international arena to protect Indigenous Peoples' human rights.

More than 100 young people with varying degrees of experience as activists were introduced to the instruments of universal human rights which are used in the defense of the rights of Indigenous Peoples. Elders and other experienced leaders gave presentations about the history of the international indigenist movement and its focus on Human Rights and the international arena, as well as detailed case studies of the current struggles of the Western Shoshone (U.S.) and Lubicon Lake Cree (Canada). Among the distinguished speakers was Robert Gough ('91), Intertribal Council on Utility Policy, speaking on Indige-

nous Peoples and Rights to Sustainable Development. Amnesty International presenters also provided information about the organization's activism, letter-writing and lobbying strategies. The conference participants put these strategies into action on their own, passing a resolution opposed to oil development in the Arctic National Wildlife Refuge which would jeopardize the way of life of the Gwich'in people. Chief Evon Peter (Gwich'in) thanked the youth participants for their passion and commitment to improve all our relations. The conference wrapped up as smaller groups of participants (organized by geographic region) made plans for strategic campaigns in their communities. ■

# Law School News and Events

## Clinic Successful in Defending Federal Court Lawsuit Challenging Minnesota State Funding of Services for Battered Women and Victims of Domestic Violence

Clinic students under the supervision of Beverly Balos and Maury Landsman were successful in defending a challenge to Minnesota state funding for services for battered women and victims of domestic violence. Clinic students represented three community programs that provide services to battered women and victims of domestic violence in a lawsuit challenging their funding as unconstitutional gender discrimination.

The lawsuit challenging the State of Minnesota's statutory response to the problem of domestic violence was filed in Federal District Court in the summer of 2000. A group of male plaintiffs sued a number of Minnesota state officials claiming that the statutory scheme that provides funding for services to victims of domestic violence is unconstitutional because it discriminates against men. The Plaintiffs purported to represent a class of all male taxpayers in the state. The Plaintiffs claimed that the State of Minnesota was discriminating illegally on the basis of gender against them as male taxpayers because the funding for services for victims of domestic violence is primarily used to assist battered women. To our knowledge, this was the first such suit to be brought in the country. The original Defendants were commissioners of various Minnesota state departments that play a role in administering the statutes which provide a funding mechanism to distribute funds for programs that serve battered women and victims of domestic violence. Three programs from urban and rural parts of Minnesota that serve battered women and victims of domestic violence asked the court to allow them to intervene as Defendants. This request was made to the court so that the perspective of community programs that actually have the experience and expertise in providing a range of vital services to battered women and victims of domestic violence could be brought before the court. The clinic represented these three programs.

The original State Defendants and the three community programs argued in a summary judgment motion that the federal court had no jurisdiction to hear the matter because the Plaintiffs had no standing to sue because they did not allege that they experienced a direct injury. Defendants further argued that even if Plaintiffs did have standing, the lawsuit should be dismissed because the statutes are constitutional.

The Defendants maintained that the challenged statutory scheme is not discriminatory because men and women are not similarly situated with respect to domestic violence. The community programs and the State submitted evidence that there is no consensus in the scientific community that violence against men by their intimate partners constitutes a major social problem. At the same time, there is a consensus that violence against women by their intimate partners is a major social problem. Additionally, domestic violence has a disproportionate impact on women. Many studies show a much higher rate of violence directed at female partners. Women are more severely injured than men by the violence inflicted by their partners. When women do use violence against intimate partners it is more often in self-defense. Due to range of societal circumstances, women generally require more resources and services than men to escape abusive relationships. Minnesota has recognized the historical and continuing problem of domestic violence and crafted laws to best effectuate meaningful legal protections and services. Finally, the programs and the State pointed out to the court that in fact men do receive services when they are victims of domestic abuse and as the federal district court noted in its decision, “[n]o plaintiff has shown that he was unable to obtain shelter services because he was male.”

The Federal District Court ruled on August 13, 2001, that the Plaintiffs did not have standing, because they failed to demonstrate, much less allege, that they suffered a direct “injury in fact.” The suit was dismissed with prejudice.

The Plaintiffs appealed the District Court ruling to the Eighth Circuit Court of Appeals. Oral argument was held in May, 2002. In September, the Eighth Circuit affirmed the district court dismissal. The Plaintiffs then filed a Petition for a Writ of Certiorari in the United States Supreme Court in October of 2002. In January of 2003 the United States Supreme Court denied the petition for the writ. As a result of this ruling, the use of state funding to meet the needs of battered women and victims of domestic violence remains a legitimate priority. ■

## Symposium: The Interface Between Antitrust Law and Intellectual Property Law

On Saturday, February 8, 2003, the University of Minnesota Law School and the *Minnesota Law Review* hosted a national symposium to discuss issues surrounding the nexus between intellectual property law and antitrust law. The symposium consisted of three panel discussions, each featuring nationally recognized scholars.



The first panel addressed intellectual property law and antitrust law in the context of patent settlements. The principal article was delivered by Mark Lemley of the University of California, Berkeley. Commentator panelists included Maureen O'Rourke, of Boston University; and Thomas Cotter, of the University of Florida. Professor Cotter was unable to attend the symposium, but highlights from his paper were delivered by Professor Lemley. The panel was moderated by Jim Chen, of the University of Minnesota.

The second panel considered the normative and structural consideration at the antitrust and intellectual property law interface. Papers were delivered by Daniel Farber and Brett McDonnell of the University of Minnesota, who co-authored their article; and Michael Meurer of Boston University. Ruth Okediji of the University of Minnesota acted as moderator.

The third panel addressed standards setting and the antitrust laws. Ed Sherry, of LECG, LLC, delivered the

Left to right: Daniel Gifford, University of Minnesota; Jim Chen, University of Minnesota; Maureen O'Rourke, Boston University; Michael Meurer, Boston University; Mark Lemley, University of California, Berkeley; Brett McDonnell, University of Minnesota; Michael Carrier, Rutgers University; Daniel Farber, University of Minnesota; Edward Sherry, LECG, LLC; Ruth Okediji, University of Minnesota; Mark Patterson, Fordham University

principal article. Commentator articles were delivered by Mark Patterson, of Fordham University; Michael Carrier, of Rutgers University; and David McGowan, of the University of Minnesota. Professor McGowan also served as moderator.

Symposium essays will be published in Volume 87, Issue 6 of the *Minnesota Law Review*. ■

### Symposium: The Interface Between Antitrust Law and Intellectual Property Law

February 8, 2003  
University of Minnesota Law School and  
*Minnesota Law Review*

#### 9:00 a.m. Welcome and Introductions

Jennifer Tschida, *Minnesota Law Review*  
Daniel Gifford, University of Minnesota

#### 9:10 a.m. Patent Settlements, Intellectual Property Law, and the Antitrust Laws

Moderator: Jim Chen, University of Minnesota  
Mark Lemley, University of California, Berkeley  
Maureen O'Rourke, Boston University

#### 10:30 a.m. The Allocation of Rights and Interests in Intellectual Property Policy and Antitrust Law

Moderator: Ruth Okediji, University of Minnesota  
Daniel Farber, University of Minnesota  
Brett McDonnell, University of Minnesota  
Michael Meurer, Boston University

#### 1:15 p.m. Standards Setting and Antitrust

Moderator: David McGowan,  
University of Minnesota  
Edward Sherry, LECG, LLC  
Mark Patterson, Fordham University  
Michael Carrier, Rutgers University

## Institute on Criminal Justice Closes Doors

The Institute on Criminal Justice was dissolved on February 14, 2003 based on a lack of funds to support the Institute's continued operation. The Institute was developed initially with core funding from the Edna McConnell Clark Foundation and supported primarily by contracts with state and local governments to carry out specific projects.

The mission of the Institute was to seek to improve the quality of criminal and juvenile justice policy and administration on local, state, and national levels. The Institute provided unbiased, practical information and policy analysis regarding critical criminal justice issues. Its strengths included its multi-disciplinary approach with varied methodologies, its breadth of subject area expertise, and its presence in the University of Minnesota Law School, including its association with the Law School's talented criminal justice faculty and access to the University's other resources.

The work of the Institute was recognized by the criminal justice community as "thorough, thoughtful and well presented work," "accomplished substantive and important work that did influence public policy and service delivery," "programs like this help make the system better," "very professional and useful work," "a good research organization," "blended academic and practical considerations," and "developed some excellent initiatives."

"I am enormously impressed by the work of the Institute," Dean Johnson said, "and am deeply saddened to see that work end prematurely. Nevertheless, we should all remember the groundbreaking work and reports produced by the Institute and thank the co-directors, Janet Wigg and Professor Richard Frase, for their tremendous contributions to the Law School and the legal community for the last several years."



A reception was held to honor the accomplishments of the Institute on Criminal Justice on February 13, 2003. Pictured are Janet Wiig (left) and Professor Richard Frase (right), Co-Directors of the Institute, with Emily Shapiro (center), Senior Planning and Policy Associate.



A sample of the numerous reports completed by the members of the Institute.



Dean Johnson with Amy Klobuchar, the Hennepin County Attorney, who spoke at the Lex Alumni Holiday Luncheon on December 10, 2002 at the University of Minnesota McNamara Alumni Center and (above) guests attending the luncheon.

## A Sherlock Holmes Gala

By Katherine Hedin, Curator of Rare Books and Special Collections

On December 3, 2002, the Riesenfeld Rare Books Research Center came alive with Victorian chamber music, an English High Tea, and an enthusiastic gathering of alumni, faculty and friends of the Law Library in celebration of the world's most famous detective—Sherlock Holmes. Together we examined those books which Sherlock Holmes, “book and pipe by his chair,” read on December days at 221B Baker Street when, as described in *The Five Orange Pips*, “the wind cried and sobbed like a child in the chimney.”



Mary Rumsey

*“If we must admit that Sherlock Holmes never lived, we can, at least, console ourselves that he will never die.”*

—Mary Rumsey

The Gala featured “Sherlock Holmes and the Law,” an exhibition from the Arthur C. Pulling Rare Books Collection. Included in the exhibition were some of the books which Sherlock Holmes read and studied: law books, collections of trials, and street literature on sensational trials. The exhibition also featured works from The Sherlock Holmes Collections of the University of Minnesota Library, the world's largest gathering of material related to Sherlock Holmes and Sir Arthur Conan Doyle. The exhibition included a selection of first editions of the novels and short stories that recount the adventures of Sherlock Holmes and his assistant, Dr. Watson. Original artwork, posters and playbills from Holmes productions, and manuscripts from the Sherlock Holmes Collections were also featured.

The highlight of the afternoon was a short talk by Mary Rumsey, Foreign, Comparative and International Law Librarian and the Law Library's resident Sherlockian expert. “Sherlock Holmes,” explained Ms. Rumsey, “has become more real than most historical figures, more tangible than the yellow London fog through which he pursued evildoers... In recent testimony to Holmes's passage from literature to reality, the British Royal Society of Chemistry awarded Holmes an honorary membership this fall.” Although lawyers and legal scholars have long debated whether Holmes received formal legal training, Ms. Rumsey presented convincing evidence that Holmes had actually received training as a librarian! ■



Dean Johnson and Judge David Doty



Thomas and Camilla Reiersgard



Associate Dean Joan S. Howland

## Summer CLE

The University of Minnesota Law School presented its Twenty-Fourth Annual Summer Program of Continuing Legal Education Seminars May 27–June 6, 2003.

The seminars, that featured University of Minnesota Law School Faculty, are listed below:

May 27 M.B.A. Concepts for Lawyers  
**Professor Edward S. Adams**

May 28 Understanding the Current State of the Law in Trademarks, Copyright and Related Areas of Intellectual Property  
**Professor Daniel J. Gifford**

May 29 War, National Security and the Constitution: The Constitution After September 11  
**Professor Michael Stokes Paulsen**

May 30 Campaign Finance and the Bipartisan Campaign Reform Act of 2002  
**Professor Guy-Uriel Charles**

May 31 The First Amendment in the Rehnquist Court  
**Professor Adam Samaha**

June 2 Environmental Law: Basic Principles and Emerging Issues  
**Professor Daniel A. Farber**

June 3 New Developments in Internet Law  
**Professor Dan Burk**

June 4 State and Local Taxation: The Law and Policy of Multijurisdictional Taxation  
**Professor Ferdinand P. Schoettle**

June 5 Systematic Statutory Interpretation  
**Professor Jim Chen**

June 6 Ethics and the Practice of Criminal Law (morning) and Identifying and Eliminating Bias and Discrimination in the Legal System: Codes, Cases and Other Constraints (afternoon)  
**Professor Stephen M. Simon**

6.5 General credits were requested for each seminar.  
3.0 Ethics credits were requested for June 6 (morning).  
2.0 Elimination of Bias credits were requested for June 6 (afternoon).

**For information on future CLE courses, email [LSCLE@umn.edu](mailto:LSCLE@umn.edu) or call 612-625-6674.**

## New Course on Depositions

Clinical Professor Brad Clary, Associate Dean Sharon Reich Paulsen, and Adjunct Professor Mike Vanselow have created a pioneering new course at the Law School designed to help prepare students who may be future civil litigators. Lawyers who practice in the area of civil litigation spend much of their time preparing for, defending, and taking depositions under Rules 26 through 32, and Rule 37 of the federal rules of civil procedure. Depositions provide a civil litigator with his or her most frequent formal encounters with potential witnesses and with the development of facts upon which disputes will be won and lost. The object of the course is to acquaint students with the basics of handling these encounters.



Witness Trevor Copeland and deposing counsel Cheri Ness shake hands before a deposition, while defending counsel Bethany Trach looks on.

This is a two-credit course devoted exclusively to deposition practice. The class meets twice per week on Monday and Thursday late afternoons. Each class session lasts a full two hours. There are a total of eleven sessions.

The course uses a “learn-by-doing” approach. The twelve students play assigned roles as witnesses, defending lawyers, and deposing lawyers, using facts out of two mock case files modeled upon real litigation matters. Court reporter Shannon Davis has volunteered her time to “report” the depositions. Experts Arthur Cobb and Dr. George Logan have similarly volunteered time to help train the students. The text is *Successful First Depositions*, authored by Clary, Reich Paulsen, and Vanselow, and published by West Group. ■

# Eighteenth Annual William E. McGee National Civil Rights Moot Court Competition

*February 27–28, and March 1, 2003*



Final panel members Chief Judge Hansen and Hennepin County District Court Judge Lloyd B. Zimmerman are flanked on the left by the winners of the William E. McGee National Civil Rights Moot Court Competition, Devon Cornell, who also won Best Oral Advocate Over-all, and Jenny-Brook Condon of Seton Hall School of Law, and on the right by Hannah Buch and Anissa Floyd of the Second Place team from Tulane Law School.

The Eighteenth Annual William E. McGee National Civil Rights Moot Court Competition was held February 27–28, and March 1, 2003 at the University of Minnesota Law School. Thirty-three teams from law schools across the nation participated.

This year's competition focused on the conflict between our need for heightened security in the wake of 9/11, and our desires to preserve individual liberties and an open society. Each team briefed and argued *Detroit Free Press v. Ashcroft*, 303 F.3d 681 (6th Cir. 2002) in which the Sixth Circuit Court of Appeals held that the First Amendment of the United States' Constitution provides the public and the press with a right of access to deportation hearings, and *Haddad v. Ashcroft*, 221 F. Supp. 2d 799 (E.D. Mich. 2002), in which a district court in the Sixth Circuit ruled that INS detainees have a right to public deportation hearings pursuant to the Fifth Amendment.

The Honorable David R. Hansen, Chief Judge of the United States Court of Appeals Eighth Circuit, Justice John E. Simonett of the Minnesota Supreme Court (retired) and Judges E. Anne McKinsey and Lloyd Zimmerman of the Hennepin County District Court presided over the final argument in Lockhart Hall.



The Honorable David R. Hansen, Chief Judge of the Eighth Circuit Court of Appeals and Dean Alex M. Johnson, Jr. present William E. McGee National Civil Rights Moot Court Competition Third Place honors to the Rachel Wrightson, Jaclyn Braunstein and Rachel Braunstein team from Brooklyn Law School.

Seton Hall School of Law won First Place. Tulane Law School came in second. Brooklyn Law School won Third Place. Mercer Law School Team 1 finished fourth and won Best Brief honors. Devon Corneal of Seton Hall School of Law won Best Oral Advocate Over-All with Matt Talcott of



Chief Judge Hansen and Judge Zimmerman present Best Brief honors to Bryan Bates, Chris Harne and Joel Brown of Mercer Law School Team 1, which also won Fourth Place.



Competition Faculty Advisor Carl Warren congratulates Matt Talcott of George Mason University School of Law on receiving honorable mention for finishing a close second in the Best Oral Advocate Over-all competition.

George Mason University School of Law receiving an honorable mention. Joseph Rich of Villanova School of Law Team 1 won Best Oral Advocate of the Preliminary Rounds.

Other teams that advanced to the Quarter-Finals included: University of Minnesota Law School Team 2, George Mason University School of Law, New York University School of Law and Hamline University School of Law Team 2. Other teams that advanced to the Round of Sixteen included: Campbell University School of Law Team 1, University of

Wisconsin Law School Team 2, DePaul University College of Law, Hamline University School of Law Team 1, New York Law School, Stetson, University of Minnesota Law School Team 1 and Northeastern University School of Law Team 2.

Over 130 members of the bar and bench volunteered to judge briefs, oral arguments or both. Prior to the competition, the Civil Rights Moot Court offered the volunteer judges a free Continuing Legal Education program, "Do Democracy and Justice Exist in Secret? The Constitutionality

## 2002–03 Moot Courts Competitions

### Environmental Moot Court

The Minnesota team (Jill Brown, Melanie Kleiss and David Zoll) competed at the National Environmental Law Moot Court Competition in White Plains, New York. In the first preliminary round, Melanie Kleiss was named the best oralist. In the second preliminary round, Jill Brown was named the Runner-up best oralist. In the third preliminary round, Jill Brown was named the best oralist. All of the oralists awards were given to the best oralists in each pool of three teams arguing against each other in each preliminary round.

Our team advanced to the quarterfinals placing them among the top 27 of 71 teams in the competition. Finally, the Minnesota team was awarded the Best Brief award for intervenors. The team was coached by Adjunct Advisor Rick Duncan.

### Intellectual Property Moot Court

The Intellectual Property Giles Sutherland Rich Memorial Moot Court competition has two elements: written briefs and oral argument. The written portion involves the simultaneous preparation of two appellate briefs—one for the appellant and the other for the appellee. The moot court problem this year involved issues of Patent law combined with trademark/trade secret law issues. The oral portion involves arguing an appeal with a partner to a panel of three judges and has two phases: regional competitions and the national competition.

The 2002–03 IP Moot Court Team that represented the University of Minnesota consisted of Chereé Haswell and JoAnn Seaton. The attorney directors for the University of Minnesota Moot Court Team were Jeffer Ali and Matt Descotch of Merchant & Gould.



Chief Judge Hansen and Judge Zimmerman pose with Best Oral Advocate of the Preliminary Rounds winner Joseph Rich and his coach Danielle Joffee. Mr. Rich was a member of Villanova School of Law Team 1.



William E. McGee National Civil Rights Moot Court Competition administrative team, left to right, Administrative Directors Nicole Morris and Derek Fitch, Research Assistants Nicole J. Kubista (law) and Subramanya Abhishek (computer science), Faculty Advisor Clinical Professor Carl Warren, 2L Staffer Leah Janus and Administrative Director James E. Springer.

of Blanket Closure of Deportation Hearings in the Wake of 9/11.” The program included a panel discussion regarding the legal, constitutional and policy issues involved in cases like *Detroit Free Press* and *North Jersey Media Group, Inc. v. Ashcroft*, 308 F.3d 198 (3rd Cir. 2002), a conflicting decision from the Third Circuit. The panel consisted of Professor Adam Samaha, a visiting scholar at the law school, Professor Jayanth K. Krishnan of William Mitchell College of Law, Karen Ellingson, Esq., Legal Work Coordinator of the Immigrant Law Center of Minnesota and Adjunct Director of the law school’s Immi-

gration Clinic, and Terry M. Louie, Esq., Assistant District Counsel of the St. Paul District Office of the U.S. Immigration and Naturalization Service. Clinical Professor Carl Warren moderated the panel. Professor Ralieggh Hanna Levine of William Mitchell College of Law spoke concerning the standards and the appropriate analysis of constitutional claims in cases like *Detroit Free Press*. Professor Maury Landsman, of the University of Minnesota Law School discussed the distinction between confidentiality and privilege. ■

## International Moot Court

This Spring, the University of Minnesota’s International Moot Court (IMC) won first place for the Best Team Memorials in the regional competition. On February 28, the IMC Competition Team traveled to Columbia, Missouri to compete in the U.S. Central Regional Tournament. Minnesota received the award for writing the best pair of Memorials out of the ten law schools that competed. By winning the award in the regional tournament, the Memorials go on to compete in the Hardy Dillard Competition which brings together the top Memorials from all the Regional and National Rounds of the Jessup Competition. The 2002–03 IMC team included: Mollie Smith, Shane Placek, Eve Mannoia, Molly Mackey and Stuart Nelson. The Team’s Adjunct Advisor was Michael Dolan.

## National Moot Court

The National Moot court teams did very well in regional intercollegiate competition again this year. Our Petitioner’s Team (Mark Astling, Heidi Heier Johnston and Heather Sia) had a record of four wins and one loss. They were undefeated until the semi-final round, when they lost to the eventual region champions from Drake. Our Respondent’s Team (Sean Dillon, Cindy Hanneken, and Steve Scrogam) had five wins and one loss. They were undefeated until the championship argument. The Y co-won the regional Best Respondent’s Brief Trophy. Steve Scrogam won the individual best oral advocate prize. Cindy Hanneken finished second and Sean Dillon finished fifth. They represented Region 14 in the national final rounds in New York in January, where they were undefeated until the round of sixteen. This is the University of Minnesota’s tenth trip to the national finals in the last twenty-one years. The team was coached by Professor Brad Clary and Adjunct Co-Advisor Kristin Sankovitz.

# The Best Laid Plans...

By Meredith McQuaid

Some very many months (and even two years) ago, when the world was different than it is today, the graduating class of 2001 made a generous donation of new and used law books to the University of Pristina, Faculty of Law, Pristina, Kosovo. The donation was made following a visit to the University of Minnesota Law School by several faculty members of the University of Pristina. Law School students were told of the destruction of the Law Faculty's building, offices, and library during the course of the war in Kosovo, and of the many hurdles the professors faced in getting the Law Faculty started again. The story of the impact the war had on law students in Kosovo deeply affected several students on the eve of their own graduation from the University of Minnesota. The Class of 2001 voted to collect and send new and used law books to their colleagues in Kosovo, and the project was born.

More than 2001 books were collected by the Class of 2001. West Publishing generously donated many volumes of new reference books toward the cause. Students collected new and used law school texts from students and professors at all of the

local law schools. The collection ranged from 2001 USCA, to casebooks, treatises, nutshells, hornbooks on a wide variety of subjects, as well as some great American novels. Thousands of books were packed up and addressed to the University of Pristina Faculty of Law. And the class of 2001 graduated with pride for this and many other accomplishments.

But then, events in Kosovo, and subsequent events in the U.S. made shipment of the books to Pristina difficult for many months. By the time the University of Pristina notified the Law School that, at long last, the time was right to receive the books, the anticipated method of shipping via diplomatic channels was no longer available. The Law School then sought quotes for shipment of the books, only to learn that it would cost over \$7,000. And, though the Class of 2001 had donated their time and energy to the book project, there was no money for shipping. And so the books sat in sealed boxes for several more months. Class of 2001 graduate Tracy Fisher became re-involved in the project, writing to many firms seeking donations for help with shipping. And, thanks to the generosity of

three law firms in the Twin Cities, **Lindquist & Vennum P.L.L.P.**, **Maslon Edelman Borman & Brand L.L.P.**, and **Briggs and Morgan, P.A.** the project was back on, though more limited in scope.

Finally, on December 16, 2002, seventeen boxes of books were picked up by a U.S. carrier for the initial stages of transport to the University of Kosovo. This too was a protracted ordeal, as flight schedules to Kosovo change frequently. On Janu-

ary 24, 2003, the books collected by the Class of 2001, and shipped with donations from Minnesota law firms were placed on the shelves of the University of Pristina, Faculty of Law library. An official ceremony was held to acknowledge receipt of the books, and the generosity of time, money, work and thought included in the donation. Now, on a daily basis, Minnesota law graduates interact with law students in Pristina, Kosovo through the gift of books. ■



Justice Rosalie Wahl spoke "On Being A Public Citizen In Dark Times," February 19, 2003 at the Law School. The presentation was co-sponsored by Lex Alumnae and the St. Paul Civic and Cultural Club.

## Revamping the Law on ARTs: From IVF to Surrogate Motherhood

The Consortium on Law and Values in Health, Environment & the Life Sciences hosted a symposium on the legal and ethical issues surrounding assisted reproductive technologies on January 28, 2003 at the Humphrey Center.

“Minnesota legislators introduced numerous bills on assisted reproductive technologies in the last legislative session,” said Professor Susan Wolf, Chair of the Consortium on Law and Values. “But so far, none of the bills have passed. There are contentious issues around this subject: Should surrogate motherhood be banned? Should embryo donation be allowed? Can we clarify who the parents are of children born from collaborative reproduction? Can you use an individual’s sperm or embryo after he or she dies?”

Professor Wolf and other experts in the field discussed the laws currently in place in Minnesota and how they compare to the laws in other states. Professor Alan DeCherney, Professor and Director of Reproductive Endocrinology at UCLA’s Department of Obstetrics and Gynecology, and Editor of the journal *Fertility and Sterility*, discussed “Making Babies: What Do We Do & What Law Do We Need?” Minnesota experts who participated in a panel discussion following Dr. DeCherney’s presentation were Lisa Erickson, MD (Center for Reproductive Medicine), Professor Carol Tauer, PhD (Professor Emeritus of Philosophy, College of St. Catherine; Visiting Faculty, Center for Bioethics, University of Minnesota), Professor Chris De Jonge, PhD (Direc-



Professor Susan Wolf opened the symposium with a discussion of a model bill she drafted on assisted reproductive technologies.



Professor Alan DeCherney presented “Making Babies: What Do We Do & What Law Do We Need?”.



Professors Jeff Kahn and John Robertson discussing the details of Professor Wolf’s model bill.

tor of Laboratories, Reproductive Medicine Center; Department of Obstetrics and Gynecology, University of Minnesota), and Deborah Simmons, PhD (Reproductive Medicine and Infertility Associates; Partners in Psychiatry and Psychology).

Professor John Robertson, Vinson & Elkins Professor of Law at the University of Texas School of Law, presented “Crafting Good Law on Assisted Reproduction.” A panel discussion followed, involving Representative Kathy Tingelstad (Minnesota House of Representatives), Sean B. Tipton (Director of Public Affairs, American Society for Reproductive Medicine), Tom Prichard, JD, MPP (President, Minnesota Family Council), Daonna Depoister (President, RESOLVE of Minnesota), and Steven H. Snyder, JD, (Snyder Law Office).

Professor Wolf opened the symposium with a discussion of a model bill she drafted on these issues. The model bill and other information on current Minnesota law may be found on the conference website at <http://www.lifesci.consortium.umn.edu/conferences/art.php>. Since the symposium took place, Representative Tingelstad has introduced two bills in the current legislative session dealing with egg donors and surrogate carriers. ■

# Faegre & Benson Lecture Series on Law, Health & the Life Sciences

The 2002–03 Faegre & Benson Lecture Series on Law, Health & the Life Sciences focused on public health issues. The Series is co-sponsored by the Consortium on Law and Values in Health, Environment & the Life Sciences and the Joint Degree Program in Law, Health & the Life Sciences. Featured speakers were:



Professor Wendy Mariner, JD, LLM, MPH presented “Balancing Public Health and Patients’ Rights: The Threat of Bioterrorism.”

**October 16, 2002**

**Professor Wendy Mariner, JD, LLM, MPH**, Professor of Health Law and Director of the Patient’s Rights Program at Boston Uni-

versity School of Public Health, presented “**Balancing Public Health and Patients’ Rights: The Threat of Bioterrorism.**” Professor Mariner explored the differences between medicine and public health in their approach to patients’ rights and explored how rights can be protected while preparing for bioterrorism. **Commissioner Jan Malcolm** (Minnesota Department of Health) and **Professor Debra DeBruin, PhD** (Center for Bioethics, University of Minnesota) provided commentary after the presentation.



Professor Allan Brandt, PhD presented “The Litigation Revolution: Tobacco Liability and the Rise of the New Public Health.” Professor Brandt is flanked by Hubert H. Humphrey III and Ron James, above.

**December 4, 2002**

**Professor Allan Brandt, PhD**, Amalie Moses Kass Professor of the History of Medicine at Harvard Medical School, presented “**The Litigation Revolution: Tobacco Liability and the Rise of the New Public**

**Health.**” Professor Brandt traced the history of tobacco liability in the U.S., considered the underlying ethical issues at stake in the adjudication of responsibility for the harms produced by smoking, and assessed the future of liability as a strategy for reducing harms to the public’s health. **Hubert H. Humphrey, III, JD** (Humphrey Institute for Public Affairs), who as former Attorney General of Minnesota played a pivotal role in tobacco litigation, and **Ron James** (President & CEO, Center for Ethical Business Cultures) responded to the presentation.



Professor Ronald Bayer, PhD discussed “Restrictions on Privacy, Autonomy & Liberty: Lessons from Infectious Disease Control.”

**April 9, 2003**

**Professor Ronald Bayer, PhD**, Professor of Public Health and co-Director of the Program in the History of Medicine and Public Health at the Mailman

School of Public Health at Columbia University, discussed “**Restrictions on Privacy, Autonomy & Liberty: Lessons from Infectious Disease Control.**” Professor Bayer considered how conflicts between infectious disease control and individual rights have been shaped by changing conceptions of the appropriate relationship between the individual and the state. Minnesota State Epidemiologist **Harry F. Hull, MD**, and **Professor Steven Miles, MD** (Center for Bioethics and Medical School, University of Minnesota) offered comments after Professor Bayer’s lecture.

The Consortium and Joint Degree Program are grateful for Faegre & Benson’s support of this Lecture Series. Videos of all lectures may be found online at [http://www.jointdegree.umn.edu/conferences/lecture\\_series.php](http://www.jointdegree.umn.edu/conferences/lecture_series.php). ■

## Farewell to Nora Klaphake



Nora Klaphake

Nora Klaphake, class of 1999, served as the Associate Director of Career Services and the Director of Employee Relations and Outreach for over three years at the University Law School. She accepted a position in December as the first Director of Attorney Recruiting and Training at the Maslon Edelman Borman & Brand law firm.

## New Clinic Wins Award

The Metropolitan Economic Development Association (MEDA) awarded the Multi-Profession Business Law Clinic, Faegre & Benson, and Lurie Besikof Lapidus its 2002 Volunteer Collaboration of the Year. The new clinic, which started in August 2002, provides only transactional legal services to businesses. Attorneys from Faegre & Benson and accountants from Lurie Besikof Lapidus supervise third-year law students in cases that involve problems such as start up documents and lease agreements. The primary source of Clinic clients was MEDA, a nonprofit organization that provides assistance to businesses that are owned and managed by ethnic minority residents of Minnesota. All clients qualified for pro bono services within the law and accounting firm definitions. ■

## Hello to Steven Marchese



Steven Marchese

Steven Marchese has been appointed Assistant Director of Career Services. Mr. Marchese received his B.A. at Yale University and his J.D. at New York University. Immediately following law school, he clerked for Judge Wayne Alley, U.S. District Court for Western District of Oklahoma, and then for Michigan Supreme Court Judge Charles Levin. Mr. Marchese has worked at Dykema Gossett in Detroit, at Harter, Secrest & Emery in Syracuse, New York, and at Larson King in St. Paul.

On the academic side, he taught clinic courses and legal writing as a Legal Writing Professor at Syracuse University College of Law. Mr. Marchese has engaged in a substantial amount of pro bono work, and he has served in internships with the Public Defender Service of the District of Columbia and the ACLU of Northern California Death Penalty Project. He currently is on the Minneapolis Civil Rights Commission and also has served on the Board of Directors of Legal Services of Central New York and the New York Civil Liberties Union, Central New York Chapter. He will begin on June 16, 2003.

# Endowed Chair Established in Recognition of Extraordinary Commitment and Service to the University

Russell & Elizabeth Bennett have been recognized by the University of Minnesota and the University of Minnesota Foundation for the numerous years they have given as leaders to the University with the establishment of the Russell M. and Elizabeth M. Bennett Chair in Excellence. The interdisciplinary University-wide chair will rotate on a five-year basis. The chair will be housed first in the Law School and will be assigned at the discretion of the Dean of the Graduate School and the Executive Vice President & Provost. The chair will recognize outstanding faculty who are focused on interdisciplinary teaching and research.

Russ received his B.S. in 1950 and his J.D. in 1952 and Beth is a 1950 graduate of the College of Education and Human Development. Russ led both the 1985–88 and the 1996–2003 capital campaigns and the Bennetts have spent countless hours leading and participating in hundreds of events in Minnesota and around the country.

**Congratulations to  
Russ and Beth Bennett!**

## Law School Board of Visitors Meeting May 2, 2003



Scenes from the luncheon for board members, faculty and students.

# The Black Law Student Association hosted a reception for alumni and friends from the legal community on February 27, 2003 in Mondale Hall.



Steven Smith and B. Todd Jones ('83)



Blessing Rugara ('98) and Gloria Stamps-Smith



Bernice Fields ('79) and Linda Rurangirwa (3L)



Mark Hall ('88), Tamela Woods (2L) and Eric Rucker ('93)



Nicole Morris (3L), Marcus Campbell ('97), Monique Allen (3L) and Professor Guy Charles



Dean Johnson introduces Professor Ruth Okediji to alumni and friends. First year students Imad Al-Deen Abcullah and Khari Hornsby are in the background.



Rose McGee, widow of competition namesake, William E. McGee, welcomed competition participants at the opening banquet and gave a stirring reading of her poem, "I Remember Exactly Where I Was (A Tribute to The Wellstones and All The Warriors)".



The law schools Robins, Kaplan, Miller and Ciresi Concourse provided a beautiful setting for the competition's opening banquet.



Jazz keyboardist, Larry McDonough, entertains McGee Competition participants at the opening banquet. Larry McDonough is the adjunct Director of the University of Minnesota Law School's Housing Clinic.

## 2002–03 Moot Courts Competitions

### Labor Moot Court

The University of Minnesota Law School's Wagner Labor Moot Court recently competed at the annual Wagner competition hosted by the New York Law School in New York City. Competition team members Michael Zupke, Matthew Taylor and Jana O'Leary Sullivan participated in three preliminary rounds before advancing to the octo-finals. All of Minnesota's competitors from the preliminary rounds also advanced to the octo-finals, including the winner of the competition, Loyola University. The team was coached by Adjunct Advisors Anne Krisnik and Leslie Watson.

### Civil Rights Moot Court

Two Minnesota Teams participated in the William E. McGee National Civil Rights Moot Court Competition. Team 1 consisting of Amy Conairis and Nicki Kralik had the seventh ranked brief and advanced to the Round of Sixteen with Ms. Kralik tying for eighth in the Best Oral Advocate of the Preliminary Rounds ranking. Team 2, consisting of Kendra Brodin and Sam Glover had the fourth ranked brief, was seeded first at the close of the Preliminary Rounds and advanced to the Quarter-Final Round. Ms. Brodin achieved a seventh place in the Best Oral Advocate Over-All ranking.

# Distinguished Alumni

## John J. Swenson Class of 1967

John J. Swenson, a litigation partner in the Los Angeles office of Gibson, Dunn & Crutcher, joined the firm in 1967. Mr. Swenson concentrates his practice in trial and appellate practice areas of antitrust, commercial litigation, product liability and the defense of insurance companies in punitive damage litigation. Mr. Swenson has handled numerous punitive damage jury trials on behalf of a major insurer and other large corporations nationwide.



John J. Swenson

He received his Bachelor of Arts degree in 1964 and his law degree, *magna cum laude*, in 1967 from the University of Minnesota.

Mr. Swenson is a fellow in the American College of Trial Lawyers. He is a member of the American, California and Los Angeles County Bar Associations. Mr. Swenson has lectured on commercial litigation matters to groups of corporate counsel

and manufacturers and also has appeared on various panels and spoken to in-house counsel and legal administrators. As a member of the Board of Editorial Consultants of Matthew Bender's *Bad Faith Law Update*, Mr. Swenson writes monthly comments on legal issues. In addition, he is on the Editorial Advisory Board of *Inside Litigation*, a national monthly publication dealing with emerging issues of interest to the commercial litigator.

## Michael A. Wolff Class of 1970

Michael A. Wolff served on the faculty of St. Louis University School of Law for 23 years before being appointed to the Supreme Court of Missouri in August, 1998.

During his time in St. Louis, Judge Wolff was active in trial practice and was co-author of *Federal Jury Practice and Instructions*, which is used by lawyers and judges throughout the country. As a law school teacher, he taught civil procedure, trial advocacy, criminal sentencing, constitutional law, administrative law, health law, among other courses. He was recipient of the law school's Teaching Excellence Award. Judge Wolff also was on the faculty of St. Louis University's School of Medicine and School of Public Health.

In 1992, while on leave from the University, Judge Wolff was Transition Director for Governor-elect Mel Carnahan, served as Chief counsel to the Governor (1993-94), and was Special Counsel to the Governor (1994-1998) after returning to the law school. As special Counsel, Judge Wolff was active in seeking solutions, including legislation that passed in 1998, for dealing with the problems of urban schools after the end of court ordered desegregation.



Michael A. Wolff

Judge Wolff also served from 1983-1998 as Chairman of the Board of Trustees of the Missouri Consolidated Health Care Plan, the health insurance program for public employees. Judge Wolff was a candidate for Attorney General in 1988 and 1992.

In addition to The Missouri Bar, Judge Wolff is a member of the Lawyers Association of St. Louis and the Bar Association of Metropolitan St. Louis. He also has served several charitable and education organizations in various capacities.

In his early legal career, Wolff was a federal court law clerk in 1970-71 for Judge Miles W. Lord and served in legal services programs in St. Paul, Minnesota, and Denver, Colorado, and was director of Black Hills Legal Services in Rapid City, South Dakota, from 1973 to 1975. He joined the St. Louis University faculty in 1975.

Judge Wolff was born April 1, 1945, in La Crosse, Wisconsin, and was educated in Catholic grade schools and Lourdes High School in Rochester, Minnesota. He was graduated in 1967 from Dartmouth College, Hanover, New Hampshire, where he was Editor-in-Chief and Chairman of the Board of *The Dartmouth*, the student daily newspaper. He received his law degree with honors from the University of Minnesota Law School in 1970. During law school, he worked as a reporter and copy editor for *The Minneapolis Star*.

## Katherine G. (Kit) Hadley Class of 1980

Kit Hadley is the new Director of the Minneapolis Public Library. Ms. Hadley graduated with a B.A. from Hampshire College in Amherst, Massachusetts in 1975 and received her J.D., *cum laude*, from the University of Minnesota Law School in 1980. She served as a Staff Attorney at Southern Minnesota Regional Legal Services after graduation from law



**Katherine G. Hadley**

school until 1986 when she joined the Legal Services Advocacy Project in St. Paul, Minnesota. In 1989, Ms. Hadley became the Director of Government Affairs at the Minnesota Housing Finance Agency (MHFA), where she was responsible for state and federal legislative matters regarding affordable housing and public finance. She became Deputy Commissioner at MHFA in 1992 and in 1994

was appointed Commissioner. Ms. Hadley headed the cabinet level position under Governors Carlson and Ventura.

Ms. Hadley was an Adjunct Professor at William Mitchell College of Law from 1986 to 1992. She served on the Corporation for Supportive Housing Advisory Board from 1998 to 2002. She was a board member of the Minneapolis Citizen's League (1999–2002) and the National Council of State Housing Agencies (1995–2002). Ms. Hadley also served as Commissioner of the St. Paul Public Housing Authority.

his Caucus to overhaul the property tax system, limit growth in state government and major reforms in K-12 education and state government.

He coached soccer for the South St. Paul Youth Soccer Association (1998) and the Eagan Athletic Association (1998–2002). Governor Pawlenty served as Chairman of the Community Chemical Awareness Action Group from 1983 to 1984 and was a member of the South St. Paul Human Rights Commission from 1981 to 1985.

Governor Pawlenty met his wife, Mary, in law school. Mary Pawlenty serves as a Dakota County District Judge. ■

## Tim Pawlenty

### Class of 1986

**T**im Pawlenty was elected Governor of the State of Minnesota in 2002, taking office in 2003.



**Tim Pawlenty**

Governor Pawlenty grew up in South St. Paul. He received his B.A. in political science in 1983 and his J.D. in 1986 from the University of Minnesota. After law school, the Governor joined the law firm Lefevere, Lefler, Kennedy, O'Brien & Drawz. In 1989, he joined the law firm Rider, Bennett, Egan & Arundel in Minneapolis as a Civil Litigation attorney. He left Rider Bennett in September 2000 and joined WIZMO, Inc., an Internet consulting firm, where he served as Vice President for Corporate Development.

Governor Pawlenty served on the Eagan City Council from 1990 to 1992. He was first elected to the Minnesota House of Representatives in 1992 and was reelected for five terms, serving as Majority Leader beginning in 1998. In 1999, under his leadership, the House Republicans pushed and helped pass the largest tax cut in Minnesota history, which included across-the-board income tax cuts. During the 2001 Legislative and Special Session, then Majority Leader Pawlenty guided

# Class Notes

## 1951

**Edward M. Arundel** was recognized in *The Best Lawyers in America* 2003–2004. He was one of the 29 Minneapolis trusts and estates attorneys chosen. Mr. Arundel is a partner at the law firm Rider, Bennett, Egan & Arundel.

## 1954

**James D. Rogers** was awarded an Honorary “M” at the annual University of Minnesota Athletic Hall of Fame dinner.

## 1956

**Walter F. Mondale** was honored with the 6th Annual Earl Larson Award by the Minnesota Civil Liberties Union. The former U.S. Vice President was given the award for his long career of public service and support of the civil rights and civil liberties of American Citizens. He is a member of the Dorsey & Whitney law firm.

## 1958



Thomas M. Vogt

**Thomas M. Vogt**, one of the founders of Felhaber Larson, Fenlon & Vogt has retired from the law firm after more than 40 years as Legal Counsel. Mr. Vogt’s national reputation as an expert on labor law helped build a significant Labor and Employment practice for the firm.

## 1967

**Patrick Delaney** retired from Lindquist & Vennum at the end of 2002.

**Harris Ravine** was appointed to the board of Fischer Imaging Corporation and Medical Imaging Systems on January 6, 2003. Mr. Ravine, a Senior Partner at Meritage Associates, brings over 20 years of executive expertise in storage and networking technology, board member experience, and technology venture capital activity.

**Richard J. Nygaard** was recognized in *The Best Lawyers in America* 2003–2004. Mr. Nygaard is a partner in the law firm Rider, Bennett, Egan & Arundel and practices in the area of personal injury litigation.

**Dennis J. (Mike) Sullivan** has joined the Quinlivan & Hughes law firm in St. Cloud, Minnesota as Senior Counsel. He practices in the areas of commercial real estate, government and regulatory affairs, and finance.

## 1968

**Glenn R. Ayres** has been elected to a two-year term as President of the Family Firm Institute (FFI). Mr. Ayres, an attorney at the law firm of Fredrikson & Byron in Minneapolis, is a national family business consultant, assisting families in business together with such diverse tasks as ownership and management succession, professionalization of their management team, wealth management and education, and transitions in personal and professional careers.

**Bert McKasy** was appointed by Governor Tim Pawlenty as the acting Chairman of the Metropolitan Airports Commission.

**James R. Schwebel** for the 16th consecutive year has been selected to be included in the 2003–2004 edition of *The Best Lawyers in America*.



Harry Sieben, Jr.

**Harry Sieben, Jr.**, currently president of the personal injury law firm of Sieben, Grose, Von Holtum & Carey, was recently selected for the national legal directory *The Best Lawyers in America* 2003–2004.

**Alan W. Weinblatt** was awarded the first annual A.M. “Sandy” Keith Alternative Dispute Resolution Award by the Ramsey County Dispute Resolution Center. The award, named in honor of retired Minnesota Supreme Court Chief Justice A.M. “Sandy” Keith, recognizes an individual or organization that provides special service to the cause of alternative dispute resolution in the courts. Mr. Weinblatt is a principal of Weinblatt & Gaylord.

## 1969

**Malcolm D. MacGregor** and Mark M. Nolan have joined together, with two other attorneys, to form the law firm Nolan, MacGregor, Thompson & Leighton. The general practice law firm will focus on civil litigation and will be located in St. Paul, Minnesota.

**Reginald D. Steer** joined the law firm of Pillsbury Winthrop in Palo Alto, California.

## 1970

**James R. Crassweller** was named a partner in the Rider, Bennett, Egan & Arundel law firm.

**Duane Paulson** was named a partner in the Real Estate and Commercial Lending practice at Best & Flanagan law firm in Minneapolis.

## 1971

**Richard G. Mark** was named President of the Briggs and Morgan Board of Directors.

## 1974

**Steven B. Schmidt** has been named one of Minnesota's Top 40 Family Law Attorneys by *Minnesota Law & Politics* magazine. Mr. Schmidt is a partner at Rider Bennett Egan & Arundel and is the Chair of its Family Law Practice Group.

**Jeffrey F. Shaw** was named the Treasurer of the Briggs and Morgan Board of Directors.

## 1975

**Steven Fecker** was elected President of the Johnson, Killen & Seiler law firm Board of Directors.

**James Christenson** was named a partner in the Real Estate and Commercial Lending practice at Best & Flanagan law firm in Minneapolis.

## 1976

**Gregory A. Kvam** was named the Assistant Treasurer of the Briggs and Morgan Board of Directors.

**Janie S. Mayeron** has been appointed to the position of United States Magistrate Judge for the District of Minnesota.

## 1977

**Lee Sheehy** has been appointed the Director of the Minneapolis Community Planning and Economic Development Agency.

**Thomas Shroyer** was elected a member of the Board of Directors of Moss & Barnett law firm.

## 1978

**Todd I. Freeman** was named President of The Group Inc. at its annual meeting held January 21–23, 2003 in San Antonio, Texas. Mr. Freeman is the Chief Financial Officer and a shareholder in the Tax, Trusts and Estates Department at Larkin, Hoffman, Daly & Lindgren.

**Michael J. Kusz** has been reelected to a third term as District Judge for Dickinson and Iron Counties in Michigan. He has already served 12+ years on the District Court bench and received a Pathfinder Award from the Michigan Coalition Against Domestic Violence for his work in fast-tracking D.V. cases for trial.

**Robert Pearson** was elected Treasurer of the Johnson, Killen & Seiler law firm Board of Directors.

## 1979

**Tom McDonald** has joined the law firm Baker & Hostetler as a partner. He is a former U.S. ambassador to Zimbabwe and most recently was at Arter & Hadden. Mr. McDonald will concentrate his practice on legislative and government affairs and on international and employment law.

## 1980

**Lawrence Field** has been elected President of The Minnesota Civil Liberties Union (MnCLU). Mr. Field is a 20-year MnCLU member and has served on its Board of Directors since 1999. He is a shareholder and business litigator at Leonard, Street and Deinard law firm.

## 1981

**James J. Bender** has been named Senior Vice President and General Counsel at The Williams Companies in Tulsa, Oklahoma. The company moves, manages and markets a variety of energy products including natural gas, liquid hydrocarbons, petroleum and electricity.

**David E. Moran** has rejoined the law firm Winthrop & Weinstine and will resume his practice in corporate law and finance.

## 1982

**William C. Hicks** was elected to the Board of Directors for the law firm Messerli & Kramer.

**John W. Lang** has been reelected as President of the Board of Directors for Messerli & Kramer law firm.

**Richard Q. Russeth** joined Cognis as General Counsel. Based in Cincinnati, he will oversee the legal team responsible for serving Cognis' North American operations. Cognis is a global specialty chemical company.

## 1983

**Mary R. Vasaly** was elected Chair-elect of the American Bar Association Council of Appellate Lawyers. Ms. Vasaly is a partner in the Maslon Edelman Borman & Brand law firm.

## 1985

**Mark J. Ayotte** was elected to the Briggs and Morgan law firm Board of Directors.



Thomas M. Hughes

**Thomas M. Hughes** was appointed a shareholder in the law firm Felhaber, Larson, Fenlon & Vogt. Mr. Hughes' practice focuses on employee benefits and works in the firm's Minneapolis office.

**Douglas H.R. Olson** joined the Rider, Bennett, Egan & Arundel law firm in the Litigation Department, where he will concentrate his practice in white collar and general criminal defense.

**Susan A. Schneider** was recently granted tenure and promoted to Associate Professor of Law at the University of Arkansas School of Law. Professor Schneider also was elected President of the American Agricultural Law Association.

**Tom Thomas** has joined the Silicon Valley office of Pillsbury Winthrop in Palo Alto, California, where he will serve as co-Chair of the firm's rapidly expanding nanotechnology practice. He was a former partner with Oppenheimer Wolff & Donnelly.

## 1986

**Mary E. Hannon** was appointed to the Tenth Judicial District trial court bench vacancy on July 19, 2002 by Governor Ventura. Judge Hannon has been an Assistant Hennepin County Attorney since 1987.

**Rich Meyer** accepted the position of Vice President of Organizational Advancement at the Minnesota Masonic Homes.

## 1987

**Annette M. Margarit** rejoined the law firm Severson, Sheldon, Dougherty & Molenda and will practice in the labor and employment area.

**Katherine Ellis** joined NATCO Group, Inc. as Senior Vice President and General Counsel effective March 24, 2003. Ms. Ellis was associated with the law firm of Baker & Botts in Houston, Texas from 1987 to 1996. Since 1996, she has held a number of positions covering international, contract, mergers and acquisitions and securities law at Nabors Industries, serving most recently as General Counsel. NATCO Group Inc. is a leading provider of wellhead process equipment, systems and services used in the production of oil and gas.

## 1988

**Toni Halleen** has joined the General Counsel law firm in the Employment Law Group. Ms. Halleen brings extensive background to the firm in the area of employment law. She most recently served as lead in-house employment law counsel for ADC Telecommunications in Eden Prairie.

**Jay Kim** joined the law firm Lindquist & Vennum in an Of Counsel capacity in the firm's Financial Institutions Practice.

## 1989

**Laura L. Daly** has opened the law firm Donna and Daly with David Donna and Ann Seifert.

## 1990

**Peter L. Klenk** has opened his fourth office located in Haddon Heights, New Jersey. After completing his LL.M. in Taxation from NYU Law School, he has focused exclusively on trusts and estates.

## 1991

**Kathy Kowalchyk** was promoted to an income partner of the Merchant & Gould law firm.



**Earle F. Kyle**

**Earle F. Kyle**, Senior Legal Counsel, Litigation, at Medtronic, Inc. in Minneapolis, has been appointed by the Chief Justice of the Minnesota Supreme Court to serve a four-year term on the Minnesota Board of Law Examiners. This appointment continues a family legacy. Earle's mother, Toyse Kyle (former Executive Director of the Minnesota Academic Excellence Foundation, and University of Minnesota alumna), and grandmother, Mary Kyle (former owner and publisher of the *Twin Cities Courier Newspaper*, and University of Minnesota alumna) before her also served on the Board as non-lawyer public members. Among other duties, the Board hears and decides contested cases of applicant admission to the bar and administers the state bar examination.

**Thomas J. Rohleder** has been promoted to the position of Vice President, General Counsel and Corporate Secretary at Community First Bankshares Inc.

**David Wilk** has joined Larson King as a partner.

## 1992

**Christopher Bercaw** has moved his practice from the Dorsey & Whitney Brussels office to the Tokyo office. He is a partner in the firms Corporate Group and works on international commercial transactions, mergers and acquisitions and joint ventures.

**Kimberly Hewitt Boyd** has been named a partner in the law firm Rider, Bennett, Egan & Arundel.

**Deena Bennett** participated on the Survivor show that began February 13, 2003. She and 15 strangers were stranded in a remote section of the Amazon River and had to work together to survive, while eliminating each other one by one every three days. She unfortunately was voted off the island and did not walk away with the \$1,000,000 prize as the sole survivor. Ms. Bennett is a Deputy District Attorney who is assigned to the Sexual Assault Child Abuse Unit in Riverside County in California.

**James K. Lee** has been elected a partner in the law firm Akin Gump Strauss Hauer & Feld. He is a member of the firm's litigation practice group.

## 1993

**Woodrow Wooj Byun** is serving as Chair of the Asia Pacific Cultural Center.



**Timothy J. Pramas**

**Timothy J. Pramas** was appointed a shareholder in the law firm Felhaber, Larson, Fenlon, and Vogt. He represents businesses and individuals in a wide variety of civil litigation, and is based in the St. Paul office.

**Thomas Oстераas** was named a partner in the Faegre & Benson law firm.

**Thomas Tuft** was named Chairman of the Second District Bar Association's Ethics Committee by the Minnesota Supreme Court.

## 1994

**Jeffer Ali** was recently elected an equity partner and Assistant Vice President of Merchant & Gould law firm.

**John Kalter** was elected a shareholder in the law firm Godfrey & Kahn. He is a member of the Labor and Employment Practice Group and works in the Milwaukee office.



**Daniel R. Kelly**

**Daniel R. Kelly** was recently appointed a shareholder in Felhaber, Larson, Fenlon and Vogt law firm. He works in the firms Minneapolis office, practicing commercial and civil litigation law.

**John Laravuso** was named a partner in the law firm Flynn, Gaskins & Bennett.

**Benjamin R. Mulcahy** joined the Entertainment, Media & Communications Team as a partner at the law firm Sheppard, Mullin, Richter & Hampton. He is based in West Los Angeles and represents studios, independent production companies, and rights holders in connection with television and motion picture development, production, and distribution.

**Elizabeth Wefel** recently joined Cargill, Inc.'s Strategy and Business Development Group. She is currently pursuing a Masters of Business Administration degree from the Carlson School of Management at the University of Minnesota. She also is serving her second term as the Treasurer of Minnesota Women Lawyers.

## 1995

**Deborah Ellingboe** has been named a partner in the Faegre & Benson law firm.

**Jennifer Frisch** is an Associate General Counsel for the University of Minnesota.

**Eric Hageman** was named a partner in the law firm Flynn, Gaskins & Bennett.

**Joseph Kim** is an Associate at the Latham & Watkins law firm in the Tokyo office.

**Dawn M. Knutson** joined the law firm Martin & Squires and will practice commercial litigation and general business transactions.

**Sonja Lengnick** was elected partner in the law firm of Perkins Coie in Seattle. She practices in the Labor and Employment Law department. She was elected two weeks after the birth of her first child, a son named Tate.

**Patrick Martin** was named a partner in the law firm Flynn, Gaskins & Bennett.

**Michelle L. Rognilien** was promoted from associate to partner in the law firm Bowman and Brooke. Her practice focuses on products liability, employment and construction law, and commercial, business and pharmaceutical litigation.

**Philip Schenkenberg** was elected a shareholder in Briggs & Morgan law firm.

## 1996

**John Dragseth** was named a principal in the Fish & Richardson law firm.

**John C. Kolb** was named a shareholder in the Rinke Noonan law firm. His practice focuses in the areas of natural resources and water law, municipal and land use litigation.

**Charles A. Roach** has been named a partner in Rider, Bennett, Egan & Arundel law firm. He is a member of the Business department.

**Mark Skoog** was promoted to an income partner in the law firm Merchant & Gould.

**Robert J. Terry** is the Corporate Counsel at Skyworks Solutions, Inc. in Irvine, California.

## 1997



**John J. Bursch**

**John J. Bursch** is the Co-Chair of the, now formally established, Appellate Practice Group at the law firm Warner Norcross & Judd.

**Patrick G. LePine** has been elected a partner in the Detroit, Michigan office of Honigman Miller Schwartz and Cohn, where he is a member of the Health Care Department. Mr. LePine's practice is concentrated in transactional and regulatory matters for hospitals and health systems.



**Hoyt R. Stastney**

**Hoyt R. Stastney** was appointed to serve as Chairman of the Financial Institutions Practice Group of the State Bar of Wisconsin's Business Law Section. Mr. Stastney is an associate at the law firm Quarles & Brady.

**Jason Lien** was named an associate in the Maslon Edelman Borman & Brand's Litigation Group.

**Shane Swanson** was selected as a Rising Star attorney for the third consecutive year by *Minnesota Law & Politics Super Lawyers* in 2002 survey. Mr. Swanson practices in the areas of trusts, estate planning, probate, antenuptial agreements, IRA wills, and business succession at the law firm Parsinen Kaplan Rosenberg & Gotlieb.

## 1999

**Rick Franzen** joined 3M Innovative Properties Company as Intellectual Property Counsel.

**Natalie Kadievitch** joined Fredrikson & Byron law firm as an officer in its Intellectual Property Group.

**Michael D. Klemm** has joined the law firm Severson, Sheldon, Dougherty & Molenda as an associate and practices business law and real estate law.

**Paul Kohls** was elected to the Minnesota House of Representatives. He represents District 34A which is central and western Carver County and northern Scott County. Mr. Kohls lives in Victoria with his wife, Kelly, and son, Stanley.

**Steven W. Nyhus** has joined the St. Paul law firm of Flaherty & Hood as an associate attorney. He is practicing municipal law with a focus on public utility regulation and taxation, annexation and land use, and municipal wastewater treatment.

**Yolanda Redero** was named Visiting Assistant Clinical Professor of Law at Vanderbilt Law School in Nashville, Tennessee. She is teaching a course on domestic violence law and also teaches in the school's new Domestic Violence Clinic.

**Marian Saksena** has joined the law firm Fredrikson & Byron in the Family Law Group.

## 2000

**Theodore Dorenkamp** joined the Bowman and Brooke law firm as an associate.

## 2001

**Nathan Alexander** joined the law firm Fulbright & Jaworski.

**Krista Barrie** is serving as a law clerk for U.S. District Court Magistrate Judge Janie S. Mayeron.

**Abigail Crouse** joined the law firm Gray Plant Mooty.

**Hetal Dalal** joined the Litigation Practice at Fulbright & Jaworski law firm.

**Joel A. Hilgendorf** is a member of the law firm Van House & Associates, which recently relocated to North Oaks, Minnesota.

**Lorie A. Klein** joined the Moss & Barnett law firm.

**Jill K. Pearson** joined Faegre & Benson as an associate in the Trusts and Estates Group.

## 2002

**Cameron Boyd** joined the law firm of Lindquist & Vennum.

**Kristina Carlson** joined the Dorsey & Whitney law firm.

**Jessica Clay** is serving as a law clerk for Magistrate Judge Franklin L. Noel.

**Mark Deffner** joined the law firm of Merchant & Gould as an associate.

**Brandon Derby** joined the law firm Severson, Sheldon, Dougherty & Molenda as an associate.

**John H. Goolshy** is an attorney at the Consumer Justice Center.

**Garen Gotfredson** joined Merchant & Gould law firm as an associate.

**Morgan Holcomb** is serving as a Law Clerk to Judge John Tunheim in U.S. District Court.

**Kelly W. Hoversten** joined the Gray Plant Mooty law firm.

**John M. Huberty** is clerking for Judge Thomas Stringer in Ottertail District Court.

**Emily John** joined the Hanft Fride law firm in Duluth, Minnesota.

**Michele C.S. Lange** is a Staff Attorney at KrollOn-track.

**Richard A. Latterell** is working at the Department of Justice in the Civil Trial Section in Washington, D.C.

**Vicki Lunde** is serving as a Law Clerk to Judge Janet Poston in Hennepin County District Court.

**Frank Piskolich** joined the Intellectual Property Group at Fredriksen & Byron law firm as an associate.

**Anna M. Restovich** joined George F. Restovich & Associates law firm.

**Jessica C. Richardson** joined the law firm of Rider Bennett Egan & Arundel.

## Class Notes News

Name: \_\_\_\_\_

Class Year: \_\_\_\_\_

News/Comments: \_\_\_\_\_

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— OR —

## Change of Address

Name: \_\_\_\_\_

Class Year: \_\_\_\_\_

Firm/Company: \_\_\_\_\_

Business Address: \_\_\_\_\_

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Business Phone: (     ) \_\_\_\_\_

Fax: (     ) \_\_\_\_\_

E-mail: \_\_\_\_\_

Home Address: \_\_\_\_\_

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Home Phone: (     ) \_\_\_\_\_

I prefer my mail to be sent to my:

Home    Work

### Send your Class Notes or Changes to:

Law Alumni Association  
 472 Mondale Hall  
 229 19th Avenue South  
 Minneapolis MN 55455

or e-mail to Terri Mische at [misch002@umn.edu](mailto:misch002@umn.edu)  
 or fax to Terri Mische at 612/625-2011.

**John Rock** joined the Dorsey & Whitney law firm.

**Scott Roste** is working in the legal department at Fairview Health Services as a staff attorney.

**David G. Schelzel** joined Best & Flanagan law firm.



Mary K. Schug

**Mary K. Schug** has joined the law firm of Lane Powell Spears Lubersky in the Seattle office as an associate in the Litigation Group.



Maura Shuttleworth

**Maura Shuttleworth** joined Weinblatt & Gaylord law firm as an associate.

**Katrina Smith** is an associate at Moore, Costello & Hart law firm.

**Kim Sterner** is working in the Department of Justice in Los Angeles, California.

**Will Tansey** joined the law firm Ravich Meyer Kirkman McGrath & Nauman as an associate.

**Jeannine Thiele** joined the Intellectual Property Group at Fredriksen & Byron law firm as an associate.

**Angelo Volpe** is teaching in the English Department at the University of Minnesota.

**Shan C. Wang** is serving as a law clerk to Judge Regina M. Chu in Hennepin County District Court.

**Daniel West** joined the law firm Zelle, Hofmann, Voelbel, Mason & Gette.

**Sandra Yue** joined the Hennepin County Attorney's Office.

### Correction

Gregory P. Bulinski ('79) was elected Secretary of the Minnesota Defense Lawyers Association. He was incorrectly listed as having been elected Secretary of the Board at Bassford, Lockhart, Truesdell & Briggs in the fall/winter issue.

# In Memoriam

## Class of 1928

Robert J. Hyslop  
Fergus Falls, MN  
February 23, 2003

## Class of 1936

Gerald E. Sveeggen  
Crystal Bay, MN  
July 5, 2002

## Class of 1937

Rudolph W. Hanson  
Albert Lea, MN  
October 12, 2002

John R. Heim  
Minnetonka Beach, MN  
September 17, 2002

Abe Statland  
Laguna Hills, CA  
January 3, 2003

## Class of 1940

William H. McKenzie  
Fergus Falls, MN  
March 19, 2003

Ledyard M. Whitehead  
Fairmont, MN  
October 15, 2002

## Class of 1942

Donald E. Clayton  
Eagan, MN  
November 26, 2002

Robert W. Swenson  
Salt Lake City, UT  
November 17, 2002

Kenneth C. Tyler  
Northridge, CA  
December 20, 2002

## Class of 1943

Paul Owen Johnson  
Golden Valley, MN  
December 2, 2002

## Class of 1946

Governor Orville L.  
Freeman  
Minneapolis, MN  
February 20, 2003

## Class of 1948

Robert S. Auten  
White Bear Lake, MN  
July 13, 2002

Edward T. Christian  
Albert Lea, MN  
December 28, 2002

Honorable Clark MacGregor  
Washington, DC  
February 10, 2003

## Class of 1949

Honorable Eugene J. Farrell  
Nisswa, MN  
March 15, 2003

W. Earl Williams  
Fergus Falls, MN  
July 2, 2002

## Class of 1951

Orrin M. Haugen  
Edina, MN  
March 1, 2003

Harvard W. Powell  
Arlington, VA  
March 3, 2003

## Class of 1953

Robert J. Stenzel  
Minnetonka, MN  
February 20, 2003

## Class of 1954

Honorable Frederick Weddel  
Bemidji, MN  
February 28, 2003

## Class of 1957

John F. Murphy  
Elk Point, SD  
March 19, 2003

## Class of 1959

Bernard E. Steffen  
Ramsey, MN  
July 26, 2002

## Class of 1963

Howard W. Dahlin  
St. Paul, MN  
July 3, 2002

## Class of 1964

James J. O'Connor  
Hastings, MN  
October 22, 2002

## Class of 1970

Stephan A. Pezalla  
Plymouth, MN  
December 9, 2002

## Class of 1977

William C. Anderson  
Palo Alto, CA  
April 22, 2003

## Class of 1986

Daryl G. Fryxell  
Chicago, IL  
January 21, 2003

## Class of 1990

Judith M. Johnson  
Litchfield, MN  
August 4, 2002

# In Memoriam Tributes

## John R. Heim

### Class of 1937

John R. Heim died from complications from pneumonia at the age of 88 on September 19, 2002.

Mr. Heim was a Minneapolis native who graduated from West High School in 1932. He earned his undergraduate degree from the University of Minnesota and in 1937 his law degree from its Law School, where he was a member of *Minnesota Law Review*. Heim worked for Employers Insurance Company of Wausau following law school and in 1941, joined the Federal Bureau of Investigation in Detroit as a special agent. His responsibilities ranged from investigating bribery, bank robberies and white slavery.

After leaving the FBI, Heim worked in private practice in Morris, Minnesota before joining the General Counsel's Office in the Department of the Army at the Pentagon in 1952. He was appointed Executive Director of the Federal Trade Commission during the Eisenhower Administration. Heim joined the Gold Bond Stamp Company in 1961 as Vice President and General Counsel, the company founded by his West High School classmate Curt Carlson. In 1971 he was named to the Board of Directors of the new Carlson Companies, and in 1979 became Assistant to Carlson. He retired after 24 years in 1985.

Heim also was very supportive of the Law School and served as the volunteer class representative for several years.

He is survived by his wife, Jeanne, of 61 years; two daughters, Joan Heim, Washington, D.C., and Nan Heim, Portland, Oregon; two granddaughters, Nancy Jonson, Richmond, Virginia and Sarah (Madison) Wootton, Charlottesville, Virginia; a brother, Harry Heim, Minnetonka, and his wife Lois; and seven nieces and nephews.

## Orville L. Freeman

### Class of 1946

Orville L. Freeman passed away on February 20, 2003 at the age of 88 from complications from Alzheimer's disease.

The Honorable Mr. Freeman graduated from the University of Minnesota in 1940, *magna cum laude*, where he was a member of Phi Beta Kappa. While attending the University, he was quarterback on the championship Gopher football team, participated on the debate team, and earned money for school as a University Hospital janitor.

Freeman interrupted his law school career to join the Marine Corps at the beginning of World War II. He was wounded while leading a combat patrol in 1943 and was discharged in 1945 as a Major. Freeman received the Purple Heart. He returned to the University Law School, received his degree in 1946 and then served as an Assistant to Minneapolis Mayor Hubert H. Humphrey, his college debate team partner. Freeman became DFL chair and manager of Humphrey's successful campaign for U.S. Senate.

He joined the law firm Larson, Loevinger, Lindquist, Freeman & Fraser in the early 1950s. In 1954 Freeman was elected the 29th governor of the state, at the age of 36, and was reelected in 1956 and 1958. He was an activist on civil rights and fair employment practices. While Governor, he signed the first legislative pay bill into law in 1955 and appointed the first Black judge, L. Howard Bennett, in the state to the Minneapolis Municipal Court in 1957.

Freeman gave the nominating speech for John F. Kennedy at the 1960 Democratic convention in Los Angeles. He was appointed Agriculture Secretary by President Kennedy in 1961 and served until the end of the Johnson Administration in 1969. He served as President of EDP Technologies (1969–1970), President and CEO of Business International Inc. (1970–1981) and practiced international law in the 1980s. He helped to create the University of Minnesota Hubert H. Humphrey Institute after Humphrey died in 1978. In 1995, he moved back to Minneapolis and was active in his son Mike's 1998 campaign for governor.

The new building that will house the Minnesota Department of Agriculture and Health in St. Paul, scheduled for completion in 2005, will be named the Orville L. Freeman Building.

He is survived by his wife, Jane, of 61 years; daughter Constance, Nairobi, Kenya; and son, Mike, and daughter-in-law, Terry; and three grandchildren.

## Clark MacGregor

### Class of 1948

Clark MacGregor was 80 years of age when he died February 10, 2003 in Pompano Beach, Florida of respiratory failure.

The Honorable Mr. MacGregor graduated from Dartmouth College in 1946, *cum laude*, and from the University of Minnesota Law School in 1948. He served in the Army during World War II, where he earned a Bronze Star and the Legion of Merit. MacGregor worked in private practice until he was elected as a U.S. Representative from Minnesota 3rd District in 1961. While in the House, he worked on several bills including the Civil Rights Act of 1964, the Voting Rights Act of 1965 and the Omnibus Crime Control and Safe Streets Act of 1968.

MacGregor was the 1968 Midwest Campaign Chair for President Richard Nixon and in 1971, the President asked MacGregor to serve as Counsel for Congressional Relations. Following the Watergate break-in on June 17, 1972, MacGregor was named Chairman of the Committee to Re-Elect the President after John N. Mitchell resigned from the post. He was successful at leading the President's re-election committee, defeating Senator George McGovern in November 1972. He retired from politics in 1973.

He became Senior Vice President for External Affairs at the United Technologies Corporation, serving as its chief Aeronautics lobbyist in Washington until he retired in 1988.

He is survived by his wife of 54 years, Barbara Spicer MacGregor; three daughters, Susan Wheelwright, Boston, Laurie MacGregor, Hanover, New Hampshire, and Eleanor MacGregor, Kensington, Maryland; and eight grandchildren.

## Harvard W. Powell

### Class of 1951

Harvard W. Powell died of respiratory failure on March 3, 2003 in Arlington, Virginia at the age of 88.

Brigadier General Harvard W. Powell attended Duluth Junior College and began his military career in the U.S. Air Force in 1939. He received his wings and his commission as second lieutenant in June 1940 and was assigned with the 88th Reconnaissance Squadron. He also qualified as a bombardier and celestial navigator through squadron training. During World War II, he was ordered to China to command the 374th Bomb Squadron of the 308th Bomb Group 14th Air Force. After 47 combat missions in 14 months, he was assigned to the Air Transport Command as Base Executive Officer. Lt. Colonel Powell became a Staff Officer on the War Department General Staff in 1946 and served in Strategic Plans of the Air Staff when a separate Air Force was created in September 1947.

He was detailed to the University of Minnesota in 1948, where in 1950 he received his B.S. degree and in 1951 earned his law degree. Colonel Powell returned to the Air Force and held various positions at Headquarters Air Materiel Command. He graduated from the Industrial College of the Armed Forces in 1956 and became Deputy Director of Procurement and Production at Headquarters U.S. Air Force. In June 1959, he was promoted to Brigadier General.

Powell retired from the Air Force as Vice Commander of the Space Systems Division in 1963 Inglewood, California. His medals included the Legion of Merit, Distinguished Flying Cross and Air Medal with two oak leaf clusters.

Powell became the Assistant to the President of North American Aviation and helped to manage the Apollo space missions for the National Aeronautics and Space Administration. He later moved to the Washington, D.C. area and worked until 1977 in the Department of Defense. He also was a consultant for Aerospace Industry Companies and government agencies until the late 1980s.

He was predeceased by his wife, Audrey Barker Powell in 1998. He is survived by two children: Mark Powell, Arlington, Virginia and Anne Flynn, Salt Lake City, Utah; and two grandchildren.

*Military biography courtesy of the United States Air Force.* ■

# Faculty Scholarship

## Stephen F. Befort

### Books

EMPLOYMENT LAW AND PRACTICE (Supp. 2002–2003) (with Richard Gillman).

### Articles and Book Chapters

*Revisiting the Black Hole of Workplace Regulation: A Historical and Comparative Perspective of Contingent Work*, 24 BERKELEY J. EMP. & LAB. L. 153 (2003).

*Labor and Employment Law at the Millennium: A Historical Review and Critical Assessment*, 43 B. C. L. REV. 351 (2002).

*The Most Difficult ADA Reasonable Accommodation Issues: Reassignment and Leaves of Absence*, 37 WAKE FOREST L. REV. 439 (2002).

*Mental Illness and Long-Term Disability Plans Under the Americans with Disabilities Act*, in EMPLOYMENT LAW HANDBOOK 33 (2002).

*Advanced Supreme Court Update*, in LABOR AND EMPLOYMENT LAW INSTITUTE 4 (2002).

## Brian Bix

### Books

JURISPRUDENCE: THEORY AND CONTEXT (3d ed., 2003).

### Articles and Book Chapters

*Legal Positivism*, for BLACKWELL GUIDE TO THE PHILOSOPHY OF LAW (William A. Edmundson & Martin Golding, eds., forthcoming 2004).

*Law as an Autonomous Discipline*, for THE OXFORD HANDBOOK OF LEGAL STUD. (Peter Cane & Mark Tushnet, eds., forthcoming 2003).

*Engagement with Economics: The New Hybrids of Family Law/Law & Economics Thinking*, for NORMS AND VALUES IN L. & ECON. (A. Hatzis ed., forthcoming).

*Can Theories of Meaning and Reference Solve the Problem of Legal Determinacy?*, \_\_ RATIO JURIS \_\_ (2003).

*Physician-Assisted Suicide and Federalism*, 17 NOTRE DAME J.L. \_\_, ETHICS & PUB. POL'Y 53 (forthcoming 2003).

*Choice of Law and Marriage: A Proposal*, 36 FAM. L.Q. 255 (2002).

## Dan Burk

### Articles and Book Chapters

*Intellectual Property and the Firm*, 70 U. CHI. L. REV. \_\_ (forthcoming 2003).

*Policy Levers in Patent Law*, 89 VA. L. REV. \_\_ (forthcoming 2003) (with Mark A. Lemley).

*Anti-Circumvention Misuse*, 51 UCLA L. REV. \_\_ (forthcoming 2003).

*Legal Consequences of the Cyberspatial Metaphor*, in INTERNET RESEARCH ANNUAL VOL. I: SELECTED PAPERS FROM THE ASSOCIATION OF INTERNET RESEARCHERS CONFERENCE 2000–2002 (Mia Consalvo et. al. eds., forthcoming 2003).

*Is Patent Law Technology Specific?*, 17 BERKELEY TECH. L.J. (forthcoming 2003) (with Mark A. Lemley).

## Bradley G. Clary

### Books

SUCCESSFUL LEGAL ANALYSIS AND WRITING: THE FUNDAMENTALS (forthcoming 2003) (with Pamela Lysaght).

## Laura J. Cooper

### Articles and Book Chapters

*Teaching ADR in the Workplace Once and Again: A Pedagogical History*, \_\_ J. LEGAL EDUC. \_\_ (2003).

## Daniel Farber

### Books

LINCOLN'S CONSTITUTION (2003).

CASES AND MATERIALS ON CONSTITUTIONAL LAW: THEMES FOR THE CONSTITUTION'S THIRD CENTURY (3d ed. 2003) (with William N. Eskridge, Jr. and Philip P. Frickey).

CASES AND MATERIALS ON ENVIRONMENTAL LAW (6th ed. 2003) (with Roger W. Findley and Jody Freeman).

THE FIRST AMENDMENT (2d ed. 2003).

### Articles and Book Chapters

*Judicial Review and Its Alternatives: An American Tale*, \_\_ WAKE FOREST L. REV. \_\_ (forthcoming).

*What (If Anything) Can Economics Teach Us About Fairness?*, \_\_ MICH. L. REV. \_\_ (forthcoming).

*Building Bridges Over Troubled Waters: Reflections on the Future of Environmental Regulation*, \_\_ MINN. L. REV. \_\_ (forthcoming)

## Richard Frase

### Articles and Book Chapters

*Legal and Extralegal Determinants of Inter-County Differences in Prison Use*, \_\_ CRIM. JUST. POL'Y REV. \_\_ (forthcoming 2003) (with Robert R. Weidner).

*Limiting Retributivism: The Consensus Model of Criminal Punishment*, in *THE FUTURE OF IMPRISONMENT IN THE 21ST CENTURY* (Michael Tonry ed., forthcoming 2003).

*What Were They Thinking? Fourth Amendment Unreasonableness in Atwater v. City of Lago Vista*, 71 *FORDHAM L. REV.* 329 (2002).

*Criminal Punishments*, in *THE OXFORD COMPANION TO AMERICAN LAW 197–202* (Kermit L. Hall et al. eds., 2002)

*Sentencing Guidelines*, in *THE ENCYCLOPEDIA OF AMERICAN LAW 391–93* (David Schultz, ed., 2002) (Facts On File).

## Oren Gross

### Articles and Book Chapters

*Chaos and Rules: Should Responses to Violent Crises Always Be Constitutional?* 112 *YALE L. J.* 1011 (2003).

*Wrong Response*, 27(6) *BOSTON REV.* 16 (2002).

*Constitution and Crisis: The Use of Emergency Powers in the United States*, in *AMERICAN DEMOCRACY: THE REAL, THE IMAGINED AND THE FALSE 196* (Arnon Gutfeld ed., 2002).

*Transitional Justice: Law and Politics in Times of Transition*, 9(2) *CONSTELLATIONS* 286 (2002) (book review).

## Joan Howland

### Books

*RETENTION AND PROMOTION OF MINORITIES IN AMERICA'S LIBRARIES* (forthcoming 2003) (with Teresa Neely).

*LEADERSHIP ROLES FOR LIBRARIANS* (2002) (ed. with Herbert Cihak).

### Articles and Book Chapters

*A Decade of Disappointment: A Second Look at the Effectiveness of Law School Legal Research Training Programs*, \_\_ *J. LEGAL EDUC.* \_\_ (2003) (with Nancy J. Lewis).

*Let's Not 'Spit the Bit' in Defense of the 'The Law of the Horse': The Historical and Legal Development of American Thoroughbred Racing Law*, [2002] *Nat'l Conf. EQUINE L.* 1 (2002).

## John H. Matheson

### Books

*BUSINESS LAW DESKBOOK* (2002).

### Articles and Book Chapters

*Choice of Organizational Form for the Start-Up Business*, 1 *MINN. J. BUS. L. & ENTREPRENEURSHIP* (2002), at <[http://www.law.umn.edu/centers/kommerstad/journal-new/v1n2/john\\_matheson](http://www.law.umn.edu/centers/kommerstad/journal-new/v1n2/john_matheson)>.

"Insider Trading" in *ENCYCLOPEDIA OF AMERICAN LAW* (David Schulz ed. 2002).

"Liberty of Contract" in *ENCYCLOPEDIA OF AMERICAN LAW* (David Schulz ed. 2002).

"Securities and Exchange Commission" in *ENCYCLOPEDIA OF AMERICAN LAW* (David Schulz ed. 2002).

## Brett H. McDonnell

### Articles and Book Chapters

*Getting Stuck Between Bottom and Top: State Competition for Corporate Charters in the Presence of Network Effects*, \_\_ *HOFSTRA L. REV.* \_\_ (forthcoming).

*Why (and How) Fairness Matters at the IP/Antitrust Interface*, \_\_ *MINN. L. REV.* \_\_ (forthcoming) (with Daniel A. Farber).

*Are Efficient Antitrust Rules Always Optimal?*, \_\_ *ANTITRUST BULL.* \_\_ (forthcoming) (with Daniel A. Farber).

*Expectation Damages and the Theory of Overreliance*, \_\_ *HASTINGS L. J.* \_\_ (forthcoming) (with Melvin A. Eisenberg).

*Convergence in Corporate Governance Possible, But Not Desirable*, 47 *VILL. L. REV.* 341 (2002).

*Banks and Venture Capital: Are the New Rules Too Tough, Too Weak, or Just Right?*, 1 *MINN. J. BUS. L. & ENTREPRENEURSHIP*, at [http://www.kommerstad.org/journal/v1n1/brett\\_mcdonnell.html](http://www.kommerstad.org/journal/v1n1/brett_mcdonnell.html).

## Michael Stokes Paulsen

### Articles and Book Chapters

*The Worst Constitutional Decision of All Time*, \_\_ NOTRE DAME L. REV. \_\_ (forthcoming 2003).

*The Interpretive Force of the Constitution's Secret Drafting History*, \_\_ GEO. L.J. \_\_ (forthcoming 2003) (with Vasan Kesavan).

*The Irrepressible Myth of Marbury*, \_\_ MICH. L. REV. \_\_ (forthcoming 2003).

*Marbury's Wrongness*, 20 CONST. COMM. \_\_ (forthcoming 2003).

## Gregg Polsky

### Articles and Book Chapters

*A Correct Analysis of the Tax Treatment of Contingent Attorney's Fee Arrangements: Enough with the Fruits and the Trees*, 37 GA. L. REV. 57 (2002).

*Debunking the Crop-Share Analogy to Contingent Attorney's Fee Arrangements*, 97 J. CORP. TAX'N 320 (2002).

*Another Gitlitz Windfall: Double Basis Increases for S Corp. Shareholders?*, 92 TAX NOTES 314 (2001).

## E. Thomas Sullivan

### Books

ANTITRUST LAW, POLICY AND PROCEDURE (5th ed.) (with Herbert Hovenkamp).

UNDERSTANDING ANTITRUST AND ITS ECONOMIC IMPLICATIONS (4th ed.) (with Jeffrey Harrison).

### Articles and Book Chapters

*Comparing Antitrust Remedies in the U.S. and E.U.: Advancing a Standard of Proportionality*, \_\_ ANTITRUST BULL. \_\_ (forthcoming 2003).

*Judicial Sovereignty: The Legacy of the Rehnquist Court*, 19 CONST. COMM. \_\_ (forthcoming 2003).

*Academic Self-Reflection*, 34 SYLLABUS, Feb. 2003, at 4.

*The Public University as a Public Good*, 139 MINN. L. & POL., March 2003, at \_\_.

*Faculty as Public Intellectuals*, 34 SYLLABUS, Sept. 2002, at 1.

## Michael Tonry

### Books

*Setting Sentencing Policy through Guidelines*, in REFORM AND PUNISHMENT: THE FUTURE OF SENTENCING (ed. with Sue A. Rex) (2002).

### Articles and Book Chapters

*Criminology and Public Policy in the US and UK*, in THE CRIMINOLOGY FOUNDATIONS OF PENAL POLICY (Andrew Ashworth and Lucia Zedner eds. 2003).

*The Death Penalty in the United States*, in ZWISCHEN MEDIATION UND LEBENSLANG—NEUE WEGE IN DER KRIMINALITÄTS-BEKÄMPFUNG (Volker Dittmar, André Kuhn, Renie Maag, & Hans Wiprächitiger eds. 2002).

*Reconsidering Sentencing and Punishment in England and Wales*, in REFORM AND PUNISHMENT: THE FUTURE OF SENTENCING (ed. with Sue A. Rex 2002).

## David Weissbrodt

### Articles and Book Chapters

*Do Human Rights Treaties Make Things Worse?*, FOREIGN POLICY, January/February 2003, at 88.

*International Criminal Justice Standards*, in 2 ENCYCLOPEDIA OF CRIME & JUSTICE 835 (Joshua Dressler et al. eds., 2d ed. 2002).

*Human Rights Principles and Responsibilities for Transnational Corporations and Other Business Enterprises*, U.N. Doc. E/CN.4/Sub.2/2002/WG.2/WP.1 (2002) (See also <http://www1.umn.edu/humanrts/principlesW-OutCommentary5final.html>)

*Human Rights Principles and Responsibilities for Transnational Corporations and Other Business Enterprises, Introduction*, U.N. Doc. E/CN.4/Sub.2/2002/WG.2/WP.1, Add. 1 (2002) (See also <http://www1.umn.edu/humanrts/introduction05-01-02final.html>)

*Human Rights Principles and Responsibilities for Transnational Corporations and Other Business Enterprises with Commentary on the Principles*, U.N. Doc. E/CN.4/Sub.2/2002/WG.2/WP.1, Add. 2 (2002) (See also <http://www1.umn.edu/humanrts/PrinciplesWithCommentary5final.html>)

PROGRESS REPORT ON THE RIGHTS OF NON-CITIZENS, U.N. Doc. E/CN.4/Sub.2/2002/25 (2002). (See also <http://www1.umn.edu/humanrts/demo/noncitizenrts-2002.html>)

PROGRESS REPORT ON THE RIGHTS OF NON-CITIZENS—U.N. ACTIVITIES, U.N. Doc. E/CN.4/Sub.2/2002/25/Add.1 (2002). (See also <http://www1.umn.edu/humanrts/demo/noncitizenrts-add1.html>)

PROGRESS REPORT ON THE RIGHTS OF NON-CITIZENS—REGIONAL ACTIVITIES, U.N. Doc. E/CN.4/Sub.2/2002/25/Add. 2 (2002). (See also <http://www1.umn.edu/humanrts/demo/noncitizenrts-add2.html>)

PROGRESS REPORT ON THE RIGHTS OF NON-CITIZENS—EXAMPLES OF PRACTICES, U.N. Doc. E/CN.4/Sub.2/2002/25/Add. 3 (2002). (See also <http://www1.umn.edu/humanrts/demo/noncitizenrts-add3.html>)

*Human Rights and Responsibilities of Individuals and Non-State Entities*, in JUSTICE PENDING: INDIGENOUS PEOPLES AND OTHER GOOD CAUSES 239 (Gudmunder Alfredsson & Maria Stavropolou eds. 2002).

*Hate speech guidelines*, Amnesty International Standing Committee on the Mandate, AI Index: SCM 01/02 (2002).

*Abolishing Slavery and its Contemporary Forms*, U.N. Doc. HR/PUB/02/4 (2002) (with Anti-Slavery International).

*A Review of the Fifth-Third Session of the Sub-Commission on the Promotion and Protection of Human Rights*, 20 NETH. Q. HUM. RTS. 231 (2002) (with Bret Thiele, Mayra Gomez, and Muria Kruger).

## Judith T. Younger

### Articles and Book Chapters

*Premarital Agreements*, 3 INT'L ENCYCLOPEDIA OF MARRIAGE & FAM. 1276 (2d ed. 2003).

*Post Divorce Visitation for Infants and Young Children—the Myths and the Psychological Unknowns*, 36 ABA FAM. L.Q. 195 (2002).

## Law School Library Faculty

## Mary Rumsey

### Articles and Book Chapters

*Introduction to Statutes* (2002); at <http://lessons.cali.org/cat-LWR.html> (with Suzanne Thorpe).

*Libraries Confront the Challenges of Accommodating Disabled Users*, AALL SPECTRUM, Apr. 2002, at 6.

*The International Law Commission's Articles on State Responsibility*, 94 LAW LIBR. J. \_\_\_ (forthcoming 2003) (book review).

*English Private Law*, LEGAL INFO. ALERT, Jan. 2003, at 12 (book review).

*National Law of Treaty Implementation*, LEGAL INFO. ALERT, July/Aug. 2002, at 12 (book review).

## April Schwartz

### Articles and Book Chapters

*Legal and Business Perspectives on Small Business Start-Ups: A Selective, Annotated Bibliography*, 6 J. SMALL & EMERGING BUS. L. 479 (2002).

## Suzanne Thorpe

### Articles and Book Chapters

*Tips for Succeeding as a New Law Librarian*, AALL SPECTRUM, September 2002, at 24.

*Introduction to Statutes* (2002); at <http://lessons.cali.org/cat-LWR.html> (with Mary Rumsey).

## Affiliated Faculty

## Timothy R. Johnson

### Books

ORAL ARGUMENTS AND DECISION MAKING ON THE UNITED STATES SUPREME COURT, Albany: SUNY Press (forthcoming 2003).

### Articles and Book Chapters

*The Supreme Court, the Solicitor General, and the Separation of Powers*, AMERICAN POLITICS RESEARCH (forthcoming 2003).

## Scott McLeod

### Articles and Book Chapters

*Collective bargaining*, in EDUCATION LAW (C. J. Russo & R. Mawdsley eds. forthcoming 2003).

*The legal and social infirmities of Zelman v. Simmons-Harris*, in CATHOLIC EDUCATION: A JOURNAL OF INQUIRY AND PRACTICE, 6(3), 328–341 (2003).

*National district technology coordinators study*. Technical report 1: Personal and professional characteristics. Naperville, IL: North Central Regional Educational Laboratory, United States Department of Education (2003).

*Another take on the pledge of allegiance: In defense of the judges*. The Leader. (2002) Retrieved November 30, 2002 at <http://education.umn.edu/edpa/licensure/leader/Fall2002/all egiance.htm>

*Bargaining*, in THE YEARBOOK OF EDUCATION LAW 2002 75–85 (C. J. Russo ed. 2002).

*Evaluation of the Minnesota system information modeling (MIN-SIM) project*. Minneapolis, MN: University of Minnesota (2002).

## Faculty Scholarship

*Is your district's web filtering software religiously biased?*, THE LEADER, 5(2), 1-2 (2002).

*Overworked and underpaid*. SCHOLASTIC ADMINISTRATOR, 1(4), 44-45 (2002).

*Resources for school technology leaders*, THE LEADER, 5(2), 4-5 (2002).

*Schools, holiday decorations, and the law*, MSBA JOURNAL, 54(3), 10 (2002).

*UCEA job search handbook: Tips and techniques for aspiring faculty*. Retrieved November 24, 2002 (with Brinson, K., Hackmann, D., Shoho, A., Johnson, B., & Collins, L.), at <http://www.ucea.org/uceajobsearch/jobsearch/index.html>

## C. Ford Runge

### Articles and Book Chapters

*Ending Hunger in Our Lifetime: Food Security and Globalization*, (with Ben Senauer, Philip Pardey and Mark Rosegrant) (forthcoming Spring 2003).

*Sustaining a Revolution: A Policy Strategy for Crop Engineering*, (with David G. Victor) (2002).

*Subsidy Monger to the World: The Four-Dimensional Disaster of U.S. Farm Policy*, THE NATIONAL INTEREST (forthcoming Spring 2003).

*Farming the Genetic Frontier*, FOREIGN AFFAIRS 81 (3) x: 107-121 (with David G. Victor).

*Institutional Innovation in International Governance to End Hunger*, AMERICAN JOURNAL OF AGRICULTURAL ECONOMICS 84 (3): 839-844 (August 2002).

*Wisconsin's Northern Pineries: A Narrative Economic History*, An essay in honor of Professor Danilo Agostini, University of Padova, presented at the 8th U.S.-Italian Research Conference, Stouts Lodge, Minekata, Wisconsin. August 25-28, 2002.

*The Challenge of Agro-Bioterrorism*, in SYNGENTA LECTURES, Issue 1: 50-55 (2002).

*Review of International Environmental Economics: A Survey of the Issues*, JOURNAL OF ECONOMIC LITERATURE LX (Günther G. Schulze and Heinrich W. Ursprung eds., December 2002).

## William E. Scheuerman

### Articles and Book Chapters

*Cosmopolitan Democracy and the Rule of Law*, RATIO JURIS (December 2002).

*Constitutionalism in an Age of Speed*, 19 CONST.COMM. 2 (2002).

*Motorized Legislation? Statutes in an Age of Speed*, ARCHIV FÜR RECHTS- UND SOZIALPHILOSOPHIE, Vol. 88 (2002).

*Rethinking Crisis Government*, CONSTELLATIONS, Vol. 9, No. 4 (December 2002).

*Is Republican Regulatory Law the Answer to Globalization*, UNIVERSITY OF TORONTO LAW JOURNAL, Vol. 52 (2002).

*Globalization*, STANFORD ENCYCLOPEDIA OF PHILOSOPHY (2002).

*Unsolved Paradoxes: Conservative Political Thought in Adenauer's Germany*, CONFRONTING MASS DEMOCRACY AND INDUSTRIAL TECHNOLOGY: POLITICAL AND SOCIAL THEORY FROM NIETZSCHE TO HABERMAS (John P. McCormick ed., 2002).

## Robin Stryker

*A Sociological Approach to Law and the Economy* [with Lauren Edelman]. In HANDBOOK OF ECONOMIC SOCIOLOGY 2nd ed. (Neil Smelser and Richard Swedberg eds., forthcoming 2003).

*Mind the Gap: Law, Institutional Analysis and Socio-Economics*, 1 SOCIO-ECONOMIC REVIEW (forthcoming 2003).

*A Political Approach to Organizations and Institutions*, 19 SOCIOLOGY OF ORGANIZATIONS 171 (2002).

*The Quota Debates: Law, Labor Market Sociology and Equal Employment Policies*, 42 SOCIOLOGICAL QUARTERLY 13 (2001).

## David Eugene Wilkins

### Books

THE NAVAJO POLITICAL EXPERIENCE. (Revised ed. 2003).

NATIVE VOICES: AMERICAN INDIAN IDENTITY AND RESISTANCE, (co-edited with Richard A. Grounds and George Tinker, 2003).

### Articles and Book Chapters

*A Constitutional Confession: The Permanent if Malleable Status of Indigenous Nations*, NEW ENGLAND LAW REVIEW, vol. 37, no. 3 (forthcoming 2003).

*Seasons of Change: Of Reforms, Melees, and Revolutions in Indian Country*, in Eric LeMont, ed. Untitled (forthcoming 2004).

*The Scope of State Power in American Indian Affairs*, in Donald A. Grinde, Jr. ed. NATIVE AMERICANS: 127-130 (2002).



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