New LL.M. Program in American Law for Chinese Lawyers in Beijing

“Beyond Dealing with the Past”: A Critical Assessment of Justice in Times of Transition

Learning to be a Lawyer
The University of Minnesota is committed to the policy that all persons shall have equal access to its programs, facilities and employment without regard to race, color, creed, religion, national origin, sex, age, marital status, disability, public assistance status, veteran status or sexual orientation.
As the legal environment of the 21st century continues to evolve, the lines of distinction between traditional legal education disciplines are blurring, and law schools are developing new and innovative teaching tools. In response to this increasing globalization of the legal profession, the University of Minnesota Law School is working to develop programs that will enhance its reputation nationally and internationally. We are fortunate to have faculty who are known worldwide, as well as entities like the Human Rights Center that have already established our school as a leader in the area of international study. I predict that ten years from now, the University of Minnesota will occupy a special niche in the legal world.

We have already begun to stake our claim by developing a new law program in Beijing, China. As you will read in the Features section of the magazine, we are in the process of establishing a Master of Laws (LL.M.) Program in American Law in Beijing. University of Minnesota President Robert Bruininks recently signed an agreement with the China University of Political Science and Law to create an international legal education program within the next 12 months. This program will cement the Law School’s reputation as a leader in international law, and will reinforce the University of Minnesota name in China.

As an essential part of our vision, we are working to enlarge our geographical sphere by drawing in more high-quality international students, and by developing creative partnerships with educational institutions around the world. There are many collaborative possibilities for students and faculty at the University of Minnesota. The Law School already operates seven formal study abroad programs, and has well-established relationships with numerous other foreign universities. Our law students and faculty can tap into the worldwide network that the Law School has created, in order to explore new relationships and opportunities that greatly deepen and enhance the international law experience.

I am struck by the long list of our prominent graduates who have gone on to make their marks around the world. This issue includes a few of those success stories. We are privileged to be so connected to the world.

Finally, this issue introduces an updated design and new format. The changes begin on the front cover, and are evident throughout the magazine. In these pages you will find expanded in-depth faculty articles, more news and profiles, and student scholarship.

There have also been some rumblings around the Law School that it is time to change the name of the Law Alumni News. We have not yet decided whether to do so, but we are exploring our options and would like to solicit some ideas from our readers. What’s in it for you? If we choose the name you submit to us, we will send you a free one-day pass to the Summer Super CLE Program. Honorable mentions will receive University of Minnesota coffee mugs. Send your ideas to washb020@umn.edu. There is no firm deadline; submissions will be accepted until we find a name we like, or decide to risk using one of our own ideas. Thank you for helping us with this important task—good luck and have fun!
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In Memoriam
One of the greatest strengths of the University of Minnesota Law School is its distinguished faculty. This Law School, perhaps more than any other, has a reputation for producing superb teachers and scholars who are leaders in their areas of expertise. Their accomplishments and scholarly productivity are matched by few law faculties, and are recognized by legal scholars and educators around the world. More recently, the Law School has become known for having one of the best clinical programs—and clinical faculty—in the country. This outstanding faculty is one of the most significant factors in the continued recognition of the Law School's quality and growth. In this issue, we offer the following faculty announcements and features: the appointments of several endowed professorships and chairs; a summary of the faculty's most recent work; an index of newly published books, articles, and other pieces; a profile of Jim Chen; a reprint of a faculty-written op-ed piece that appeared in the Wall Street Journal; and a tribute to Bart Koeppen, a former colleague who passed away this winter. Finally, we include the schedule for the spring semester of the faculty works-in-progress program. Law school professors support and challenge each other's work through this important program, which is organized by the Minnesota Center for Legal Studies.
Faculty R&D

The following is a partial list of the many accomplishments and activities of the Law School’s faculty.

Beverly Balos
Professor Balos has published the following articles: “The Wrong Way to Equality: Privileging Consent in the Trafficking of Women,” in *Harvard Women’s Law Journal* (2004); “A Man’s Home is His Castle: How the Law Shelters Domestic Violence and Sexual Harassment,” in *St. Louis University Public Law Review* (2004). She also co-authored three *amicus curiae* briefs, which were submitted to the Minnesota Supreme Court on behalf of the Minnesota Coalition for Battered Women. She made the following presentations: Advanced Advocacy for Victims of Domestic Violence, Minnesota Coalition for Battered Women Annual Conference; and Child Custody, Visitation, the Courts and Domestic Violence, Minnesota Supreme Court Listening Panel.

Stephen F. Befort
Professor Befort continues to be active on a number of projects relating to labor and employment law. During the current school year, he has published four articles: “A New Voice for the Workplace: A Proposal for an American Works Councils Act,” in *Missouri Law Review*; “At the Cutting Edge of Labor Law Preemption: A Critique of *Chamber of Commerce v. Locke*,” in *The Labor Lawyer* (with Bryan Smith); “Accommodation at Work: Lessons from the Americans with Disabilities Act and Possibilities for Alleviating the American Worker Time Crunch,” in *Cornell Journal of Law and Public Policy*; and “Employment Discrimination Remedies and Tax Gross Ups,” in *Iowa Law Review* (with Gregg Polsky). He also authored a 2004-05 Supplement to his *Employment Law and Practice* book, published by West Group. In addition, Professor Befort has published the following professional education articles: “Advanced Supreme Court Update,” in *Labor and Employment Law Institute 2004* (Minnesota CLE); and “Public Sector Update 2003-04” in *Public Sector Labor & Employment Law* (Minnesota CLE). A frequent labor arbitrator, Professor Befort was inducted into the National Academy of Arbitrators in October 2004. Along with Professors Laura Cooper and Mario Bognanno, he has been awarded a grant by the National Academy of Arbitrators to conduct an empirical study of more than 2,000 discipline and discharge arbitration awards on file with the Minnesota Bureau of Mediation Services.

Brian Bix
Professor Bix’s recent publications include *Family Law: Cases, Text, Problems* (fourth edition, LexisNexis, 2004) (co-

Bradley G. Clary and Dean Alex M. Johnson, Jr.

**Bradley G. Clary** has been appointed the **Vaughan G. Papke Clinical Professor**. A reception was held on November 30, 2004 to celebrate the appointment. As the Director of Applied Legal Instruction, Professor Clary coordinates and supervises the legal writing and moot court programs. He regularly teaches courses in legal writing, appellate advocacy, and deposition skills, and serves as a faculty advisor to the National Moot Court team. He also teaches civil procedure.

The **Vaughan G. Papke Clinical Professorship in Law** was made possible by the generous bequest of Vaughan Papke (Class of 1940). The Professorship carries a two-year appointment.

**U of M Professor Receives the Sheila Wellstone Gold Watch Award**

WATCH, a volunteer-based, nonprofit organization dedicated to improving the justice system’s response to violence against women and children recently honored Professor Beverly Balos for her work in drafting Minnesota’s Domestic Abuse Act, one of the first statutes in the country concerning domestic violence. Professor Balos is also being recognized for her work in the areas of violence against women, domestic violence and feminist jurisprudence. The Sheila Wellstone Gold WATCH Award is given annually to recognize leadership on behalf of women and children who are victims of sexual assault, domestic abuse, or child abuse.
Dale Carpenter was recently appointed the Vance K. Opperman Research Scholar. A reception was held on December 3, 2004 to commemorate the appointment. Professor Carpenter teaches and writes in the areas of constitutional law, the First Amendment, commercial law, and sexual orientation and the law.

The Vance K. Opperman Research Scholar Award enables the Law School to retain emerging faculty stars by recognizing their scholarly interests and helping them pursue their research. The Award is made possible by an unrestricted gift from Vance K. Opperman (Class of 1969), an outspoken civic and business leader whose knowledge and influence extend into legal, intellectual, political, technological, and economic arenas.

Vance K. Opperman and Dale Carpenter

In April, Professor Burk spoke on spyware and intellectual property at the symposium on “Spyware: The Latest Cyber-Regulatory Challenge” sponsored by the Berkeley Center for Law and Technology, at U.C. Berkeley. He then traveled to New Haven, Connecticut, where he spoke at the Yale Law School conference on “Global Flow of Information,” presenting his competitively selected paper on “Law as a Network Standard.” Later in the month, Professor Burk presented his work on “Open Source Genomics” at the Fordham University conference on “Law and the Information Society.


Dale Carpenter


**Laura Cooper**  
Professor Cooper has three co-authored or co-edited books in the publication process. In February, West published the second edition of her textbook, *ADR in the Workplace*. She is also a contributor to and co-editor of *Labor Law Stories*, to be published in May by Foundation Press. The book presents original historical research and analysis of fourteen important labor law cases. One of her chapters in the book, written with University of South Carolina Law School Professor Dennis R. Nolan, is about the case of *Gissel Packing Co. v. NLRB*. The chapter is based, in part, on archival records of the NLRB and Supreme Court, and on interviews with many of the case participants. It reveals surprising information about the background and litigation of the case. The third book, a collection of role-playing simulations for teaching mediation and arbitration of workplace disputes, will be published this summer by West. Professor Cooper and Suzanne Thorpe co-authored an essay entitled, “Researching Labor Arbitration & Alternative Dispute Resolution in Employment,” which was published in the Fall 2004 issue of *The Employee Advocate* and has also been posted on the web sites of the National Employment Lawyers Association, the AFL-CIO Lawyers Coordinating Committee, and the Labor and Employment Law Section of the American Bar Association. It can also be found at <www.llrx.com/features/adr.htm>.

**Susan Franck**  
In December, Professor Franck’s article “A Survival Guide for Small Businesses: Avoiding the Pitfalls in International Dispute Resolution” was published in the *Minnesota Journal of Business Law and Entrepreneurship*. In February, Professor Franck presented a paper at the Hubert M. Humphrey Institute of Public Affairs’ International Trade Consortium, on “The Legal Rights of Foreign Investors: How Much Is Too Much.” In March, Professor Franck published her article “The Legitimacy Crisis in Investment Treaty Arbitration: Privatizing Public International Law Through Inconsistent Decisions” in the *Fordham Law Review*. She also participated in a conference at the University of California, Davis, School of Law’s Symposium on “Romancing the Foreign Investor BIT by BIT.” She will be speaking at the Institute for Transnational Arbitration and the American Society of International Law’s conference entitled “Arbitration and the Involvement of Non-Parties: Transparency, Intervention and Appeal.” This summer, Professor Franck will be speaking at American Society of International Law’s 7th Hague Conference on Contemporary Issues of International Law on the subject of ICSID reform. She also has an article forthcoming in the American Journal of International Law on the controversial case of *Occidental Exploration and Production Company v. Republic of Ecuador*. Professor Franck currently has two works in progress: “Into the Woods: Fair and Equitable Treatment in Investment Arbitration” addresses the meaning of substantive rights in investment treaties; and, “Paying The Piper: The Impact of Cost Shifting and Frivolous Claims in Investment Treaty Arbitration,” evaluates the impact of legal costs and fee shifting on investment arbitration.

**Richard S. Frase**  

Dr. David Metzen, Chair of the Board of Regents, Michael Stokes Paulsen, and University President Robert Bruininks.

**Michael Stokes Paulsen** was appointed the McKnight Presidential Professor in Law and Public Policy on February 8, 2005. He presented a lecture entitled “The Constitution of War.” Professor Paulsen teaches and writes in the areas of civil procedure, criminal procedure, legal ethics, constitutional law, and law and religion. Professor Paulsen also serves as Associate Dean for Faculty Development, and holds the Briggs and Morgan Professorship in Law.

The McKnight Presidential Professorships are assigned at the President’s discretion, and are intended to attract or retain the best faculty in fields of critical importance across the University. These professorships are made possible by a fifteen million dollar gift from the McKnight Foundation.
Attorneys from Fredrikson & Byron attended the lecture. Pictured left to right are Anne Radolinski (Class of 1984), Professor David Weissbrodt, Dean Alex Johnson, Laura Danielson (Class of 1989), and Mary Ranum (Class of 1983).

David S. Weissbrodt was reappointed the Fredrikson & Byron Professor of Law on March 2, 2005. He addressed “Business and Human Rights” at the reappointment. He is a distinguished and widely-published scholar on international human rights law. Professor Weissbrodt teaches international human rights law, administrative law, immigration law, and torts. His first appointment to the Professorship was in 1998.

The Fredrikson & Byron Professorship in Law was created in 1990 by the law firm of Fredrikson & Byron, with the aim of helping the Law School attract and retain a legal scholar of great stature. Established in 1948, the firm is now one of the largest in the Upper Midwest and is recognized internationally. Fredrikson & Byron and its lawyers also fund a major scholarship endowment at the Law School.

attended the annual meeting of the National Association of Sentencing Commissions, where he chaired a panel discussion of punishment purposes under sentencing guidelines. He also gave a presentation on the ways in which the proposed Model Penal Code revisions build on the lessons learned from a quarter century of successful guidelines reforms in the states. In January 2005, Professor Frase presented a paper on similarities and differences in state guidelines systems, at a conference sponsored by the Columbia Law Review.

David S. Weissbrodt

Daniel Gifford
Professor Gifford has been active in the Sedona Conference Working Group on the Role of Economics in Antitrust Law. He is currently the team leader that is preparing the Introduction to the Working Group Report. His article, “Government Policy Towards Innovation in the United States, Canada, and the European Union as Manifested in Patent, Copyright, and Competition Laws,” was recently published by the SMU Law Review and his article, “How do the Social Benefits and Costs of the Patent System Stack Up in Pharmaceuticals?,” was recently published by the Journal of Intellectual Property Law. He has been working with Humphrey Institute Professor Robert Kudrle on a comparison of the merger standards used by the antitrust enforcement authorities in the United States, Canada, and the European Union. Their article “Rhetoric and Reality in the Merger Standards of the United States, Canada, and the European Union” has just been published by the Antitrust Law Journal. Currently Professors Gifford and Kudrle are undertaking two projects, one exploring how aggregate national economic interests may affect approaches to antitrust and the other exploring the legal and economic impact of bundling. Professor Gifford is also currently completing a study of labor policy.

Daniel Gifford

Joan S. Howland
Professor Howland will present a paper entitled “Time to Hold’em or Fold’em?: American Indian Gaming and the Explosion of Internet Gambling” at the 2005 Sovereignty Symposium, sponsored by the Oklahoma Supreme Court. She also will be a keynote speaker on issues associated with the technological and information needs of indigenous populations at an upcoming symposium sponsored by the National Library of Argentina. She will serve as a delegate from the American Indian Library Association to the Fourth International Indigenous Librarians Forum being held in September in Regina, Saskatchewan, Canada. Professor Howland has completed a forthcoming article “Diversity, Mentoring, and Leadership: The Essential Trinity for Librarianship in the 21st
Century.” Professor Howland continues to serve as a member of the American Bar Association Section on Legal Education and Admission to the Bar Accreditation Committee and as a member of the Association of American Law Schools Committee on Curriculum and Research. In addition to serving as Treasurer and an Executive Board member, she is Co-chair of the Scholarship and Nominations committees for the American Indian Lawyering Association.

Peter Huang

Robert Levy
Professor Levy is teaching Family Law at Florida International University Law School this Spring. He has also written a chapter of a book on sexual abuse that will be published at the end of March. In May, Carolina Academic Press will be publishing a new version of the Mental Health Aspects of Custody Law book that Professor Levy wrote with two lawyers and six child psychiatrists.

John H. Matheson

Fionnuala Ni Aoláin
This Spring, Professor Ni Aolain has acted as a consultant to the International Council of Human Rights Policy (an influential Geneva-based think tank) on the issue of Human Rights in Peace Agreements. She has also been asked by the International Center for Transitional Justice in New York to provide expert advice on the relationship between political violence and gender in Transitional Societies. She has published an article entitled “The Paradox of Democratic Transitions” in the Human Rights Quarterly.

Michael Stokes Paulsen
This fall, Professor Paulsen was named the McKnight Presidential Professor of Law and Public Policy, a prestigious University-wide chair. On February 8, Professor Paulsen presented his inaugural chair lecture as McKnight Presidential Professor, entitled “The Constitution of War.” During academic year 2004–2005, Professor Paulsen presented papers or lectures at the Harvard Law School (Federalist Society national student symposium) (“The Lawfulness of the Geneva Convention and Torture Memos”), NYU Law School (same), Fordham Law School (same), the University of St. Thomas Law School (same), Michigan State University Law School (“Beyond the Ten Commandments: Religious Liberty Under the Constitution”), Northwestern University School of Law (“The Judicial Activism

Guy-Uriel E. Charles was named the Russell M. and Elizabeth M. Bennett Professor of Law on April 6, 2005. Charles addressed “Democracy and Defect: Why Single-Member Districting is Unconstitutional” at his installation at the Russell M. and Elizabeth M. Bennett Chair of Excellence. He is an Associate Professor at the Law School and a Faculty Affiliate at the Center for the Study of Political Psychology. Professor Charles teaches and writes in the areas of constitutional law, civil procedure, election law, law and politics, and race.

The University of Minnesota Foundation created this University chair to recognize Russ and Beth Bennett’s extraordinary volunteer service to the University of Minnesota, and specifically to honor Russ for serving as the chair of both of the University’s highly successful capital campaigns. Russ and Beth earned undergraduate degrees from the University of Minnesota, and Russ graduated from the Law School in 1952. The chair is designed to support a rising scholar with an interdisciplinary focus who demonstrates excellence in teaching, advising, and research.
Abolition Act”) the University of Pennsylvania Law School (“Four Constitutional Questions About Vouchers—and their Right Answers”), and the University of Minnesota Law School faculty works-in-progress program (“It’s a Girl,” co-authored draft with attorney Erin Minkler, Class of 2002).

E. Thomas Sullivan
This summer the 2005 Supplement to Professor Sullivan’s Antitrust Law, Policy & Procedure (with H. Hovenkamp) will be published. The book is the leading antitrust casebook used in American law schools. In January, Professor Sullivan joined the LexisNexis Editorial Advisory Board. He continues to work on a book on the subject of the doctrine of proportionality in the United States, co-authored with Professor Richard Frase. On March 17, his article “Access to Excellence” appeared in the St. Paul Pioneer Press. In April, he chaired the ABA reinspection team at the University of Chicago Law School. He also continues to serve as Provost of the University.

Kevin K. Washburn
In September, Professor Washburn published an op-ed piece in the Star Tribune on the Governor’s proposal to obtain a share of Indian gaming revenues. He appeared on Twin Cities Public Television’s Almanac program in early October, and later that month was interviewed by Greta Cunningham on the “All Things Considered” program on Minnesota Public Radio. In December, Professor Washburn discussed some of his ideas about federal sentencing at a national conference in Palm Springs (sponsored by the United States Department of Justice) for victims of crimes, prosecutors and victim-witness advocates. At the annual conference of Minnesota judges, he made a presentation on the new Minnesota rule on recognition of tribal court judgments. He also addressed the annual Human Rights Day Forum in St. Paul, sponsored by the State of Minnesota Department of Human Rights. In February, Professor Washburn addressed an annual American Bar Association conference on gaming law, held in Las Vegas, Nevada. He also made a presentation to academics and attorneys at the Indian Country Law Conference in Miami, Florida, sponsored by the Miccosukee Tribe of Florida and the Center for Indigenous Law, Governance & Citizenship of the Syracuse University College of Law. In January, the Federal Sentencing Reporter published a mini-symposium on Professor Washburn’s proposal that tribal convictions be respected treated like federal and state convictions for purposes of evaluating a defendant’s criminal history at sentencing. Following Professor Washburn’s article were response pieces by two federal district court judges, a federal circuit court judge, and a federal public defender. In March, Professor Washburn participated in the Center for Civic Education’s annual Scholar’s Conference in Santa Monica, California. Professor Washburn is working with the Center to improve its national civics curriculum by incorporating discussion of the nation’s “third sovereign,” i.e., Indian tribes, into their materials, which teach principles of American government to elementary, middle school, and high school students. During the last few months, Professor Washburn saw several works previously mentioned in these pages finally make it into print, including pieces in the Gaming Law Review, the New Mexico Law Review, the Tulsa Law Review and the William Mitchell Law Review. His current scholarly agenda involves a series of articles on the dysfunctional aspects of the federal criminal justice system in Indian country, and an exploration of the broader implications of these problems—not only for federal Indian policy, but also for federal criminal justice.

David Weissbrodt
Professor Weissbrodt began teaching in January 2005 after finishing his sabbatical during the calendar year 2004. In January Professor Weissbrodt was informed by the U.N. Secretary-General that he had been appointed to serve as a Member of the Board of Trustees of the United Nations Voluntary Trust Fund for Contemporary Forms of Slavery for the peri-
od 2005–07. In mid-January, Professor Weissbrodt helped to organize and participated in a conference in Copenhagen entitled “Transatlantic Dialogue on Human Rights,” in which scholars from Europe and the United States considered how to bridge the gap that is developing between the perspectives of the United States and Europe on human rights, terrorism, and national security. Professor Weissbrodt prepared a paper on national security and terrorism which became part of the basis for the conference discussion. In February, Weissbrodt was the keynote speaker at the 19th annual symposium on corporate law at the University of Cincinnati Law School. He was invited to speak on corporate social responsibility and human rights. Weissbrodt’s remarks will appear in the next volume of the Cincinnati Law Review. In March, Weissbrodt presented a lecture at the Law School on “business and human rights,” in recognition of his reappointment as the Fredrikson & Byron Professor of Law at the University of Minnesota. As a result of Weissbrodt’s work with Adjunct Professor Laura Danielson (Class of 1989) during 2004, West/Thomson published the fifth edition of the Nutshell on Immigration Law and Procedure. The fifth edition takes into account the large number of developments in immigration law since the brutal attacks of September 11, 2001. Weissbrodt also published a brief article in Constituional Commentary on the Supreme Court’s use of treaties and other international sources.

Susan M. Wolf
Professor Wolf published “Physician-Assisted Suicide” in *Clinics in Geriatric Medicine,* She also submitted an article entitled “Doctor and Patient: An Unfinished Revolution” for a symposium in honor of Professor Jay Katz, based on a Fall 2004 talk she gave at Yale Law School. Professor Wolf published “The Minnesota Journal of Law, Science & Technology: A New Kind of Interdisciplinarity” in the inaugural issue of the *Minnesota Journal of Law, Science & Technology,* of which she is Executive Editor. She submitted “Assessing Physician Compliance with the Rules for Euthanasia and Assistance” to the *Archives of Internal Medicine.* She published an op-ed in the *St. Paul Pioneer Press* on “What ‘Million Dollar Baby’ Says About Disability and Death.” She served on the planning committee for and led a working group at a meeting jointly sponsored by the National Institutes of Health (NIH) and Stanford University on “Detection and Disclosure of Incidental Findings in Neuroimaging Research,” which will produce a number of publications. Professor Wolf was reappointed to another two-year term as Chair of the University’s Consortium on Law and Values in Health, Environment & the Life Sciences and Director of the University’s Joint Degree Program in Law, Health & the Life Sciences. The programs are sponsoring eleven events this year, including two upcoming conferences: an April 18 conference on “Proposals for the Responsible Use of Racial and Ethnic Categories in Biomedical Research: Where Do We Go From Here?” co-sponsored by the University’s Center for Bioethics and the Minnesota Department of Health’s Office of Minority and Multicultural Health, and a May 20 conference on frontier issues in law and science, on which she has collaborated with Professor Jim Chen and others. In May, she and Professor Jeffrey Kahn, Director of the University’s Center for Bioethics, will co-host an invitational meeting for approximately 50 directors of leading offices that are working on establishing national and international guidelines for end-of-life research. That meeting is slated to result in a consensus publication. Professor Wolf continues to serve on the Ethics Committee of the American Society for Reproductive Medicine (ASRM) and play a significant role in drafting Committee position papers for publication in *Fertility & Sterility*; she is now leading work on a paper on therapeutic innovation.

**Affiliated Faculty**

Jane E. Kirtley
Professor Kirtley gave a lecture entitled “Libraries, the First Amendment and Intellectual Freedom,” at the Minnesota Library Association’s annual meeting on

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**Faculty Works-in-Progress, cont.**

**March**

3 Professor Eric A. Posner
University of Chicago Law School
Should Coercive Interrogation Be Legal?

10 Professor Alan Sykes
University of Chicago Law School
Public vs. Private Enforcement of International Economic Law: Of Standing and Remedy

24 Professor David Luban
Georgetown University
Law Center
Lawyers As Upholders of Human Dignity (When They Aren’t Busy Assaulting It)

31 Professor Brian Bix
University of Minnesota Law School
Contract Law Theory

**April**

8 Professor A. W. Brian Simpson
University of Michigan Law School
Shooting Felons: Law, Practice, Official Culture and Perceptions of Morality

14 Professor Vikramaditya Khanna
University of Michigan Law School
Corporate Defendants and the Protections of Criminal Procedure: An Economic Analysis

20 Professor Stanley L. Paulson
Washington University School of Law
The Theory of Public Law in Germany 1914–1945+

21 Professor Jose Alvarez
Columbia University
School of Law
The Promise and Perils of International Organizations (chapter of forthcoming book)
Tribute to Professor Bart Koeppen

Bart Koeppen passed away on November 15, 2004, at the age of 71. He was a professor at the University of Minnesota Law School from 1968 to 1996, and was considered an expert in corporate and securities law.

Professor Koeppen received a B.A. degree from the University of Oregon, and an LL.B. degree Phi Beta Kappa from Stanford Law School, where he served as Note Editor of the Stanford Law Review and was a member of the Order of the Coif. Professor Koeppen was admitted to the California bar in 1963 and clerked for the Honorable Ben C. Duniway of the United States Court of Appeals for the Ninth Circuit in San Francisco.

Professor Koeppen was an associate attorney with Brobeck, Phleger & Harrison in San Francisco for five years before joining the faculty at the University of Minnesota Law School. At the Law School, he taught business organizations, corporations, governmental regulation of banking, and securities regulation. He was a Visiting Professor at the University of California at Davis from 1973–74. He was on leave from the Law School beginning in 1996.

Professor Koeppen’s wit enlivened countless conversations, and he will be remembered by his students, the faculty, and the staff at the University of Minnesota Law School.

Elizabeth Heger Boyle continues to explore immigrants’ experiences with law in the United States. She published “Formal Legality and East African Immigrants’ Perceptions of the War on Terror” in Law & Inequality and presented “Legal Pluralism & Legal Consciousness: Muslim Migrants in America,” at the American Sociological Association meetings in San Francisco. Professor Boyle received the Robert and Clarissa Rees Alumni Award from the University of Iowa for her research in the area of women’s human rights. Her book on female genital cutting will be reprinted in a paperback edition in 2005. Professor Boyle is on the Board of Trustees of the Law & Society Association. She is also currently the Book Review Editor of the Law & Society Review.

Bernard M. Levinson

Professor Levinson is currently on sabbatical, conducting research on his next book, Revelation and Redaction: The Role of Intellectual Models in Biblical Studies. The intellectual history of law in the ancient Near East plays a central role in this study. In the meantime, Professor Levinson has had a very successful year of publication and conference presentations. A new volume that he co-edited has just appeared, and contains leading international scholarship, including the significance of the Decalogue and the role of biblical law and ethics in contemporary, secular society. This volume is entitled: Recht und Ethik im Alten Testament (Münster/London: LIT Verlag, 2004). His own contribution to the volume is entitled: “The Metamorphosis of Law into Gospel: Gerhard von Rad’s Attempt to Reclaim the Old Testament for the Church” (Douglas Dance, co-author). Drawing on archival material that has become available only since Germany’s reunification, the article investigates the transformation of the University of Jena into “a stronghold of National Socialism” during the period 1934–45 in Germany. Under duress, Gerhard von Rad fought to maintain academic integrity. This famous scholar’s understanding of biblical law was strongly influenced by this situation. This year also saw another one of Professor Levinson’s co-edited volumes appear in paperback format: Gender and...
Law in the Hebrew Bible and the Ancient Near East (T. & T. Clark). An extensive analysis of the earliest legal code in the Bible and its relationship to the famous law “code” of Hammurabi was also published: “Is the Covenant Code an Exilic Composition? A Response to John Van Seters,” in In Search of Pre-Exilic Israel. Professor Levinson received a Summer Research award from the National Endowment for the Humanities, and had the great honor to offer an hour-long plenary lecture to the International Organization for the Study of the Old Testament, in Leiden, Netherlands, in early August. In November, at the Society of Biblical Literature’s Annual Meeting in San Antonio, in light of the current Supreme Court case, he chaired a special panel discussion on the issues raised by the public display of the Ten Commandments.

Scott McLeod
Dr. Scott McLeod was named as the Director of the new Center for the Advanced Study of Technology Leadership in Education (CASTLE) by the University Council for Educational Administration (UCEA). Dr. McLeod also was named as a finalist for Cable in the Classroom’s Leaders in Learning General Excellence Award because of his work with the university’s federally-funded School Technology Leadership Initiative. Dr. McLeod received over $350,000 in external funding, including grants to study K–12 virtual schools and the data-driven decision-making readiness of Minnesota educators. He also is serving as the evaluator of the Rochester Public Schools’ federal Smaller Learning Communities grant and the Northwest Minnesota INFOCON consortium’s Enhancing Education Through Technology grant from the Minnesota Department of Education. Dr. McLeod gave numerous presentations at UCEA’s annual convention and at the annual TIES state educational technology conference, and is serving as a mentor for the university’s Next Generation of the Professorate program. He continues his work with the Chicago, Minneapolis, St. Paul, and Osseo school districts and is about to begin a new study of technology coverage in Educational Leadership preparation programs’ school law courses.

William E. Scheuerman
Professor Scheuerman’s book Liberal Democracy and the Social Acceleration of Time, which focuses on the impact of increasingly high-speed social and economic practices on liberal democratic political and legal institutions, appeared with Johns Hopkins University Press during the summer of 2004. Professor Scheuerman also published an essay on the German theorist Carl Schmitt’s critique of international law in the political theory journal Constellations (December 2004), as well as an essay on regulatory law and democratic politics, “Democratic Experimentalism or Capitalist Synchronization?,” in the Canadian Journal of Law and Jurisprudence (January 2004). He is presently writing a monograph on Hans Morgenthau, an influential critic of traditional liberal models of international law.

David E. Wilkins
Professor Wilkins will be the Gordon Russell Visiting Professor in the Native American Studies Program at Dartmouth University for the fall term of the 2005–06 academic year. In June, he will teach a two-week course at Wake Forest University, Winston Salem, NC, titled “American Indian Sovereignty in Interdisciplinary Perspective” from June 13–June 30. The course will include college students and tribal members from across the state. He has several book manuscripts in progress, including The Legal Universe, co-authored with Vine Deloria, Jr. (anticipated completion date Spring 2006) and Documents of Indigenous Political Development: 1500s to 1933 (anticipated completion date Fall 2005). Professor Wilkins was the discussant for three papers on a panel session titled “Activists & Manipulators: Twentieth-Century American Indian Politics II,” at the 2004 Annual Meeting of the American Society for Ethnohistory that took place in Chicago, IL in October 27–31. He gave a keynote address at New Mexico State University, Las Cruces, NM on March 30, 2005 as part of their Indian Week festivities. He appeared on a panel discussing tribal sovereignty and federal recognition at the University of Virginia on March 18, 2005. The event was the Fifth Annual Virginia Indian Nations Summit on Higher Education, co-sponsored by the American Indian Studies Program at Virginia Tech, the Virginia Council on Indians, and the University of Virginia. He was on a panel discussing tribal sovereignty and gave a dinner address at the 2nd Annual Ivy Native Council Conference, “Honoring Our Ancestors: Strengthening Our Communities: A Call to Action,” hosted by Native Americans at Brown. The event was held at Brown University, Providence, Rhode Island, February 18–20, 2005. Professor Wilkins was the featured guest at the National Museum of the American Indian’s Native Writer Series on December 1, 2004. He also gave two talks at Michigan State University, East Lansing, MI on October 21, 2004. The first was noon speech at the MSU College of Law on Indigenous political participation in American electoral politics; the second was an evening address to the larger MSU intellectual community emphasizing the distinctive relationship between tribal nations and state governments.
Professor Jim Chen’s lectures have spanned 13 countries, four continents, and three languages (French, German, and English). But on a recent morning, the language that seemed to matter most to his students at the University of Minnesota Law School was American English’s southern dialect—or at least the Chen variation thereof.

During a discussion of the 1964 Civil Rights Act in his statutory interpretation class, Chen jotted the word “Mississippi” on the chalkboard, and warned his charges against pronouncing it with a Yankee-inflected four syllables when traveling south of the Mason-Dixon line. The correct pronunciation there? “Miss-Hippy.”

“How you like Miss-Hippy?” he drawled, by way of demonstration. “I like it just fiiiiine, suh.”

The moment elicited giggles from dozens of students happy to take a brief respite from studying filibusters, cloture, and other intricacies of the legislative process.

A few moments after the “Miss-Hippy” lesson, Chen launched into an imitation of the staunch segregationist Senator James Eastland. While equally entertaining, the blustering served an educational purpose by shining light on the tenor of the times. Professor Chen wants his pupils to know there’s more to understanding legislation than memorizing the text of a statute.

“If you ignore legislative history or other pertinent information that a court might use to decide a case, you will lose and be exposed as an inadequate lawyer,” Chen said.

Professor Chen has considerable insight into how courts decide cases. After graduating magna cum laude from Harvard Law School in 1991, he served as a law clerk for Judge J. Michael Luttig at the U.S. Court of Appeals for the Fourth Circuit, and then for Justice Clarence Thomas at the U.S. Supreme Court. The latter experience, during the high court’s October 1992 term, was a rare chance to witness a justice pondering constitutional complexities. Chen was impressed.

“No former clerk would agree with him on everything,” Chen said. “But I think [Thomas] would make an effective Chief Justice. He has good legal and human instincts, and a deep knowledge of the law.”

In 1993, the University of Minnesota Law School hired Chen as an associate professor. In 1998, he was designated a Vance K. Opperman Research Scholar. He was appointed the James L. Krusemark Professor of Law in 2001. Last year, Chen was named associate dean, which means he’s now involved in the coordination of the law school’s curriculum, faculty resources, and research agenda. Professor Chen is also director of special projects for the University’s Consortium on Law and Values in Health, Environment & the Life Sciences and faculty editor-in-chief of the new Minnesota Journal of Law, Science & Technology.

“I’m very pleased to be working on issues that are central to the faculty and, by extension, to the law school’s mission,” he said.

During the past twelve years, Chen has taught and written in the areas of administrative law, agricultural law, constitutional law, criminal law, economic regulation, environmental law, industrial policy, and legislation/statutory interpretation.
“I’m not terribly focused,” he confesses.

Perhaps that’s why his favorite U.S. Supreme Court case is *Wickard v. Filburn*, a 1942 decision on grain subsidies that involved several legal issues, including how much power the federal government has to regulate interstate commerce. Others might be drawn to “hot-button” First Amendment cases, but Chen finds himself attracted to (among other things) agriculture cases.

In an *Emory Law Journal* article on the subject, he wrote, “Those who succumb to a wealthy society’s ‘intellectual hostility…to the study of “farm” law’ will fail to appreciate the numerous constitutional landmarks that have arisen from seemingly humble disputes.”

Chen’s intellectual curiosity also led him to organize a symposium on environmental law at the University in 2002, and to edit a book on the topic: *The Jurisdynamics of Environmental Protection: Change and the Pragmatic Voice in Environmental Law*.

In that work, the former executive editor of the *Harvard Law Review* argues against legal tunnel vision: “Law can never fully insulate itself from the impact of societal and technological change.”

No matter his subject area, Chen believes he’s making a contribution to society. “I hope what I’m doing contributes to the alleviation of misery,” he said.

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**Faculty In Print**

Publications by the full-time, visiting, library and affiliated faculty.

*January 1, 2004 through January 30, 2005*

**Edward S. Adams**

*Books*


*Articles and Book Chapters*


**Beverly Balos**

*Books*


*Articles and Book Chapters*


**Stephen F. Befort**

*Books*


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**Law and Violence Against Women**

*Cases and Materials on Systems of Oppression (Supplemented in 2004)*

By Beverly Balos and Mary Louise Fellows

Carolina Academic Press

This book grew out of the authors experience co-teaching a seminar on gender and the law. As the seminar evolved over the years, the authors realized that concentrating on violence against women brings women into sharp focus how violence operates on a continuum to inflict harm and constrain women’s lives. Isolating women’s experiences into separate categories of battering, sexual harassment, rape, prostitution, and pornography tends to obscure the pervasiveness of violence—or the threat of violence—in women’s lives. Centering wholly on violence uncovers the interrelationships between harms that traditionally are viewed as separate and distinct phenomena. It shows how one form of violence supports other forms and how all forms share the same social dynamics. It also shows how legal and social responses to one form of violence against women may influence, negatively and positively, behavior and attitudes about other forms. Materials are brought together that provide a context for extended thought and discussion about the operation of the continuum, the interconnections among the various forms of violence, and the particular forces functioning within each form.

The issues are raised in the context of the intersection of class, gender, race, and sexuality and, to a lesser extent, questions any analysis that does not take into account the perspectives of women with disabilities. This book gives a fascinating historical view of how women have been perceived in the western world, and how those notions are changing. It is excellent for any course on women and the law, gender and the law, feminist theory, or how society and laws control women.
A Dictionary of Legal Theory
Edited by Brian H. Bix
Oxford University Press

Modern legal theory contains a wide range of approaches and topics: from economic analysis of law to feminist legal theory to traditional analytical legal philosophy to a range of theories of justice. This healthy variety of jurisprudential work has created a problem: students and theorists working in one tradition may have difficulty understanding the concepts and terminology of a different tradition. This book works to make terminology and ways of thinking accessible.

This dictionary covers topics from the “autonomy of law” to the “will theory of rights,” from “autoepoiesis” to “wealth maximization,” and from “John Austin” to “Ludwig Wittgenstein.” The most important concepts and ideas are presented in a simple dictionary format. There are also many longer entries, where the initial definition gives an accessible explanation, but the entry goes on to give more detailed information about the history of an idea and the debates currently surrounding it.

Articles

Other
Advanced Supreme Court Update, Labor and Employment Law Institute 2004 § 2 (Minnesota CLE).
Public Sector Update 2003–04, Public Sector Labor & Employment Law § 3 (Minnesota CLE).

Brian Bix
Books

Articles
Legal Theory—Types and Purposes, IVR.

Background Rules, Incompleteness, and Intervention: Comment on Kostinsky, 2004 WISC. L. REV. 37.

Dan L. Burk
Articles and Book Chapters
Feminism and Copyright in Digital Media, in INTELLECTUAL PROPERTY RIGHTS IN A NETWORKED WORLD: THEORY AND PRACTICE 161 (Richard Spinello & Herman Tavani eds., 2004).

Ann M. Burkhart
Books

Dale Carpenter
Articles and Book Chapters
Four Arguments Against the Federal Marriage Amendment, ___ ST. THOMAS L. REV. ___ (forthcoming 2005).
The Unknown Past of Lawrence v Texas, 102 MICH. L. REV. 1464 (2004).

Guy-Uriel E. Charles
Articles and Book Chapters
Colorblindness from the Original Position, ___ TUL. L. REV ___ (forthcoming) (symposium).
Law, Politics, and Judicial Review, ___ J. LEGIS. ___ (forthcoming).
Laura J. Cooper

Book


Articles and Book Chapters


Civil Procedure: Exercises: Collaborative Creation of Flow Charts, in Teaching the Law School Curriculum 37 (Steven Friedland & Gerald F. Hess eds., 2004).


Barry C. Feld

Books
Cases and Materials on Juvenile Justice Administration (2nd ed. 2004).

Articles and Book Chapters

Juvenile Transfer, 3 Criminology & Public Policy 599 (2004).

Mary Louise Fellows

Books

Law and Violence Against Women: Cases and Materials on Systems of

By Carol Chomsky & Christina L. Kunz

West Group, A Thomson Business

Sale of Goods aims to teach students not only the substance of a statute—primarily Article 2 of the Uniform Commercial Code—but also the skill of reading and understanding statutes. Most textbooks on the market dealing with statute-based subjects teach primarily through the filter of cases, and students quickly learn to rely on judges rather than themselves to explain statutory provisions. By using an exclusively problem-based approach focused on first reading and then applying Article 2, Chomsky’s textbook instead helps students to read the statute closely and figure out for themselves what it means, with cases and explanatory text included only when the Code itself is not sufficient. The book is based on two premises: that the ability to read and understand statutes is a vital skill for lawyers, and that students can and should learn statutes by reading, deconstructing, and reconstructing the statutory language for themselves rather than reading cases, which tell them only what a judge thinks the statute means. The new edition continues to teach the unrevised and unamended versions of Articles 1 and 2, but incorporates problems that introduce students to the 2001 revision of Article 1 and the 2003 amendments to Article 2.

By C. Douglas Floyd and E. Thomas Sullivan

Aspen Publishers (formerly Little, Brown and Company)

Private Antitrust Actions is the leading single volume of work on antitrust that helps litigators evaluate and successfully bring or defend a private antitrust suit. With this book, the reader will know exactly what it takes to determine if a party has standing to bring a civil antitrust suit, take advantage of (or overcome) available exemptions and immunities, and counsel any business on effective antitrust strategy. With detailed information on how the amount of the award is calculated, the reader will be able to evaluate each case for potential recovery (or costs) and attorney's fees. And the reader will also see how the federal courts are now interpreting and applying standards governing such matters as Antitrust injury and standing; Federal preemption; Insurance exemption for HMOs and managed care plan; Labor exemption and professional sports; State action immunity; Statute of limitations and fraudulent concealment; Class certification and settlement; Summary judgment and judgment as a matter of law; expert testimony in establishing damages; and depth exploration of areas where conflicting authority and unresolved questions persist.


Susan Franck

Articles and Book Chapters


Richard S. Frase

Articles and Book Chapters


Daniel J. Gifford

Articles and Book Chapters


Jamie A. Grodsky

Books

GENOMICS AND ENVIRONMENTAL POLICY (co-editor)(forthcoming).

Articles and Book Chapters


After the Genomic Revolution; Rethinking “Public” and “Health” in Environmental Law; in Genomics and Environmental Policy (forthcoming).

Risk Information and Regulatory Design, in Genomics and Environmental Policy (forthcoming).


Oren Gross

Articles and Book Chapters


The Prohibition on Torture and the Limits of the Law, 229 Torture (Sanford Levinson ed. 2004).


Barbara R. Hauser

Articles and Book Chapters


Joan S. Howland

Books


Articles and Book Chapters


Peter H. Huang

Articles and Book Chapters


Bradley C. Karkkainen

Articles and Book Chapters


“The New Governance” in Legal Thought and in the World: Some Splitting as Antidote to


Maury S. Landsman Articles and Book Chapters Moral Judgment of Law Students across Three Years: Influences of Gender, Political Ideology and Interest in Activist Law Practice, 45 South Texas L. Rev. 891 (with Steve McNeel) (2004).

John Matheson Books

Articles and Book Chapters

Fred L. Morrison Articles and Book Chapters

Fionnuala Ní Aoláin Articles and Book Chapters


Ruth L. Okediji Articles and Book Chapters


Through the Years: The Supreme Court and the Development of Copyright Law Through the Years: The Supreme Court and the Development of Copyright Law, 30 Wm. Mitchell L. Rev. 1633 (2004).


Myron Orfield Articles and Book Chapters
Racial Integration and Community Revitalization: Squaring the Low Income Housing Tax Credit with the Fair Housing Act, Vand. L. Rev. (forthcoming 2005).

Punishment and Politics
Evidence and emulation in the making of English crime control policy
By Michael Tonry
Willan Publishing Company
Labour has embarked on a root and branch remaking of the criminal justice system of England and Wales. New proposals and initiatives tumble out weekly and major legislation is enacted every year. Despite Government claims to engage in evidence-based policy-making, the evidence on which many changes are based is uncertain and controversial. American-style mandatory minimum sentence laws, correctional boot camps, and zero-tolerance policing have all been adopted, despite their well documented failures in the US. England has the highest imprisonment rate, the most crowded prisons, the severest sentencing practices, the most hyperbolic anti-crime rhetoric, and the worst racial disparities in imprisonment in Europe. In this hard-hitting book, Michael Tonry disentangles the influences of evidence, ideology and self-interest in New Labour’s crime policies. He shows why many recent changes are doomed to fail and how they can be recast to be made more effective, less costly, and less damaging to offenders, their loved ones, and their communities.

Comment on Robert Bullard’s, The State of Environmental Racism, special issue of the Journal of Law and Medical Ethics (forthcoming).

Creating a Constituency for Regional Equity, in Race and Regionalism (Robert Bullard, ed., forthcoming 2005)

Title VIII versus the Tax Credit: Can Civil Rights and Community Development Coexist?

Michael Stokes Paules Articles and Book Chapters


Book Reviews

Gregg D. Polsky Articles and Book Chapters
Taxing the Promise to Pay, 89 Minn. L. Rev. __ (forthcoming 2005) (with Brant J. Hellwig)


What are the Tax Consequences for Plaintiffs Who Hire Their Attorneys on a Contingency Fee Basis?, Preview of U.S. Sup. Ct.


Treasury Should Not Have Promulgated the Check-the-Box or INDOPCO Regulations, 23 ABA SECTION OF TAXATION NEWSQUARTERLY 14 (2004).


Ferdinand P. Schoettle

Books


Articles and Book Chapters

Does the Tax Injunction Act Allow a Federal Court to Enjoin the Granting of a State Income Tax Credit, __ PREVIEW __ (2004).

Shayna M. Sigman

Articles and Book Chapters


Douglas Smith

Articles and Book Chapters

Order (for Free) In the Courtroom: Re-conceiving Law as a Dynamic Complex adaptive System, (forthcoming).

Professionalism In Fund-Raising: Ethical Issues Regarding the Receipt of Attorneys’ Fees By Law School Clinical Programs, (forthcoming).


Spinals of Learning and the Teaching of Skills and Values in a Clinical (forthcoming).

E. Thomas Sullivan

Books

PRIVATE ANTITRUST ACTIONS (2005 Supp.) (with C. Douglas Floyd).

ANTITRUST LAW, POLICY, AND PROCEDURE (2004 & 2005 Supps.) (with Herbert Hovenkamp).

Articles and Book Chapters


Michael Tonry

Books


The Future of Imprisonment (ed. 2004).


Articles and Book Chapters


Criminology and Criminal Justice Research in Europe, in Developments in Criminology and Criminal Justice Research (Gerben Bruinsma, Henk Elffers, & Jan de Keijser eds., 2004).


Kevin K. Washburn

Articles and Book Chapters


Reconsidering the Commission’s Treatment of Tribal Courts, 17 FEDERAL SENTENCING REPORTER __ (forthcoming 2005).

A Different Kind of Symmetry, 34 New Mexico L. Rev. 263 (2005).


Lana, Lawrence, Supreme Court Litigation and Lessons From Social Movements, 40 Tulsa L. Rev. 25 (2004).


David Weissbrodt
Books


Articles and Book Chapters


Die Erarbeitung der UN-Menschenrechtssnomen fur Transnationale Konzerne und andere Wirtschaftsunternehmen, in UNTERNEHMEN IN DER WELTPOLITIK (Tanja Bruhl, Heidi Feldt, Brigitte Hamm, Hartwig Hummel & Jens Martens eds., 2004)


Susan M. Wolf
Articles and Book Chapters

Physician-Assisted Suicide, 21 CLINICS IN GERIATRIC MED. 179 (Linda L. Emanuel ed. 2005).


Ethics Committee of the American Society for Reproductive Medicine, Informing Offspring of their Conception by Gamete Donation, 81 Fertility & Sterility 527 (2004) (committee member).

Other


Judith T. Younger
Articles and Book Chapters


Other

Appellants’ Brief, Minnesota Court of Appeals, resulting in reversal of lower court ruling, Feb. 3, 2004, 674 N.W.2d 222.

Respondents’ Opposition to Petitions For Review, Minnesota Supreme Court, resulting in denial of review, Apr. 20, 2004.


Connie Lenz
Articles and Book Chapters
Faculty Services in Academic Law Libraries: Emerging Roles for the Collection Development Librarian, 96 LAW LIBR. J. 283 (Spring 2004).


Mary Rumsey
Articles and Book Chapters


The Virtual Chase: A Case Study on Trademark Due Diligence, in INTRODUCTION TO ONLINE LEGAL, REGULATORY & INTELLECTUAL PROPERTY RESEARCH (Genie Tyburksi ed., 2004).


Book Reviews


Suzanne Thorpe
Articles and Book Chapters

Affiliated Faculty
John W. Budd
Books


Library Faculty
Vicente E. Garces
Articles and Book Chapters


Law Alumni News SPRING 2005
Articles and Book Chapters


Elizabeth Heger Boyle
Articles and Book Chapters


Jane E. Kirtley
Articles and Book Chapters


Bernard M. Levinson
Books


Articles and Book Chapters


The Metamorphosis of Law into Gospel: Gerhard von Rad’s Attempt to Reclaim the Old Testament for the Church, in RECHT UND ETHIK IM ALTEN TESTAMENT (Bernard M. Levinson & Eckart Otto, eds.) (with Douglas Dance).


Scott McLeod
Articles and Book Chapter


William E. Scheuerman
Books


Articles and Book Chapters


David E. Wilkins
Articles and Book Chapters

Native Studies and the Academy, WICAZO SA REV. (forthcoming 2005).

African Americans and Aboriginal Peoples: Similarities and Differences in Historical Experiences, 90 CORNELL LAW REV. 2 (2005).


Let’s Mess with Texas

The following op-ed was adapted from a recent Texas Law Review article. It appeared in The Wall Street Journal on August 19, 2004, under the title “Austin Powers.”

BY VASAN KESAVAN AND MICHAEL STOKES PAULSEN

What would you say if we told you we have a way to add as many as eight new Republican senators to Congress? We could also add eight right-leaning votes to the Electoral College. It’s simple, it’s fun, and it’s perfectly constitutional: Texas should divide itself into five states.

Article IV, Section 3 of the U.S. Constitution says that new states may be created out of existing ones, but only with the consent of “the States concerned as well as of the Congress.”

These days, a partisan Congress would never agree to a Texas carve-up, since any resulting new states would surely be politically conservative. But Congress need not take any action at all today: It granted its consent to Texas’s potential subdivision 159 years ago. This made sense, as those had been the terms that Texas, a sovereign nation at the time, had negotiated for entering the Union. One provision of the 1845 Joint Resolution for Annexing Texas, passed by Congress and signed into law by President John Tyler, reads as follows:

“New States, of convenient size, not exceeding four in number, in addition to said State of Texas, and having sufficient population, may hereafter, by the consent of said State, be formed out of the territory thereof, which shall be entitled to admission under the provisions of the federal constitution.”

The “New States of convenient size” provision is the constitutionally required consent of Congress to carving a new state out of an existing one. And it is still in effect: There is absolutely no reason to believe that this provision—a U.S. statute—expires on its own without being repealed. So all that remains is for Texas to say “yes” and act to divide itself into five. This will necessitate some Texas politicking, but probably not much more than the redistricting drama of 2003. Then, Democratic legislators holed up in Oklahoma and New Mexico in a failed attempt to stymie a GOP redistricting plan that eliminated a decade-old pro-Democrat distortion.

But wouldn’t it be kind of sad to see the Lone Star State dismembered, merely for political fun and profit? We’ve all met Texans who think that there’s something “national” and sacred about Texas being, well, Texas. But sentimental schlock shouldn’t prevail over rugged western realism (not to mention self-interest). Texas has grown too big for its britches (in a good way). The ironic consequence is that Texas is woefully underrepresented in national politics.

The Constitution’s requirement that each state have equal representation in the U.S. Senate means that huge Texas—the nation’s second largest state in both people and land—has the same representation in the Senate as puny Vermont. “Jumpin’ Jim” Jeffords can throw control of the Senate by shifting party loyalties, as he did in 2001. How anti-democratic is that? Texans could prevent such Yankee chicanery by wielding their proper weight in the nation’s councils.

So what are y’all waiting for? Can anyone think of a good reason why we shouldn’t mess with Texas? For the good of America, for the good of Austin, for the good of the GOP, now’s the time for Texas to become five Texy-Tots. Yee-haw!*

Kesavan is a recent graduate of Yale Law School. Paulsen is the McKnight Presidential Professor of Law and Public Policy at University of Minnesota Law School.

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With the increasing globalization of the legal profession, the University of Minnesota Law School has made it a priority to develop more opportunities for its students. In the past decade, the Law School has emerged as a leader in international legal education among major U.S. law schools. This is, in part, because of the outstanding and internationally respected faculty, the world-class Law Library, the exchange relationships with numerous universities abroad, the esteemed LL.M. program for Foreign Lawyers, and the globally renowned Human Rights Center. The Law School attracts top-notch students from the United States and around the world because of all of the courses, programs, and opportunities that we have to offer. In the following Features section, you will find a reflective piece by distinguished faculty member Professor Fred Morrison that recounts his efforts to peacefully resolve the conflict in Sudan. There is also a scholarship essay by Professor Fionnuala Ní Aoláin, a highly regarded new member of the faculty. Both Morrison and Ní Aoláin teach and write on international issues. There is also an in-depth piece about our new and innovative LL.M. program in Beijing, China that will open its doors in 2006. The Beijing LL.M. program will solidify the Law School’s reputation as a leader in international legal education.
Minnesota Professor Helps Draft Sudan Constitution

BY FRED MORRISON

First Person is a new feature of the alumni magazine that offers personal essays about the first-hand experiences of our law school professors. This article showcases Professor Fred L. Morrison’s work in the Sudan. Professor Morrison is the Popham, Haik, Lindquist & Vennum Professor of Law and a recognized scholar of international law and comparative public law. He teaches constitutional law, international law, local government, and comparative public law.

For the past two years, I worked with a team of professors and diplomats to help resolve one part of one of the longest-running civil wars in the world, the conflict between the Government of Sudan (GOS) and the Southern People’s Liberation Movement (SPLM).

Sudan, which lies to the south of Egypt, was once a province of the Ottoman Empire. At the end of the 19th century it became a condominium, jointly administered by the British and Egyptian authorities. It acquired independence in 1956. Independence did not bring Sudan peace and prosperity. Instead, it was accompanied with the outbreak of dissent and eventually violence. The northern part of the country is largely Arabic and Islamic; the southern part is Black and adheres either to the Christian faith or to local tribal religions. War between the two groups has continued for over 40 of the last 50 years. More than two million people have been killed in the fighting; another four million are refugees. Great human tragedy has engulfed the country. The war was in part fought over religious issues: the majority in the North appeared prepared to impose strict Islamic Sharia law over all of the country. It was in part fought over economic issues involving the right to exploit the great potential oil reserves located in the area claimed by both groups.

Four years ago, at the urging of the United Nations and under the auspices of an international organization called the Intergovernmental Agency for Development (IGAD) which coordinates relief efforts in the area, representatives of GOS and SPLM began meeting to try to find common ground for a settlement of their differences. Their interest in settlement may also have been spurred on by the fact that the fighting made it impossible for either of them fully to develop the oil reserves. IGAD sponsored talks between the two sides, which were held in Kenya, presided over by General Sumbeyo, chief of staff of the Kenyan army.

In 2002, the parties reached a major breakthrough in a protocol signed in Machakos, Kenya. They agreed to establish a modified federal system for a period of six years. The agreement restricted the application of Islamic law in the non-Islamic southern areas. At the end of the six year period, the people of the South are to hold a referendum to decide whether to become independent. While this was
a major step forward, it left many questions unanswered, especially how the country would be governed during the six year interim period. Negotiation over these subjects continued over the past two years.

Both parties agreed to call upon Professor Rüdiger Wolfrum, director of the Max Planck Institute for Foreign Public Law and International Law at Heidelberg, Germany to aid in the preparation of a draft for a constitutional framework for the interim period. (Some alumni may remember Professor Wolfrum; he was twice a visiting professor at Minnesota, teaching courses on the Law of the Sea and on International Environmental Law.) Professor Wolfrum assembled a team of international experts, including Dr. Abdel Salam Jamali, the former prime minister of Jordan, Dr. Thomas A. Mensah, the former chairman of the Constitutional Commission of Ghana, now a judge at the International Tribunal on the Law of the Sea, and myself, to advise the parties. The other experts were neatly balanced. Both had extensive governmental experience; one came from the Arabic world and one from Africa. In these discussions, however, both of them took a global view of issues. The participants in the Heidelberg meeting were not asked to establish a constitution for Sudan; that task would be done by a joint commission of the two parties to the conflict and ratified by their respective legislative bodies. Instead, we provided a suggested draft to be used by that body when it did its final drafting. Meetings were held in Heidelberg in the fall of 2002 with official representatives of both sides of the conflict. The result was a preliminary draft document designed to provide a constitution for an interim period. The document was not complete; it identified some issues upon which the parties still needed to reach political agreement. The parties then resumed their direct negotiations.

By late summer of 2004, the GOS and SPLM had reached five more separate agreements on subjects like power sharing, wealth sharing, security arrangements, and the special arrangements necessary for two highly disputed areas. Those agreements will also inform the final constitutional draft. They contain elements that appear to be drawn from the Heidelberg draft. After those agreements were completed, the Heidelberg team redrafted its proposed document to reflect all of the explicit agreements of the parties. Professor Wolfrum and I prepared another “Heidelberg draft” reflecting the changes that had been made, but also raising a few additional questions that appeared not to have been resolved at a political level.

Settlement of this conflict did not, of course, resolve another newer conflict in the Darfur region of western Sudan, which has more recently been the subject of world attention. That fighting appears to continue unabated.

The agreements between the North and the South provide a very complex set of rules and relationships. Sudan will remain a single country for at least six years, at the end of which the people of Southern Sudan will hold a referendum on possible secession. For the interim period the government will be based on power sharing. At the national level there will be a Presidency at the head of the executive branch, with a nationally chosen President, but in which the First Vice President comes from the South. The First Vice President will have a veto over major appointments, declarations of a state of emergency, and other important governmental decisions. For a substantial time there will be two armies, one commanded by the President and the other by the First Vice President, supplemented by a common security force. Eventually, they should merge into a single force.

Sudan will be a federal system, but the southern states will be grouped into a Southern Region, which will be an additional level of government. The Southern Regional government may modify national laws based on the Islam-
inc. Sharia code if they are to be applied in the South. It will act as an intermediary between the southern states and the central government. Because of Islamic resistance to the concept of interest, there will be two separate divisions of the central bank, one operating on Islamic economic principles and one operating on Western principles. Revenue and control over oil resources in the Southern region will be shared by the central government and the South.

This might sound relatively simple, but its integration into a single document is a highly complex operation. Questions can arise. Would the Islamic laws of family status apply to southerners who are temporarily at the capital of Khartoum, which is in the northern area? Which powers will be exercised by the central government for the country as a whole and which will be administered separately in the Southern Region? As a result, the proposal is a highly complex and detailed document, running to 75 pages.

The draft on which I worked is only a suggestion to the parties in Sudan. A joint commission of the two parties is now preparing a final document for ratification by the parties in Sudan. A joint commission of the two parties is making the final agreement, the joint commission has only six weeks to complete its task, so the suggestions from the earlier Heidelberg group may play an important part.

We played a very small role in trying to help solve a small aspect of a very large problem, but each little piece was another small step to the solution. If we helped in ending the war that killed thousands of people every year, it was well worth the effort.

There were some touching moments at the Heidelberg discussions. Two of the Sudanese representatives from different sides of the controversy recognized one another in the course of the deliberations. They had been law students together at the University of Khartoum during one of the brief intervals of peace in the middle of this war. Another of the delegates had been their professor there!

When asked whether the draft interim constitution would meet all of the standards for a transitional government discussed in another article in this magazine, I often point out that our primary concern was resolution of the fighting. Sometimes there are difficult moral choices between an imperfect arrangement that will stop fighting now and a superior one that might do a better job but cannot immediately be achieved. The solution here is aimed at stopping the violence now and using the interim period of six years to build toward a permanent and stable arrangement.

While the documents were still under negotiation, I was unable to discuss the process in much detail. I was able to involve my research assistants in some of the issues though. Now that the results have been published, I can discuss the process and the outcome more freely.

Jason Ilstrup (Class of 2005) was in Professor Morrison’s class and recalls the experience.

“Professor Morrison helped me to garner a unique, real-world understanding of Constitutional Law in other countries. I was challenged and expanded my knowledge of international issues. To take this course while the Iraq crisis was unfolding brought to life many of the issues, debates and theories and made it more personal. I know that I will use the skills and knowledge that I gained from Professor Morrison in my future career, whatever that might be.”

My participation also contributed to my classroom teaching. In the spring of 2004, I taught a seminar on Comparative Constitutional Law. While I couldn’t then talk freely about Sudan, I could talk about another similar constitutional issue facing being faced by another group of drafters—preparation of an interim constitution for Iraq. In the seminar, I could indirectly bring some of my experience in the Sudan process to bear in discussing issues like the role of religion and religious law in that part of the world. ⚫

7 Number of international study abroad law programs. Students can pursue academic interests in other countries through exchange programs in France, Germany, Ireland, the Netherlands, Spain, and Sweden. The Law School is also starting an LL.M. program in Beijing, China.
The concepts of “transition” and “transitional justice” have come to occupy a prominent position in legal scholarship in recent years. The term “transitional justice” was first associated with societies who made the difficult move from authoritarianism to some form of democracy, but has also come to be used when describing the societal transformations experienced in places as diverse as South Africa and Northern Ireland, and is now synonymous with societies seeking to move from violent internal conflict to peaceful co-existence.

Much of the legal literature on transitional justice has concentrated on what can be termed “dealing with the past.” By this I mean that it focused almost exclusively on the important question of how societies and nations ought to deal with the legacy of systematic human rights violations. Criminal prosecution, corrective justice and retribution have been a major focus of this literature, as has been, more broadly, the critical tension between demands for accountability for violations of human rights and the need to allow for rapid reconciliation that may better protect and safeguard newly established democratic institutions.

This brief article will sketch out a critical assessment of conceptual and policy thinking in and on the field of Transitional Justice and offer some proposals on what Justice in Times of Transition might encompass. To start I suggest that the term “transitional justice” means more in conceptual and policy terms than simply dealing with the human rights abuses of a previous regime. I also suggest that a distinctive relationship exists between law and politics in contemporary transition. The starting point of transition is one in which the rule of law is either entirely absent or is significantly impaired, while the end goal is one in which law plays its full role in a functioning liberal-democratic state. Simultaneously, in such contexts, international law can play a vital role in determining the pace and shape of transition by providing frameworks that respond to the diverse needs of fractured societies. Thus, the totality of legal reform is part, or ought to be part, of the Transitional Justice paradigm.

The dominance of Iraq in our newspapers has highlighted the contemporary significance and importance of transition. However, transition in contemporary global law and politics concerns more than simply the process of change at play in Iraq. First, societies in transition are neither few in number nor inconsequential to the peace and security of this region and the world. They include the post-Soviet Eastern European states, the Latin American countries still struggling with the legacy of authoritarianism, South Africa’s rebirth from Apartheid, Northern Ireland after the Good Friday Agreement, Israel and the Palestinian Authority’s internal societal struggles since the signing of the Oslo
Accords, the new states which emerged from the bloody conflict in the Balkans, and numerous African states with various shades of participatory government.

Second, in the wake of the September 11th terrorist attacks and of the invasions of Afghanistan and Iraq, and with the global and seemingly omnipresent and all-pervading “war on terrorism,” the world has changed. One aspect of that change is the current phenomenon of U.S. unilateralism, founded on unprecedented military and economic pre-eminence, which has important implications for international law, most obviously for the capacity of such law to bind the United States in any real sense. The position is further complicated given the United States’ appropriation of the language of “transition” and “democratization” with a view to global export, with few effective international legal constraints countervailing. In the longer term, it is not clear how these dynamics will play out. It may be that U.S. unilateralism will produce a seismic shift in international law, or it may be that countervailing pressures will emerge with time, producing a new international legal consensus. None of this is entirely clear at the present moment. However, what it tells us is that our understanding of “transition” is shifting and widening. This article maps some of that shifting terrain.

**A. What is the Justice Part of Transition?**

To conceptualize this expansion of transition, the first move is to think about the “justice” part of transition. The notion of “justice” in the context of transitional societies has traditionally been concerned with past focused accountability. There are a number of features of such a conception. **First,** it takes for granted that accountability for past wrongs is a morally legitimate starting point from which to assess the moral and political standing of any new regime. **Second,** following the principles set by the Nuremberg Tribunal, the accountability discourse is focused on the individual, and does not countenance group punishments. **Third,** in this context outcomes are in a sense assumed, namely that there will be some form of accounting/punishment for the actions undertaken in the past by persons who have committed egregious human rights violations. In other words, justice here has a restitution function—it restores equilibrium in the political sphere by ensuring that accountability takes place through legal norms.

However, when we look more closely we discover that justice in transitional contexts is significantly richer, multifaceted and more complex concept than is generally accepted. Thus, it can facilitate the operation of the transitional political sphere by absolving the need for absolute accountability through a variety of means. These include the controversial arena of amnesty for crimes committed, forgiveness, reconciliation and truth telling. If we take a formal view of justice as requiring some form of legal process coupled with punishment for previous “wrongs” committed, the practice of transitional “justice” often falls short of the supposed ideal.

**Transitional justice discourse was originally modelled around examples of societies that had experienced authoritarian government and were evolving towards a more democratic political framework. Concurrently in such societies there may also have been a transition from a situation of violent conflict to peace.**

I have argued elsewhere that the “tent” of Transitional Justice is big enough to hold a substantial expansion of its existing capacity. As a starting point, if we think of restitution in a broad way, and not simply as criminal accountability for singular acts there are a wide array of transitional processes which could be considered to be part of the transitional justice rubric. Most obviously it is possible to think of socio-economic adjustments as part of the transitional justice rubric, where socio-economic disadvantage has been structurally entrenched by elite and unrepresentative political regimes.

Thus, justice in the transitional context is forward looking, pragmatic, focused on future outcomes as well as past legacies. In this view, justice in transition can operate to “undo” wider individual and groups harms, through imaginative deployment of legal rules and reform of legal institutions. A striking example of this comes from the new South African constitution which not only strikes a new political compact within the state, but seeks to address historical exclusion through, for example, the inclusion of certain socio-economic rights within its framework.

Furthermore, if we think of “justice” as a forward looking concept that encompasses some notion of both procedural and substantive equality then we can accommodate a much broader range of issues within the transitional justice rubric than just the vexed problem of past human rights violations. If we understand justice to encompass a notion of meaningful equality—then it becomes possible to argue that in the transitional context, equality is a sine qua non for realigning historic exclusions and discriminations including a guarantee of place for persons/groups previously excluded from legal and political process.

But, the place where most academics and policy makers have placed their emphasis has been the legal and non-legal settings/practices that operate to satisfy both the need for restitution as well as the need to move forward in transitional societies. It makes sense that trials, courts, truth commissions, amnesties, punishment forms and terms should all be a part of this debate. As I will outline below, there are other elements which form part of the transitional justice landscape and to which legal regulation and form rightly ought to apply.

**B. Conflict and Law**

The first site for by this expanded notion of transition takes into account the contemporary reality that transitional processes most often apply to societies that have experienced significant internal violence. In such societies where politically motivated violence is part of the cause for trans-
formation (both as a matter of identifying the root causes of violence, as well as simply seeking to prevent its recurrence) the success of the transitional project is intimately tied to understanding and addressing the root causes of dissent and violence. This is not just a matter of political recognition but has a firm legal aspect. International law defines and regulates conflict, both of the international and internal variety.6 State acceptance of the applicability of legal regulation and form to define internal violence is highly politically significant and can function as a conduit for facilitating the forms of political accommodation necessary to end the violence from which a transition is required. Legal categorization of conflict is one means to achieve this, though it is often resisted by states, concerned about their own legitimacy (a thorny current example would be the conflict in Chechnya).4 The reasons for state resistance are multiple but it should be noted that international law here has a certain autonomous quality—meaning that it is not just the recognition of the state experiencing the violence that is determinant.7 What this issue generally tells us is that the narrative of law and the status it may bestow is enormously significant in the transitional context. Further, without a willingness to address the reality of status and causes of any pre-existing conflict the transitional project itself may founder.

C. Political Accommodation

At one level, political accommodation and the move towards compromise among competing groups over access to governmental power may seem to have little to do with law or transitional justice. Yet, deals about governmental form dominate the negotiation of change in many transitional societies and are consistently legitimized by reference to legal and regulatory frameworks which draw some of their traction from the inclusion of self-determination as a right within international human rights instruments. This is particularly true in transitional societies which have to come to terms with prior exclusions of particular individuals, groups and minorities demanding inclusive political space and reform of political process by law. Thus the arguments in Iraq about the composition of its interim government and the representation of a wide variety of ethnic and religious groupings on the Council are a good example of this dynamic.4 This can therefore be seen as an expansion of the restitution component of transitional justice—meaning that restitution is no longer about resolving direct individual harms (which has often simply meant dealing with direct physical harm to the person)—but extends to include resolution of harms to the political self and the citizen self.

D. Institutional Transformation

Transitional justice claims invariably implicate legal institutions. Any conflicted or post-authoritarian society generally exhibits sharp differences between communities in the confidence displayed in legal structures and processes. There may be conflicting views over the extent to which legal institutions have been complicit in the maintenance and management of the previous regime, and diverging views about the necessity and capability of reform. First, there is likely to be a lack of shared narrative by all parties on the causes of conflict or the status of the prior regime and its manifestations, leading to markedly different views on the role and legitimacy of the actions of institutions and actors during the previous regime/conflict. Second, there may also emerge a debate about the extent to which legal reform needs to be tied to a particular constitutional settlement.

Take the Chilean example. Because of the managed nature of the political handover from Pinochet there were sharply divergent legal views about the neutrality of the legal system during the dictatorship. This includes legislative processes, courts, and agents of enforcement such as the police.7 Political scientists Hite and Morlino have argued, in an interesting exploration of what is termed authoritarian legacies, that three variables affect the capacity of societal (and thus institutional) change.10 They include (a) the durability of the previous regime; (b) the institutional innovation of the previous regime; and—(c) the mode of transition from authoritarianism. As a result, legal reform is debated not just in terms of the intrinsic value of reasserting the rule of law, but also as a form of broader political affirmation or denial of certain constitutional and political pasts and futures. The consequences of this bargaining dynamic around legal reform can be significant, indicating a need to maintain law’s stability while simultaneously acknowledging its failings during the previous regime, and redressing these institutional revisions.

Transitional processes frequently include legal and other institutional reforms that take account of this reality. As practice in multiple jurisdictions has demonstrated, the totality of reform cannot be contained in a peace agreement, and instead such reform tends to constitute part of the post-negotiation landscape. Thus, institutional reform can occur incrementally outside the initial, formal, negotiating process, and work to address the causes of conflict on a more piecemeal basis. This practical reality means that institutional reforms become intrinsically tied up with the ongoing experiment of political accommodation. This can operate to the detriment of a coherent reform process, as parties embrace or reject legal reform not on its own terms, but because of its capacity to reshape critical elements of the initial agreement towards their own vision of transition.

These realities have substantial impact on the politics of institutional reform. If, on the one hand, the institutions of the state are viewed as having “done a good job in difficult circumstances,” then demands for reconfiguration are seen as charged political assault on the integrity and neutrality of legal form and structure. Change can only be countenanced as necessary when couched in managerialist language, with an emphasis on “professionalism,” “efficiency” and modernisation, and tied to developments in other jurisdictions. On this view, change is not linked to the prior societal experience but rather to the kind of on-going economic or management imperatives that exist anywhere.
In conclusion, this indicates the centrality of institutional reform to transitional societies and the hurdles both ideological and practical that can be encountered along the way.

E. Gender Deficits in Transitional Contexts

Transitional processes including peace processes are typically deeply gendered, raising awkward questions about the neutrality of the transitional project. This is particularly true when the transition is one from war/violence to peace. While women will often have been at the forefront of peace initiatives throughout a conflict or the face of a call for state accountability for human rights violations (see the Mothers in Argentina), peace agreements are usually negotiated predominantly, if not exclusively, by men. The conduct of violence and war is predominantly male, leading to a male bias in negotiations, and mediators are usually men. Such exclusion has a double effect. Arguably, it operates to narrow the problems faced to a “male” conception of conflict revolving around allocations of power and territory, and stopping certain forms of violence. These questions may impact only peripherally on many women’s day-to-day lives. They may leave untouched socio-economic exclusions, and even violence, which women may not see as compartmentalized into “conflict” and “non-conflict” related, but rather experience as a continuum, only partially addressed by cease-fires. It also means that women rarely sit at the tables where the issues of post-conflict transition and reconstruction are addressed. There is also little understanding (academic or policy oriented) on what a gendered notion of change might mean. Some preliminary research carried out concerning women’s experience of conflict in Northern Ireland, tends to suggest that women have an expansive notion of what and where transformation is required, and it is not limited to the public domains which so often dominate peace agreements and transitional “deals” between internal political factions. Rather, women experience both the public and private aspects of an authoritarian society and/or conflicted society, and articulate the need to transform politics and practice in both contexts. Once again, the lived experience of women in conflicted societies suggests that the term “transition” has much more territory to occupy that it has hitherto.

Conclusion

I conclude where I began—with an assertion of the need for a much broader conception of transitional justice than one that focuses solely on “dealing with the past” (particularly where this past is viewed in terms of male conceptions of harm). Hence the demand for a theory of law in transition that is not past-specific and that avoids the pitfalls of a gendered approach.

Part (though by all means not all) of the solution may lie in seeing the transitional process in terms of the reversal of the delegitimation of domestic law and of legal institutions that occurred during the prior regime. Thus the transition becomes a project of building and re-building the legitimacy of law across the range of sites where rule of law deficits are evident. In doing so, I would assert that this does not limit the capacity of law and legal process to become a site of contestation in a post-conflict society, but it underscores the need for a degree of a priori legal legitimacy in order for that ‘normal’ contestation to take place.

In building the legitimacy of domestic law and legal institutions, international law has a particularly important role to play by virtue of its externality to the parties to the conflict. This externality is directly related to the autonomous quality of international law—it is not an infinitely malleable set of standards, the meaning of which states are free to appropriate according to their whims at any particular time. Rather than being related to well established notions of order, stability and continuity, law in transitional societies must engage with the imperatives of moving between radically different political contexts. The need to compensate for domestic rule of law “gaps,” coupled with internationally imposed imperatives means that international law typically forms a heightened and important legal reference point during transition by virtue of its externality to the parties to the conflict.

Finally, in a context where the successes and failures of transition are measured in the short timeframe of media pre-occupations, it remains important for academics and policy makers to remain attuned to glacial pace of social change in many societies, and to remember that the results of successful transitions may take generations to take root.

FOOTNOTES

1. As Bell has noted dealing with the past generally has had two aspects: (1) “undoing the past,” (typically by attempting to “undo” the displacement of people and dispossession of land which occurred during the conflict), and (2) “accounting for the past” (e.g. through the use of truth commissions and domestic or international courts and tribunals). However, that description only partially explains what we mean by justice in the transitional context. Bell, Peace Agreements and Human Rights (2000 Oxford University Press) at 233.


5. See Geneva Conventions I–IV of 12 August, 1949, regulating, inter alia, the treatment of armed forces, civilians and prisoners of war during international armed conflict. See also Additional Protocol I & II to the Geneva Conventions (1977).


8. See “Kurds campaign for federal state” The Guardian, January 28, 2004, available at www.guardian.co.uk/international/story/0,1132652,00.html See also “Iraqi ministries are to be allocated on ethnic lines” The Irish Times, Dublin, August 29 2003.


11. Bell, Supra note 1, pp 25–32.
The Law School will launch a Master of Laws (LL.M.) Program in American Law in Beijing, China.

Within the next 12 months, the Law School will launch a Master of Laws (LL.M.) Program in American Law in Beijing, China. The Beijing LL.M. program will give Law School faculty, students, and alumni the unique opportunity to train and share ideas with Chinese attorneys, as well as learn first-hand about the country’s rapidly evolving legal system. For their part, Chinese lawyers will get critical preparation to guide their country’s explosive international trade growth.

The Law School already has exchange programs with universities in Ireland, the Netherlands, Spain, Sweden, Germany and France. However, the Beijing LL.M. program is the Law School’s first off-campus degree program. Law School professors will travel from Minneapolis to teach most classes. Chinese students will receive a University of Minnesota LL.M. degree.

“We are very proud of what we do in international law,” said Law School Dean Alex Johnson. “This will only add to that strength and cement our reputation as being the preeminent school in the Midwest if not the country.”

The Beijing LL.M. program is a three-way partnership between the Law School, the China University of Political Science and Law, and the Beijing Fazheng Group, a Chinese firm with diverse businesses lines. Fazheng Group Board Chair, Wang Guangfa, is catalyst and benefactor, providing the money, energy, and connections to make the program work.

The Law School is starting small in spite of high demand. “There is a thirst, a hunger for this kind of program in China,” Johnson said. “If we allowed, we could probably enroll 500 students. We are starting with 50 because we want to make sure we get it right.”

A Fortuitous Visit

Dr. Hong Yang, head of the University of Minnesota’s China Center, deserves the credit for jumpstarting and promoting the Beijing LL.M. program. It all began when a Hong Kong businesswoman stopped by his office in February 2003.

She had gone to the Minnesota Trade Office to make business contacts, a side trip during a visit to her IBM-employed son in Rochester. The Trade Office staff referred her to the China Center, an organization the university created in 1979 to promote educational exchanges and collaborative research with China, Taiwan, and Hong Kong.

The woman was a friend of Wang Guangfa of the Fazheng Group. (Chinese convention puts the family name first, then the given name, so he is known as Mr. Wang. Hong Yang has lived in the United States for 20 years and uses the U.S. convention; his last name is Yang.) As Yang tells it, the woman told him he needed to meet Mr. Wang and gave him a phone number. “I’m sure he would be interested in what you are doing here,” she said, referring to the China Center’s work in educational exchanges.

Yang called, and the two discussed the university’s law and computer science programs. The conversation went well and Wang planned to visit Minneapolis in May 2003. China’s outbreak of the respiratory disease SARS delayed his trip. He arrived in August and met with Yang, Meredith McQuaid, the Law School’s Associate Dean of Administration and Director of International & Graduate Programs, and Professor Fred Morrison, an expert in international law who had previously taught in China.

Morrison remembered scheduling the first meeting as a courtesy visit. “We thought nothing would come of it,” he
said. “We did it to be good citizens, because of our relationship with the China Center, because of the good work they do.”

Wang arrived in the United States planning to discuss partnership ideas with the University of Minnesota and a prominent east coast law school, Yang said. The four-day Minneapolis trip extended to six days. Yang’s salesmanship and the Law Schools assets impressed Wang enough that he cancelled the east coast trip and decided to work with the University of Minnesota on the spot.

Two months later, in October, Yang flew to China to visit the Fazheng Group’s companies and to talk with Wang about how the educational partnership could work. In November, Wang traveled to Minneapolis to set up the Fazheng Guangfa Educational Fellowship Fund, a $150,000 three-year gift to the China Center. In part, that money paid McQuaid’s and Morrison’s travel expenses. They made multiple trips crossing the 6,284 miles between Minneapolis and Beijing to negotiate program details.

Their work was invaluable. “The establishment and future success of this program is due almost totally to the effort of Dean McQuaid and Professor Morrison,” Johnson said. “Those two clearly lead the way and have done the bulk of the work. Without them, and without Yang’s help, we would not be where we are today.”

The Law School’s two emissaries also benefited from the University’s history with China. The University accepted its first Chinese student in 1914 and has more than 8,000 Chinese alumni, according to University data. In 2001, the Carlson School of Management started an executive MBA program in Guangzhou near Hong Kong, in partnership with Sun Yat-Sen University.

Morrison said former Law School Dean Robert Stein (1979–1994) was among the most aggressive U.S. law school deans to reach out to China in the 1980s, after the Cultural Revolution ended and U.S.–Chinese relations improved. Politics limited the dialogue, but the University of Minnesota was “a known player” to officials they met in Beijing, Morrison said.

“We were an organization who had been around and had been doing as much as could be done up to that point,” Morrison said. “That made talks much easier.”

In November 2004, 21 months after the Hong Kong businesswoman first visited Yang’s office, President Robert Bruininks led a University delegation to Beijing for formal ceremonies. Ultimately leading to the opening of an LL.M. program.

The trip made national television in China.

SEEKING EXPERIENCED LAWYERS

For nine years, foreign students have come to Minneapolis for its on-site LL.M. program. This year’s class of 24 includes students from Ethiopia, Turkey, France, Armenia, and Thailand as well as four from China.

Helen (Yanhang) Hu of Shanghai is a recent LL.M. graduate and her story is symbolic of the economic changes underway in China. Her father worked for a steel company, retired at 55 and started his own steel trading company, Hu said. She wanted to be a sports journalist, but her parents encouraged her to go to law school, a highly competitive field that, in the not-to-distant past, had nearly died out in China.

Unlike the United States, Chinese schools offer law as an undergraduate degree, as well as masters and doctoral degrees. Undergraduate students who pass the Chinese bar exam may practice law. Fewer than ten percent pass, but Hu was among them. She worked for three years for a Shanghai-based law firm that handled mergers, acquisitions and foreign investment. After working with U.S. clients, she decided she needed more education.

“When you are talking to lawyers here, you really want to
know what they are talking about,” she said. “When they give you a contract to review, you want to know what the meaning is—between the lines.”

Young, single, and able to travel, Hu applied to top 20 U.S. schools and chose the University of Minnesota. She graduated with an LL.M degree in 2002. She will finish her J.D. here this year and go to work for a Dallas-based firm.

The Law School’s Beijing LL.M. Program in American Law targets experienced lawyers such as Hu, but those who have commitments that prevent them from studying abroad, McQuaid said. The program will accommodate working students with evening and weekend classes. It may eventually grow to 100 students, twice the size of the Minneapolis campus program.

Each year, the Beijing LL.M. program will offer a theme, such as international law, business law, comparative law, or even human rights. The first year will have a transactional focus, including a course on contracts, similar to a first-year J.D. program. In the first segment, McQuaid will teach Introduction to American Law and Professor John Mathe-
son will teach contracts. Matheson said he was one of 15 professors who attended a meeting about teaching in China. He noted he put in his request to go “early and often.”

Matheson wants to teach in China both to improve his legal scholarship and for the fun of it, he said. The Chinese students he has had in class always are active and engaged. “I expect I will be overwhelmed with questions,” he said. “There is nothing a teacher likes better than to have interested students.”

He and his wife Judy have started taking basic Chinese lessons and he has started studying Chinese contract law. While his class would focus on U.S. contract law, “I am going to do it as a comparative contract law course, too, so that the students have a base of comparison and so they also see that I care enough to have learned some of their law.”

The Beijing LL.M. program has been on a fast track and Law School officials are still refining details and making improvements. For instance, Matheson, director of the Continuing Legal Education (CLE) program, is looking for faculty and alumni opportunities to teach CLE courses in China. Johnson would like to bring an alumni contingent to participate in either the opening segment of the program or perhaps the first commencement ceremony.
Students in the Beijing LL.M. program will study on the Minneapolis campus during a May term. In the near future Law School officials plan to add a Beijing summer study program for U.S. J.D. students, increasing the cultural exchange. Long-term, the Law School plans to bring Chinese law professors to the Minneapolis campus as part of a teacher exchange.

Those expanding international opportunities should make the Law School more attractive for all prospective students. Morrison noted today’s law students are very focused on the international dimension of everything.

“Many of them have traveled to strange places in the world and they expect to do business with people in strange places in the world,” he said. “The law schools that are looking to the future are looking to that group of students, and we want to be one of them.”

**DRIVING FORCE**

While the LL.M. program is a three-way partnership, without Wang there would be no program. In addition to the initial $150,000 he donated to the University of Minnesota’s China Center, McQuaid said he would pay for the program’s building and start-up costs and cover operating costs if tuition does not meet expenses.

**Who is Wang?**

Wang is a member of China’s growing number of entrepreneurs, an attorney and, as Morrison describes him, China’s version of Radisson founder Curt Carlson. He is someone with a purpose and a mission, which includes improving his country’s educational system.

Wang founded the forerunner to the Beijing Fazheng Group in 1993 and by 2002 it had assets of $150 million, according to a recent China Center newsletter. The Fazheng Group Web site says it employs 500 people and does work in real estate, legal services, construction, hotel and restaurant management and private education.

Johnson describes Wang as “a dynamic fellow, a smart and aggressive businessman” and “very personable.” McQuaid calls him “an entrepreneur such as I have never seen before,” “a true philanthropist” and someone “living at a time in China where he is being encouraged to be what he is—which is a deal-maker.”

Chinese law required the University of Minnesota to partner with a Chinese university. Wang is a graduate and substantial benefactor of the China University of Political Science and Law. “He has installed most of the computer labs at his expense and is very much appreciated by that university,” Morrison said. “It’s one of the reasons that he could open the doors for us to have a relationship.”

The China University of Political Science and Law was originally part of China’s Ministry of Justice, Morrison said. Its single purpose was training lawyers and civil ser-
OUTSTANDING ACHIEVEMENT AWARD

Zhao “Alex” Zhang (Class of 1989), a distinguished graduate of the University of Minnesota Law School, received the University of Minnesota’s Outstanding Achievement Award in October 2004. Zhang is a partner at Jones Day’s Shanghai Office. He is a cultural ambassador and valued adviser, who has educated Chinese entrepreneurs in the U.S. legal systems and the rule of law, and has offered insight on Chinese commerce, legal systems, and international trade to U.S. entrepreneurs. He is a dedicated leader and internationally recognized expert in cross-border corporate and commercial transactions, especially involving China and Hong Kong. Zhang speaks frequently at seminars and business conventions in the United States and Asia to educate business people on the complexities of transnational transactions and international trade. He has served as the trade representative for the State of Minnesota in Hong Kong to promote the interest of U.S. business in Asia. As an alumus, he has worked with University departments to strengthen the University’s exchange and alumni relationships. He has coordinated University delegation visits and has been very helpful to the Law School in the development of their LL.M. degree in Beijing.

Dr. Dave Metzen, Chair of the Board of Regents, and President Robert Bruininks present Alex Zhang with the University of Minnesota Outstanding Achievement Award.

Front row: Yang Yang (LL.M. 2006); Back row (left to right): Karen Anderson, Dean Alex Johnson, Dr. Margaret Carlson, Dr. Susan Hagstrum, President Robert Bruininks, Vice President Al Sullivan, Dan Gilchrist, and Dr. Hong Yang.

vants. Today, it has thousands of students, all studying law. “It is one of the leading universities in China but only in this narrow field,” he said.

SEA CHANGE IN POLITICS, LAW, ECONOMY

Johnson, McQuaid and Morrison all expressed confidence that Law School professors could teach the same course content in China as they do in Minnesota. “Nothing is off limits. Nothing is forbidden,” Johnson said. “We will not censor ourselves.”

Their confidence reflects a dramatic change within Chinese politics, they said. McQuaid recalled studying in China in 1980. “It’s like night and day,” she said. “Even in the last five years, particularly with regard to educational institutions, the level of discussion has really freed up.”

The university has no reason to believe it will have to submit its course lists for government approval, and it already has gone through extensive negotiations, she said. She anticipated the program possibly venturing into politically sensitive topics, such as human rights or civil rights laws, discussing U.S. history and how it has affected the evolution of U.S. laws. “We want to be provocative to our students,” she said. “Law is always on the edge of provocative, or it should be.”

However, the program’s goal is not to steer China to replicate the U.S. legal system, McQuaid said. The goal is to give sophisticated Chinese lawyers a foundation in American law so they can participate in international trade. Any influence the LL.M. program might have on the Chinese laws would grow out of educational give and take. “We will teach them what we know. They will teach us what they know, or criticize or ask questions. I think we will move forward in that discussion,” she said.

That said, China faces great pressure to revamp, rewrite and recodify its laws as it becomes a greater player in world trade. The LL.M. program gives anyone in the Law School with an interest in comparative law a first-hand opportunity to observe and discuss the dynamic changes underway.
China joined the World Trade Organization in 2001. The country now accounts for more than 6 percent of world trade. China has adopted a number of new laws to mesh with the world economy and develop its own internal legal system, but work remains. “They are probably 60 percent of the way there in writing the codes and 30 percent of the way there in getting them implemented,” Morrison said.

For instance, the United States has had bankruptcy law since the 1850s, Morrison said. Until recently, China hasn’t needed them. “Suddenly moving into a more entrepreneurial society, they need it. So they are interested in it,” he said.

Starting a new Law School program half-a-world away creates challenges. For instance, the University needs to make sure it maintains control of standards on content, pace and examinations, McQuaid said. An LL.M. degree from the Beijing program should mean the same thing as an LL.M. degree from the Minneapolis campus.

Yet the upside is large.

For example, the LL.M program could give the University of Minnesota a springboard to create a mini campus in Beijing, which could include computer science and health care education, McQuaid said.

Some see the program as critical to the school’s long-term success. “The law schools of the future that are successful will be global,” Morrison said. “They will be the law schools that provide connections and understanding of legal issues all around the world.”

Scott Russell is a freelance writer and full-time reporter, covering Minneapolis city government for the Skyway News and Southwest Journal.
Every day, new and exciting activities and events occur at the Law School as we sponsor programs that educate our students and inform the outside world. The spring semester brought us the Horatio Ellsworth Kellar Distinguished Visitors Lecture and the John Dewey Lecture in the Philosophy of Law, and the Kommerstad Center for Business Law and Entrepreneurship recently sponsored a lecture by Bob Sparboe. This semester we also inaugurated two new clinics, adding to the already impressive clinical program. We are also pleased to report that we had a record number of students receive federal appellate court clerkships this year. And in this section, you will find brief profiles of some new and important administrative staff at the Law School. We encourage you to drop by or attend one of our upcoming events and meet these new members of the Law School family. Finally, we offer an in-depth piece on the Law School’s superb Legal Research and Writing Program.
The Horatio Ellsworth Kellar Distinguished Visitor Lecture

A fter orchestrating the biggest Native American celebration ever to occur in Washington D.C., W. Richard West, Jr. traveled to the University of Minnesota Law School to deliver the Horatio Ellsworth Kellar Distinguished Visitor Lecture on November 16, 2004. West, a member of Cheyenne and Arapaho tribes of Oklahoma, is the founding director of the National Museum of the American Indian (NMAI), the most recent addition to the Smithsonian Museum system.

West graduated from the University of Redlands in 1965, and then earned a master’s in history from Harvard University. Upon graduating from Stanford Law School, he joined the law firm of Fried, Frank, Harris, Shriver & Jacobson in Washington, D.C. In 1988, West and several colleagues started their own firm in Albuquerque, NM. In 1990, West become the first director of the NMAI. Since then, he has faced innumerable challenges in opening the museum, raising hundreds of millions of dollars, and working with Congress and numerous tribes in order to open the doors by September 21, 2004.

Everyone wants to talk with Rick West these days, and the Law School was fortunate to have him give a visionary lecture entitled “Native America in the 21st Century: Out of the Mists and Beyond Myth.”

Curtis B. Kellar established the Horatio Ellsworth Kellar Distinguished Visitor Lecture in memory of his father, a banker in Albert Lea, Minnesota.

W. Richard West, Jr. Director of the National Museum of the American Indian.

Kellar’s vision drives the interdisciplinary nature of the program, in keeping with his father’s many interests. The highly popular lecture series offers thought-provoking explorations that connect emerging issues in the law to other disciplines such as art, drama, and literature.

Enhancing Legal Education

The Law School’s Clinical Education Program launches two new live-client clinics

In January, the Law School added the Workers’ Center Clinic and the Innocence Clinic to its nationally recognized clinical education program, bringing the total number of clinics available to second- and third-year law students to 17.

The new Workers’ Center Clinic is a community-based project that was developed in partnership with the Twin Cities Religion and Labor Network. According to Visiting Professor Doug Smith, the director of the new clinic, it aims to bring together lawyers and workers in ways that will help improve workers’ lives.

The clinic plans to focus on helping workers who typically lack traditional legal- or trade-union protection, such as day laborers and immigrant workers. As a result, the assistance provided through the clinic will often be unconventional.

“One of our goals is to create connections among workers, so they can advocate for themselves,” Smith explains. “To do this, we might do things like help them organize, or work to create some kind of cooperative structure they could work under, rather than going through a temporary agency that will take a good share of their wages.”

In addition to meeting a pressing community need, this alternative approach to lawyering gives students an opportunity to explore legal practice options outside of litigation. “This clinic differs from most of the other clinical programs because it departs from the standard model of practicing law, where lawyers act like technicians who fix the problems of clients who come to them. Instead, we’re out there talking with workers about the issues they face and letting them tell us how we can help.”

This hands-on approach appeals to Andrew Hamilton, a third-year student who has been participating in the Workers’ Center Clinic since last summer. “I have been involved in the labor movement, so I’m aware of the limitations of labor laws,” he explains. “I took this clinic because I want to learn new ways to help people like day laborers who have non-traditional work situations that make it impossible for them to get any sort of collective bargaining agreement, or other protec-
tion, when employers are not treating them right.”

Like the Workers’ Center Clinic, the Innocence Clinic offers law students a unique opportunity to help clients who have few resources but significant need. Students will work in conjunction with the Innocence Project of Minnesota (IPMN), which provides pro-bono investigative and legal assistance to prisoners trying to prove they have been wrongfully convicted. The Innocence Clinic will investigate claims of innocence brought by inmates in Minnesota, North Dakota, and South Dakota. The clinic is directed by adjunct instructor Julie Jonas, IPMN’s managing attorney.

The establishment of the clinic comes at a time of national recognition of the prevalence of wrongful convictions, as well as reconsideration of the death penalty. According to IPMN’s website, more than 146 wrongfully convicted inmates around the country have been freed after successfully establishing their innocence.

Working with a staff attorney, students in the Innocence Clinic will begin their investigation of a case by obtaining all of the relevant documents, such as police and forensic reports and court transcripts. They may also speak with trial and appellate attorneys who have worked on the case. Once a case is deemed viable, students will visit inmates in prison to talk with them about their claims. In many instances, students may also search for new evidence to support their clients’ claims.

Those who want to participate in the clinic must first take the Law School’s Wrongful Convictions course, says Maury Landsman, director of the Law Clinics. “That course will give them a good foundation for what they’ll be working on,” he explains, adding that several students were eager to sign up for the new clinic. “There are many students who are very interested in helping people who have been wrongfully convicted, so we’re glad to be able to offer them this opportunity.”

By Meleah Maynard. Maynard is a Minneapolis freelance writer and a 1991 graduate of the University of Minnesota.
In February, the Robert M. Kommerstad Center for Business Law and Entrepreneurship sponsored a lecture by Bob Sparboe titled “The Entrepreneurial Organization.” The lecture drew a large crowd of students interested in corporate law and business. Also in attendance were several visitors from the Carlson School of Management and the business community.

Sparboe is the founder and president of Sparboe Companies, which owns Sparboe Farms, Sparboe Foods Corporation, Center National Bank, Center Insurance Agency, and AGRI-TECH. He was recently inducted into the Minnesota Business Hall of Fame.

In 1954, with $5,400, Sparboe formed Sparboe Farms—a company that is among the largest egg producers in the United States. He has also donated his time and resources by establishing the Shirley Sparboe chair in Breast Cancer Research at the University of Minnesota, and by making generous contributions to the Carlson School of Management to further the study of entrepreneurship.

Sparboe shared some of the expertise he has developed over the last fifty years. He left the audience with several book recommendations and a philosophical look at being a successful entrepreneur.

The Kommerstad Center for Business Law and Entrepreneurship also publishes the Minnesota Journal of Business Law and Entrepreneurship and operates the Multi-Profession Business Law Clinic, which assists small businesses with transactional legal work.

By Ryan Miske. Miske (Class of 2005) is the Editor-in-Chief of the Minnesota Law Review.
Staff Additions and Changes

DANA BARTOCCI is the new Special Assistant to the Dean and Career Advisor. Bartocci splits her time between working on special Admissions projects, including diversity recruiting, and advising students in the Career Services Office. She received her J.D. and her M.S. in Educational Administration from the University of Wisconsin-Madison. Prior to joining the Law School, she worked at William Mitchell College of Law as the Associate Director of Career Services.

SARA JONES (Class of 1988) is the new Director of Alumni Relations & Annual Giving. Jones received a B.S. from Northwestern University and her J.D. from the University of Minnesota. She served for six years as an Assistant Attorney General for the State of Minnesota, followed by several years in private practice at Popham, Haik, Schnick & Kaufman and Hal Leland Lewis Nilan Sipkins & Johnson. Inspired by her years of service as a board member and President of Minnesota Women Lawyers, she transitioned into the development profession, earning a Mini-MBA for Nonprofit Organizations from the University of St. Thomas. Jones worked at the Walker Art Center and as the planned giving officer at William Mitchell College of Law before joining the University of Minnesota in February.

ERIN KEYES (Class of 2000) is the new Assistant Dean of Students. Keyes earned her B.A. in History at Carleton College, where she worked for a year after graduation at the Learning and Teaching Center and Office of Residential Life. After earning her J.D. from the University of Minnesota, Keyes clerked for Judge Diana Eagon in Hennepin County and then joined Central Minnesota Legal Services as a Staff Attorney, practicing in the areas of family and housing law.

SCOTTY MANN is the new Assistant Director of Alumni Relations & Annual Giving. He received his B.A. from Southern Methodist University and his J.D. from the University of Chicago Law School. Mann’s diverse experience includes running his own sports memorabilia business during college and working as an associate attorney at Hughes & Luce, LLP in Dallas, Texas. Prior to joining the External Relations Office, he was Assistant Director of Development at the University of Chicago Law School.

TERRI MISCHE (Class of 1981) has assumed the position of Major Gifts Officer, after serving as the Director of Alumni Relations & Communications for the last nine years. She received her B.A. and J.D. from the University of Minnesota. Prior to joining the Law School, Mische worked for the University Attorney’s Office, the Hennepin County Attorney’s Office, two private law firms, the University of Minnesota Professional Development and Conferences Services Department, and the University of Minnesota Alumni Association.

JULIE TIGGES returns to Law School administration after a decade of raising twins and developing websites for small businesses, among other things. She received her B.A. and J.D. from the University of Iowa. She clerked for The Honorable Myron H. Bright, Senior Circuit Judge for the Eighth Circuit Court of Appeals and The Honorable James B. Loken, Chief Judge for the Eighth Circuit Court of Appeals. She currently is working with the Admissions Committee. She previously worked at the Law School as Assistant Dean for a semester and as an adjunct legal writing instructor.

ELIZABETH “LIBBY” WASHBURN is the new Director of Communications and Special Assistant to the Dean. Washburn works part-time and serves as the primary editor for Law School publications. She is responsible for all media and government relations, and is also in charge of preparing documents and reports required by accrediting bodies and the University. Washburn has a B.A. from the University of Oklahoma, an M.A. from Texas Woman’s University, and a J.D. from the University of New Mexico. Before joining the Law School, she had a varied legal career as an Honor’s Program attorney at the U.S. Department of the Interior, an associate attorney at Sonosky, Chambers, Sachse, Endreson & Perry, and Legislative Counsel for the Chairman of the U.S. Senate Energy & Natural Resources Committee.

KATHLEEN WESTON is the new Law Clinics Administrator. She earned a B.A. in English Literature from the University of Southern Indiana. After teaching a year of high school English at in Evansville, Indiana, she moved to the Twin Cities. Before joining the Clinics, she worked at Minnesota Public Radio in the Membership/Development Division and for William Mitchell College of Law as the Administrative Coordinator for Clinics and Externships.

The Office of External Relations is expanding alumni programming and ramping up annual fundraising, thanks to the addition of one new position and relocation of Communications as its own department at the Law School. New and newly assigned staff members noted in this article: Sara Jones (top right), Scotty Mann (top left) and Terri Mische (bottom right). Also pictured: Martha Martin (Director of External Relations and Development Director, bottom center), Bev Wilson (Assistant to the Development Director for Donor Relations, bottom right) and Mark Swanson (Executive Assistant, External Relations, top center). Please contact us at 612-624-0097 to help engage alumni and friends in the life of the Law School and increase crucial philanthropic support!

MIKE GALEGHER is the new Registrar for the Law School. He has a B.A. from the University of Minnesota-Morris with a major in English and a minor in Chemistry. As an undergraduate, he studied pre-med and briefly attended University Medical School after graduation. He left medical school after a year to enter the Ph.D. program in English literature at the University of Minnesota. While in graduate school, he taught literature and humanities for ten years at Metro State University and also began working in the student service area as an undergraduate advisor. More recently, he served for seven years as the registrar and graduate admissions manager for the University School of Nursing, and most recently worked in faculty support at Capella University, an online university with headquarters in downtown Minneapolis.

The Office of External Relations at the Law School, led by Donor Relations, bottom right) and Mark Swanson (top left) and Terri Mische (bottom center). Bev Wilson (Assistant to the Development Director for Donor Relations, bottom right) and Mark Swanson (Executive Assistant, External Relations, top center). Please contact us at 612-624-0097 to help engage alumni and friends in the life of the Law School and increase crucial philanthropic support!
University of Minnesota Law Students Receive Record Number of Federal Appellate Court Clerkships

The University of Minnesota Law School has a long history of having one of the highest percentages of graduates who work as judicial law clerks after graduation. For more than a decade, approximately one-quarter of any given class has gone on to take a judicial clerkship. In large part, this phenomenon has been due to the practice of hiring entry-level law clerks at the Minnesota state trial court level. The Law School enjoys strong relationships with many state district courts, but has also begun a concerted effort to increase the placement of graduates with federal district and circuit court judges. In addition, two years ago, an ad hoc committee of federal circuit court judges recommended the adoption of a uniform time frame for law clerk hiring—one that coincides with the fall semester of the third year of law school. (In prior years, federal judicial law clerks were hired as early as the fall of their second year.)

The combination of these two developments has enabled the Law School to increase the geographic reach and prestige of the clerkships offered to the Classes of 2004 and 2005.

Starting with the Class of 2004, the Law School took several steps to increase the numbers of successful federal judicial law clerk candidates. With assistance from the faculty, the Law School assisted students with the most interest and encouraged them to consider applying for federal judicial law clerk positions. The Career Services Office increased its capacity to advise candidates by hiring staff with prior judicial law clerk experience, and by more closely tracking where students were applying and the timing of their applications. The Law School committed additional administrative resources, including hiring temporary secretarial support during the late summer, in order to ensure the timely completion of faculty recommendations. Joint programming by the Faculty Judicial Clerkship Committee and the Career Services Office helped to explain the application and hiring process to students, and provided strategies for selecting judges and scheduling interviews.

The net result of these efforts has been quite positive. Seven graduates of the Class of 2004 were able to secure clerkships with federal appellate court judges. In addition to the U.S. Court of Appeals for the Eight Circuit, where our graduates always have a strong showing, we have two graduates who are currently working for judges on the U.S. Court of Appeals for the Ninth Circuit in Seattle, Washington and Reno, Nevada, respectively; one graduate who is working for a judge on the U.S. Court of Appeals for the Federal Circuit in Washington, DC; and another graduate who is working for a judge on the U.S. Court of Appeals for the Seventh Circuit in West Lafayette, Indiana. The geographic reach of graduates taking clerkships at the federal trial court level also expanded, with placements on district courts in New York, Pennsylvania, and Virginia. This past fall, the Class of 2005 was even more successful, with eight placements at the federal appellate court level. After graduation, one of our students will work for a judge on the U.S. Court of Appeals for the Tenth Circuit in Salt Lake City, Utah—a judge who is widely known to send former clerks on to clerkships with U.S. Supreme Court Justices. Other notable placements include three students who will clerk for Judge Roger Wollman on the U.S. Court of Appeals for the Eighth Circuit in Sioux Falls, South Dakota (constituting the entire stable of clerks for Judge Wollman for the 2005–2006 term); one student who will clerk for a judge on the U.S. Court of Appeals for the Ninth Circuit in San Francisco, California; and another student who will clerk for a judge on the U.S. Court of Appeals for the Sixth Circuit in Lexington, Kentucky. These clerkships are in addition to continued success by our graduates and students in securing clerkships with judges on the local federal district and court of appeals benches, as well as the state appellate courts.

We are pleased with the recent successes of our graduating classes, and are committed to improving our efforts to assist students with the judicial clerkship hiring process. As alumni, you play a vital role with your continued support for the Law School and its initiatives. If you have questions about the Law School’s judicial clerkship efforts, please contact me at the Career Services Office at 612-625-1866, or via email at march032@umn.edu.

By Steve Marchese, Associate Director of the Career Services Office.
Learning to be a Lawyer

The Law School's Legal Research and Writing Program is much more than just a handful of writing courses. It's a three-year experience that equips student attorneys with the skills they need to be standouts in their fields.

It's true what they say about the first year of law school, says Betsy Hoium (Class of 1995). "It's supposed to scare you to death." After all, law students are training to represent clients who expect exemplary legal services and advice on life-changing issues. So before students can become poised, well-spoken attorneys who appear in court as a matter of routine, they must first endure rigorous writing instruction, learn how to argue persuasively, and struggle to overcome any fears they may have about public speaking.

"Law school teaches you a whole new way of thinking and writing," Hoium continues, "and it's definitely frightening to stand up in front of people and take questions and argue a point." The thing that keeps first-year students from running for the door, she says, is an educational environment that is "scary to the point of being challenging, but not devastating."

Hoium's thoughts on the rigors of law school aren't based solely on her own experiences as a student. For the past seven years, in addition to being a staff attorney for the Metropolitan Airports Commission, she has taught first-year legal writing and research as an adjunct instructor.

Because writing is an essential skill for lawyers, all law schools offer some kind of legal writing coursework. But the University of Minnesota Law School requires students to take at least one intensive writing course during each of their three years of study. "It takes more than one year for student attorneys to learn how to write well," says Professor Brad Clary. "Good lawyers spend a lifetime learning."

Clary took over as director of the Law School's Legal Research and Writing Program six years ago. The program is clearly superior to many at other schools. For example, classes are co-taught, with practicing attorneys like Hoium pairing up with upper-level law students who have already completed the course. That way, students get the dual benefit of learning from a working attorney, and the chance to get advice from someone who very recently knew exactly what it felt like to be in their shoes.

"Legal writing is one of the most hands-on classes I had at the Law School," says Kristi Warner (Class of 1995), a partner with the Minneapolis law firm Brownson & Ballou who has also been an adjunct legal writing instructor for the past seven years. "I remember thinking the class would be easy for me because I'd been an English major before going to law school," she recalls. "But it was very difficult to write in a way that proved and sup-
ported the legal arguments I was making. I keep that in mind when I’m teaching my students, and I’m constantly telling them that what they’re doing will be very effective in the future.”

In addition to experienced and empathetic instructors, one of the key reasons for the legal writing program’s success is class size. Clary views the writing program as a series of developmental steps for law students. Because the first-year course is essentially a way to help students with different backgrounds and skill sets acquire a common foundation, the class is divided into 22 separate sections of 12 to 14 students. Each section is taught seminar style.

“The small classes are one of my favorite things about teaching at the Law School,” says Hoium. “I can give the students the individual attention they need.” The informal class structure also allows Hoium and her co-instructor to answer questions that students are often afraid to ask elsewhere.

“Law school can be overwhelming when you’re just starting,” she says. “Students in my classes talk about things they’re worried about and ask all kinds of questions, like which classes they should take. They would be much less likely to bring those things up in a more formal setting.”

In class, students tackle writing assignments of varying difficulty. The assignments are designed to lead them through the steps involved in spotting a potential legal issue, analyzing and researching it, and communicating their findings and opinions in well-crafted and persuasive ways. One recent assignment, for example, asked students to give legal advice to homeowners who were considering canceling a roofing project with a company that expected to get the job.

“I think the fundamental role of a lawyer is to solve problems for people through logic and communication,” says Clary. “These classes are helping students learn to think about legal problems, and to develop the skills they’ll need to hit the ground running when they start working somewhere after graduation.”

THE MOOT COURT PROGRAM
Training in legal writing intensifies in the second year, when students must choose between becoming a staff member on one of the law school’s four student-edited journals, or participating in one of eight moot court programs.

In many law schools, moot courts are considered extracurricular activities. But the University of Minnesota Law School treats them as graded courses, believing that the hands-on skills the moot courts offer are integral to students’ learning.

The moot courts build on students’ newfound ability to understand and communicate legal issues, by requiring them to practice their skills in a simulated court setting. Using mock problems involving current legal issues, students hone their written and oral advocacy skills by arguing cases to faux appellate courts. Cases are tailored to fit the theme of each particular court. For example, students on the Intellectual Property Moot Court worked on a trademark issue in the fall, and then switched gears in the spring to address a trade secrets problem. Students in the Maynard Pirsig Moot Court are currently working on an affirmative action issue.

Though the moot courts are quite challenging, even students who write for law journals may choose to participate in them in order to gain experience that will be invaluable, regardless of the type of law they choose to practice. “All lawyers should be able to think on their feet, whether they are litigators or not,” says Clary.

After the first-year writing program ends, students submit applications for the moot court programs in which they most want to participate. Applicants are evaluated on the quality of the revised trial court brief they wrote in their legal writing course, as well as on recommendations they receive from legal writing instructors.

Those who are not selected for invitational moot courts are automatically assigned to the Maynard Pirsig Moot Court. While this may make it sound like the court of last resort, the two top participants in each section are given the chance to compete in an intramural honors tournament. Four additional members of this court are invited to join the Law School’s ABA National Appellate Advocacy Competition Team. In the past fourteen years, ABA teams have advanced six times beyond regional competition, to the ABA national final rounds.

All of the moot courts field intercollege competition teams, made up of students selected from the second-year program. The Law School’s teams have been very successful over the years. The Intellectual Property Moot Court team was the undefeated national champion in 1996, and finished second nationally in the Giles Sutherland Rich Competition in 2004. The Environmental Moot Court team won the national Best Brief trophy in 2001, and the Best

THE LAW SCHOOL’S EIGHT MOOT PROGRAMS INCLUDE:

ABA National Appellate Advocacy Competition Team
Civil Rights Moot Court
Environmental Law Moot Court
Intellectual Property Moot Court
International Law Moot Court
Maynard Pirsig Moot Court
National Moot Court
Wagner Labor and Employment Law Moot Court
Intervenor Brief trophy in 2003 in the Pace Competition. The McGee Civil Rights Moot Court team was the national champion in 2002, the national runner-up in 2000, and finished third in the nation in 2004.

But one of the most stunning recent wins happened last year, when the National Moot Court team placed second in the National Moot Court Competition. Each year, the team, which argues mock United States Supreme Court cases, competes with approximately 150 law schools in the national competition. The competition is sponsored by the American College of Trial Lawyers and the Young Lawyers Committee of the Association of the Bar of the City of New York.

In the last 23 years, National Moot Court teams from the Law School have advanced 12 times from the regional competition to the national final rounds in New York. But last year, an historic first was reached when the Law School’s team not only emerged as one of 28 teams—out of an original group of 198—to make it to the national finals, but also went on to argue for the national championship against a team from South Texas College of Law.

Nathan Hobbs (Class of 2003) was one of three members of the Law School’s team, which also included Devon Mickelson (Class of 2003) and Todd Sorenson (Class of 2003). “This was really exciting,” recalls Hobbs, “because the Law School often goes to the national competition, but we had never advanced past the final eight teams.”

Each team tackles the same legal questions at the national competition. Last year, Hobbs and his teammates took on the issues of whether actual confusion is required as the only evidence of likelihood of confusion in a trade name infringement case, and whether a particular kind of statute constituted a valid regulation of speech under the First Amendment.

But Hobbs figures he endured less stress than some of his peers. He gained confidence from his experience arguing a case before the Minnesota Court of Appeals during law school, as well as from his participation in his high school debate team. Still, he concedes, the environment was very nerve-wracking. “I’m used to going to tournaments and spending a lot of time in rounds,” he says. “But at the nationals we didn’t start competing until early evening because New York City attorneys were acting as our judges. We had to wait until they got off work, so we sat around all day being nervous.”

And pressure mounts as the week goes on. “There’s no audience at first,” Hobbs continues. “But by the final rounds there are people everywhere, including several judges, and the whole thing is being videotaped. It’s overwhelming, but it’s also very exciting.”

Hobbs, who now works an associate attorney with Minneapolis-based Heins, Mills & Olson, P.L.C., received an American College of Trial Lawyers prize for being the second best speaker in the national championship. Of all the things he did during law school, Hobbs thinks his work in the moot court program was the most beneficial to his career.

“ ’The brief writing process is fairly intense and you’re not allowed to get help from instructors, so you have to figure things out for yourself,’ he explains. ‘That’s extremely useful because no one is going to figure those things out for you on the job.’” Hobbs also credits the collaborative nature of the moot courts with helping him learn to work as a team. “In law school, you do most of your work yourself. But the moot courts require you to work together, which is what you have to do at a firm. You can’t just say to someone you’re working with: ‘Well, my part’s good, so I’m done.’”

Betsy Hoium, who participated in the International Moot Court while in Law School, agrees that the moot court program helped her career immensely. “I’d have to say that moot court was the best thing I did in law school,” she says. “We worked on a human rights issue, and the oral argument training was phenomenal. Anybody can anticipate softball questions, but moot court taught me how to anticipate questions and be prepared to answer them.”

Next year, Hoium will revisit her moot court days when she takes a break from teaching legal writing to teach International Moot Court.

The success of the moot court competition teams clearly indicates that the Law School’s approach to helping students learn to be effective communicators is working, says Clary. He coaches the national competition team, along with adjunct co-advisor Kristin Sankovitz (Class of 1997). “The training students are getting is obviously helping because when we go head-to-head with other teams, our students are successful.”

Ultimately the program Clary directs may be called Legal Research and Writing—but it is really a series of courses on how to be a lawyer. “I practiced law for 24 years full-time and I really liked it,” he says. “I want our graduates to come out of the Law School with the skills they need to feel confident as they pursue whatever area of law they choose. It’s an increasingly competitive environment out there and they need to be prepared for it.”

By Meleah Maynard. Maynard is a Minneapolis freelance writer and a 1991 graduate of the University of Minnesota.
BETSY HOIUM

Betsy Hoium (Class of 1995) learned a lot of useful skills while participating in the International Moot Court at the Law School. One of the most valuable was how to tell when someone is talking around a question, rather than directly answering it. “I can really tell when someone is not giving me an answer, or trying to get around providing the information I’ve asked for,” she says, before adding with a laugh: “That’s not only helpful to me as an attorney. It’s helpful in my life.”

For the past seven years, Hoium, who graduated magna cum laude, has worked as an adjunct instructor in the Law School’s Legal Research and Writing program. “One of the things I like to do is have students bring in 10 questions that they think a judge on a case they’re writing about might ask them,” she explains. “I try to teach them to be ready to handle anything that comes their way.”

In addition to participating in moot court when she was in law school, Hoium also served on the staff of Law and Inequality: A Journal of Theory and Practice. “One of the things I like to do is have students bring in 10 questions that they think a judge on a case they’re writing about might ask them,” she explains. “I try to teach them to be ready to handle anything that comes their way.”

Hoium became interested in airport law during her second year of law school, when she took an intern position at the Metropolitan Airports Commission. For the past eight years, she has worked for the Commission as a staff attorney. She likes the fact that the job allows her to do a little bit of everything. “Airport law is a very small field of practice,” she says. “But I like doing transactional work, such as handling leases for all of the airlines, stores, restaurants, and car rental companies. It’s my job to put a lot of positive things together, and if they’re done right, the traveling public doesn’t see anything but the result.” Even though she does not litigate, she has found her moot court training to be very valuable when she gives presentations at Commission meetings and airport conferences.

Recently, Hoium accepted a two-year assignment as Contract and Project Manager for Airport Operations, during which she will be responsible for managing a $1.5 million annual budget, as well as negotiating and overseeing contracts for light rail transit, aircraft fueling, and loading dock management. The move, she says, will help her gain valuable management experience, which will come in handy as her career advances.

Hoium earned her undergraduate degree in history summa cum laude from the University in 1991. She decided to go to law school after working for the Minnesota Hospital Association, a trade association representing all of the hospitals in the state. Working alongside lawyers, she wrote final reports on how recently-passed legislation would affect hospitals. “A lot of the legislation I was reading sounded like mumbo-jumbo,” she says, “so I decided to go to law school and, hopefully, all that legal language would make more sense. What I found out was that they were just badly written to start with!”

For this reason, Hoium really emphasizes the use of plain language to her writing students. Prior to joining the Commission, she clerked for the Honorable James C. Harten at the Minnesota Court of Appeals.

RACHEL CLARK HUGHEY

Rachel Clark Hughey (Class of 2003) enjoyed her first-year legal writing course so much, she returned after graduation to teach the class as an adjunct instructor. “Learning to write like a lawyer is so important,” she explains. “I had a great experience in that class, and I really want to help others have the same.”

Hughey, an associate specializing in intellectual property law with the Minneapolis law firm Merchant & Gould, also co-teaches the Intellectual Property Moot Court class and co-coaches the Intellectual Property Moot Court competition team. Last year, her IP Moot Court competition team placed second at the national competition.

During her years at the Law School, Hughey opted to work on a journal, rather than participating in moot court. “I chose to work on the Minnesota Law Review because I enjoy academic writing, and I thought it could help open doors for me if I decided to go into academia,” she explains, adding that she still considers someday becoming a law professor.
Looking back now, Hughey sometimes finds herself wishing she’d added a moot court to her busy student schedule. “Now that I teach moot court, I can see how much students learn by doing. Moot court is really the best way to learn how to do the things you’ll have to do as a lawyer.”

All regrets aside, it’s obvious that Hughey is in no way lacking in legal know-how. As a second-year staffer on the Law Review, she wrote an article on collateral estoppel of claim interpretation in patent law. Published in Volume 86 of the Minnesota Law Review, the article won the Volume 85 & 86 Memorial Fund Award for Outstanding Note. During her third year, she served as a Note and Comment editor.

Since graduating magna cum laude, Hughey has continued her commitment to legal scholarship, publishing articles on subjects ranging from patent litigation to trademarks and licensing. This past summer, an article she co-wrote on patent claim interpretation was featured on the cover of the Federal Lawyer.

Hughey’s interest in intellectual property law began when she was 15, when a family friend told her how much he enjoyed working as a patent attorney. “I remember him talking about how interesting and fulfilling his work was,” she recalls. “After that day I did some research and decided that’s what I wanted to do, too.”

Believing that a technical degree would make her more valuable to future clients, Hughey pursued a chemical engineering degree as an undergraduate at the University of Wisconsin-Madison. “Clients trust you more if you really understand the issues they’re dealing with,” she explains.

Hughey accepted her current position at Merchant & Gould after interning with the firm during law school. Next year she plans to take a leave of absence to go to Washington, D.C., to clerk for judge Alvin A. Schall of the United States Court of Appeals for the Federal Circuit.

KRISTI WARNER

After seven years of teaching first-year legal writing as an adjunct instructor at the Law School, Kristi Warner (Class of 1995) is used to having bleary-eyed students throw up their hands in frustration over assignments and beseech her to “just give us the answers.” Having gone through the class herself, she empathizes with their plight; but she doesn’t give in. “Legal writing really is a trial-by-error class,” she explains. “I always tell them that they’ve got to go out and find their own answers, because if I give them everything they need to write a persuasive brief, what will they do when they get a job in the real world? By the end of class,” she continues, “I really think they get that.”

Warner, a partner at the Minneapolis law firm Brownson & Ballou, was on the National Moot Court team during her second year of law school. In her third year, she became director of that court. “The experience was an honor for me,” she says, adding that moot court was one of the most valuable experiences she had in law school.

“I knew I was interested in litigation, and moot court was definitely a confidence builder for me, because standing up in front of judges was so nerve-wracking. But it was something I really needed to learn how to do.”

Warner, who has been with Brownson & Ballou since 2001, was formerly with the law firm of Stich, Angell, Kreidler, Brownson & Ballou, P.A., which she joined in 1995. Currently, she is putting her moot court training to work as lead counsel for several different manufacturers and distributors involved in asbestos litigation.

Though she specializes in civil litigation, with an emphasis on products liability, toxic torts, and premises liability, Warner likes the fact that litigation practice allows her to always be doing something different. For example, she might represent Asian and European companies in jurisdictional disputes, or defend local businesses and individuals involved in personal injury claims.

In June of last year, Warner won her first Minnesota Supreme Court case, Juelich v. Yamazaki Mazak, a personal jurisdiction case in which a Japanese company argued that it was not subject to suit in Minnesota. “An interesting aspect of the case was that the Minnesota Supreme Court refused to exercise personal jurisdiction over the foreign defendant, even though the defendant maintained an international website,” Warner points out.

By Meleah Maynard. Maynard is a Minneapolis freelance writer and a 1991 graduate of the University of Minnesota.
ABA MOOT COURT
The Law School fielded two teams that competed in the regional rounds of the National Appellate Advocacy Competition. The four students were 3Ls Daniel Ventura and Bridget McCauley and 2Ls Laurence Reszetar and Amber Windschitl. The team was coached by adjunct advisor Michael Vanselow.

ENVIRONMENTAL MOOT COURT
The Law School again fielded a team in the Environmental Moot Court Competition held at Pace Law School. During the preliminary rounds, team member Mark Ryberg (3L) earned the Best Oralist designation for the second of three rounds. The team advanced to the quarterfinal round, where Nick “Carl” Velde (2L) argued new issues after being debriefed earlier that afternoon. The Minnesota team advanced past Arizona State and Rutgers to enter the semifinal round, along with eight other teams. Although the team was ultimately defeated, it performed well against competitors North Carolina and Boston College, highlighted by the argument by team member Josh Welle (3L). The team was coached by adjunct advisors Richard Duncan and Elizabeth Schmiesing.

INTELLECTUAL PROPERTY MOOT COURT
For the second year in a row, the Minnesota Law School Intellectual Property Moot Court competition team has been very successful. The team of Audrey Babcock (3L) and Peter Sidloway (3L) won the Giles S. Rich Northeast Regional Competition in Boston earlier this month, placing first out of eighteen teams. They competed in the National Competition in Washington D.C. on April 13–15. Jarom Kesler (3L) and Divya Arora (3L) also argued for the University of Minnesota at the Northeast Regional Competition and did very well. Unfortunately, only one team per school can advance.

Rachel Clark Hughey and Will Schultz, attorneys at Merchant & Gould, have been co-coaching the Intellectual Property Moot Court competition team for the past two years. “I am really proud of the competition teams—they worked very hard and earned their success. This will be a valuable experience that they will be able to draw on for the rest of their careers,” Rachel stated. Will echoed her sentiments: “The students work diligently to learn the problem, prepare quality briefs and argue persuasively. Because of that, they are successful.”

INTERNATIONAL MOOT COURT
After many hard weeks of practice, 2Ls Peter Scott, Yuliya Mirzoyan, Sulejman Dizdarevic, Lesli Rawles, and Michael Vellon competed in the Phillip C. Jessup International Law Moot Court Regional Competition in St. Louis, Missouri, February 25–27. The team made an impressive showing and returned with a number of awards. The Applicant’s Memorial, written by Sulejman Dizdarevic, Yuliya Mirzoyan, and Peter Scott, received First Place. Merely two points behind, the Respondent’s

2004–2005 INTERCOLLEGIATE COMPETITION MOOT COURTS

ABA MOOT COURT
National Appellate Advocacy Competition Regional Competitors

CIVIL RIGHTS MOOT COURT
McGee Competition Quarterfinalists

LABOR LAW MOOT COURT
Wagner Competition Competitors

INTELLECTUAL PROPERTY MOOT COURT
Giles S. Rich Competition Northeast Region Champions, National Competitors (April, to be determined)

INTERNATIONAL MOOT COURT
Jessup Competition Regional First Place Applicant’s Memorial, Regional Second Place Respondent’s Memorial

NATIONAL ENVIRONMENTAL LAW MOOT COURT
Pace Competition Semifinalists

NATIONAL MOOT COURT
National Moot Court Competition Regional Third Place Petitioner Team, National Quarterfinalists
Maynard Pirsig Moot Court Competition. From left to right: Minnesota Supreme Court Justice Barry Anderson, Chang Wang, Divya Raman, and Minnesota Supreme Court Justice Russell Anderson.

MEMORIAL MEMORIAL, written by Lesli Rawles and Michael Vellon, received Second Place. Additionally, out of the approximately 60 contestants, Peter Scott received the Fourth Best Oralist award while Lesli Rawles received the Fifth Place Oralist award. The team was coached by adjunct advisor Michael Dolan.

MAYNARD PIRSIG MOOT COURT
In the Law School’s own Maynard Pirsig Moot Court Competition, the first place oral argument trophy went to Divya Raman (2L) who argued as Respondent in the final championship round. The second place oral argument trophy went to Chang Wang (2L), arguing as Appellant in the final championship round. The best brief trophy and Dorothy O. Lareau Award went to SooJung Han and the second place trophy went to Peter Franke.

NATIONAL MOOT COURT
The Law School’s National Moot Court Competition teams had another stellar year in 2004–05. The Law School fielded two teams for regional competition. The Petitioner team consisted of 3Ls Ryan Meikle, Nathan Nelson, and Brandon Thompson, while the Respondent team consisted of 3Ls Shay Agsten, Maribeth Klein, and Adam Trampe. The Petitioner team was undefeated until the regional semifinal rounds (finishing in third place), and was invited to the national finals in New York. Brandon Thompson was named the region’s second best oralist. Ryan Meikle was named the region’s third best oralist. In the national final rounds, the team was undefeated until the quarterfinals. This was the third straight year, the fifth year out of the last seven, and the sixth year out of the last nine that a team from the Law School has advanced to the national finals. The team was coached by clinical professor Brad Clary and adjunct co-advisor Kristin Sankovitz.

WAGNER MOOT COURT
3Ls Jonathan Norrie, Joe Schmitt, and Jesse Sitz represented the Law School at the 29th Annual Robert F. Wagner National Labor and Employment Law Moot Court Competition held at the New York Law School. The team finished 17th out of 37 teams, missing the octofinal round by only one place. The team was coached by adjunct advisors Kai Richter and Leslie Watson.

TWENTIETH ANNUAL WILLIAM E. MCGEE NATIONAL CIVIL RIGHTS MOOT COURT COMPETITION
The Twentieth Annual William E. McGee National Civil Rights Moot Court Competition was held March 3, 4 and 5, 2005 at the University of Minnesota Law School. Thirty-nine teams from law schools across the nation submitted briefs and then traveled to the Law School to argue orally regarding the obligation, if any, of a housing mortgage finance agency to include racial integration as a goal in the agency’s efforts to develop low income housing. The competition case was In re Adoption of the 2003 Low Income Housing Tax Credit Qualified Allocation Plan, 369 N.J. Super. 2, 848 A.2d 1 (N.J. Super. Ct. App. Div. 2004), a decision of the Superior Court of New Jersey, Appellate Division, affirming the New Jersey Housing and Mortgage Finance Agency’s plan for allocation of federal low-income housing tax credits to projects that would develop low income housing in the inner city. This decision was challenged on appeal by public interest groups who claimed that the concentration of low income housing in areas already populated primarily by people of color perpetuates segregation and, thereby violates Title VIII of the Fair Housing Act of 1968 and New Jersey’s Mount Laurel Doctrine.

Chief Judge Edward Toussaint, Jr. and Judge Natalie E. Hudson of the Minnesota Court of Appeals, Hennepin County District Court Judge Lloyd Zimmerman, Counsel for the Minnesota Housing Finance Agency, Assistant Attorney General James E. Dinerstein and Jack Cann, Esq. of the Housing Preservation Project presided over the final argument in Lockhart Hall.

The University of California at Davis School of Law won First Place. Stetson University College of Law won Second Place. The University of Detroit Mercy School of Law won Third Place as well as Best Brief honors. Ohio State University Moritz College of Law Team 2 finished fourth. Andrea Fazel of the University of California at Davis School of Law won the Best Oral Advocate of the Preliminary Rounds award and Stuart Bray of the University of Wisconsin Law School Team 2 won Best Oral Advocate Overall honors.
Other teams that advanced to the Quarter-Finals included: the University of Minnesota Law School Team 2, New York Law School, Georgia State University College of Law, and University of Wisconsin Law School Team 2. Other teams that advanced to the Round of Sixteen included: Norman Adrian Wiggins School of Law, Campbell University Team 1, Norman Adrian Wiggins School of Law, Campbell University Team 2, Southern Illinois University School of Law Team 1, University of St. Thomas School of Law Team 2, Brigham Young University Law School, University of Minnesota Law School Team 1, William Mitchell College of Law Team 2, and the University of South Dakota School of Law.

One hundred and sixty-six members of the bar and bench served as brief and/or oral argument judges. Prior to the competition, on February 4, 2005, the Civil Rights Moot Court offered the volunteer judges the free Continuing Legal Education program, “Rx for the City: The Obligation, If Any, to Consider the Integrating/Segregating Effect in Making Decisions Regarding the Type and Location of Low Income Housing.” The program included a panel discussion about the issues and policy considerations involved in decisions regarding the form and location of low income housing; in particular, to what extent such decisions should be affected by their potential impact on trends in the community toward racial integration or segregation. The panel consisted of Professor Myron Orfield of the Institute of Race and Poverty at the University of Minnesota Law School, Ms. Caty Royce of the Community Stabilization Project, Ms. Tonja Orr, Assistant Commissioner for Housing Policy at the Minnesota Housing Finance Agency, Jackie Byers, community organizer, and Timothy Thompson, Esq., Litigation Director of Mid-Minnesota Legal Assistance, Inc. Following the panel discussion, Professor Orfield spoke concerning the standards and appropriate method of analyzing the Title VIII and Mount Laurel issues. Then, Justin Cummins, Esq. of the Miller-O’Brian law firm talked about the ethical issues raised by structural reform litigation brought on behalf of individual claimants.

For more information about the McGee competition, photos, and additional 2005 highlights including top ten briefs and best oral advocate lists, go to: http://www.law.umn.edu/mootcourt/index.htm. The competition is run by clinical professor Carl Warren, and the Civil Rights Moot Court at the Law School is also advised by adjuncts Ben Butler and Jessica Merz.

The University of Minnesota Human Rights Center recently held an event entitled “Paths to Sustainable Peace: Accountability, Reconciliation and Problem Solving” on February 3 and 4, 2005. The purpose of the workshop was to look at ways communities throughout the world are resolving conflicts through problem-solving, reconciliation, and transparency in accountability strategies and methods.

Above (L to R): Dick Bernard, President of MN Alliance of Peacemakers; Ketty Luzincourt, International Humphrey Fellow, Haiti; George Lopez, The Joan B. Kroc Institute, University of Notre Dame; Zainab Hassan, MPA Student Manoj Lall, International Humphrey Fellow, India

Professor David Weissbrodt, Co-Director, University of Minnesota Human Rights Center
We are fortunate to have a diverse group of talented and intelligent law students who continually challenge the faculty and bring new perspectives to the Law School. This section of the magazine features several examples of student achievements. The Law School recently held its annual musical, produced by the Theater of the Relatively Talentless (T.O.R.T.). This year’s show, *Walter Wonka and the Lawyer Factory*, boasted record attendance. This issue contains profiles of three unique and motivated students who are graduating this May. There are two new aspects to this section that will become regular features; profiles of student organizations and student scholarships. In this issue, we highlight the Public Interest Law Students’ Association (PILSA), a group that is working hard to promote public interest careers and opportunities. You’ll also find photos from the recent *Race for Justice 5K Fun Run/Walk*, which benefited the Loan Repayment Assistance Program and a list of students from the Class of 2005 that were recently honored for their public service while at the Law School. There is also a piece on the *Mike McHale Scholarship Fund*. Finally, this issue includes award-winning student scholarship.
The Theatre of the Relatively Talentless (TORT) hit the stage for a third year with its best show to date. “Walter Wonka and the Lawyer Factory” was written, directed, performed, and produced entirely by the law students of the University of Minnesota Law School. Staged to three sold-out performances at the 327-seat St. Paul Student Center Theater, the show wowed audiences with crowd-pleasing humor and musical numbers that crossed all lines of lawyer, law student, law professor, and lay individual.

As luck would have it, his application coincides with the reopening of the mysterious “Law Factory” run by an eccentric recluse, Walter Wonka (Ryan Scott, 3L). Along the way Charlie meets and befriends a number of other potential law students who want to go to law school for various, traditional legal goals. However, both the entry into law school and the process of getting through prove to be far more difficult—and dangerous—than anyone anticipated.

Continuing the proud tradition of participation by notable members from the legal community, the performances included special cameos by Vice President Walter F. Mondale, Hennepin County Attorney Amy Klobuchar, and Hennepin County District Court Judge Stephen Aldrich.

The show also included cameos by numerous prominent Law School faculty and staff: Dean Alex Johnson, Dean Erin Keyes, Professors Judith T. Younger, John Matheson, Jim Chen, Brad Clary, Laura Cooper, Maury Landsman, with additional appearances by Susan Gainen, Collins Byrd, Steve Marchese and Linda Lokensgard.

Directed by Joe Gratz (3L), the script was written by a team of law students led by head writer Patrick Stura (3L), choreography arranged by Laura Taken (2L), and set design by Marissa Wiesman (2L) who also helped as assistant director. Musical Direction was by Tom Anderson (2L), and the business side of things were handled by co-producers Bobak Ha’Eri (3L) and Al Vredeveld (2L) as well as treasurer Andrea Martin (3L).

The performances proved that the Law School, by way of TORT, continues to hold an iron grip on the all-important “Best Law School Musical” rankings—a category glaringly omitted from “traditional” Law School rankings.

High-quality DVDs of the performances will be available by May. Information will be posted on the Law School website when DVDs become available and further questions can be handled by contacting TORT at mndancinlawyers@hotmail.com. ✷

By Bobak Ha’Eri, Class of 2005.

Loosely based on the children’s book-turned-’70s classic film *Willy Wonka and the Chocolate Factory*, the musical centered on Charlie Bucket (Trevor Helmers, 1L), a young idealist who decides to help his poor family by going to law school in order to help the little guy.
Jennifer Fischer

Unlike most Americans, Jennifer Fischer doesn’t travel in two-week increments. She’s labored on a ranch in Wyoming, built houses in Botswana and Ethiopia, and worked as a secretary in Paris.

“Things are a little too easy here,” Fischer said. “We take for granted what we have.”

That’s why studying law for three years at the University of Minnesota would have been just...well, too much of a breeze for the 32-year-old Fischer. Instead, she is finishing her last semester of law school at the international university ESADE in Barcelona, despite lacking fluency in Spanish. “It was actually my reason for going,” she said.

Fischer’s life has been full of adventurous choices. After completing her undergraduate degree in political science at the University of Puget Sound, she worked in the Washington, D.C. offices of Amnesty International for one year. But the traveling bug was buzzing inside her, so she quit to work at the Wyoming ranch before bumming around Europe for several months.

And then she “got serious,” taking a job with Habitat for Humanity, the nonprofit housing developer. For two years, Fischer served as Director of Operations in Botswana and Country Director in Ethiopia.

“Sometimes it can be very depressing because you can’t do everything for people,” she said. However, Habitat for Humanity’s building model requires new owners to participate in the construction of houses, and that, Fischer said, turned out to be a good balance between “sharing knowledge and letting people work for themselves.”

Although the experience proved rewarding, Fischer realized she was “more passionate about social justice issues than community development issues.” That led her to law school, where the topics that have fascinated her the most are the ones that directly affect people’s lives.

Family tragedy led her to explore disability law. A few years ago, Fischer’s brother, who was suffering from schizophrenia, committed suicide. She’s written three articles on mental illness, including “The Americans with Disabilities Act: Correcting Discrimination of Persons with Mental Disabilities in the Arrest, Post-Arrest, and Pretrial Processes,” which was published in Law and Inequality: A Journal of Theory and Practice.

In addition, as a participant in the Asylum Law Project, Fischer traveled to Texas to advocate for a Mexican-American man accused of being in the country illegally. Because immigration law is so complex, Fischer noted, her client simply would not have been able to sort through the maze of government rules without her assistance.

“It was the first time I thought I could use this degree to really help people,” Fischer said. It certainly won’t be the last.

Jason Ilstrup

As a 2005 graduate of the University of Minnesota Law School, you’d think Jason Ilstrup would want to know a little something about the U.S. legal system. He doesn’t.

“I didn’t take an evidence or criminal procedure class,” Ilstrup said, glancing around a South Minneapolis coffee shop and chuckling. “Somebody could break a law in here and I wouldn’t know it.”

Instead of focusing on the United States, the 28-year-old Ilstrup is smitten with all things African. His love affair started at Boston University. A professor focused on the continent during a world politics class, and Ilstrup’s interest was piqued. Not a semester passed without a course on the subject.

After completing his undergraduate studies, he spent three years in a village in Niger as a Peace Corps volunteer. Ilstrup favors the pronunciation “KNEE-jair”—the country is a former French colony—over the long “i” sound Americans tend to employ.

During his stay, Ilstrup learned Hausa, a language spoken by about 39 million people in Niger, Nigeria, Ghana and Cameroon. A native of the Twin Cities, Ilstrup returned home after the Peace Corps. While his body has been in Minnesota for the last three years, poring over law books, it sometimes seems like his heart is still in Africa.

Referring to a 2003 meeting between Niger President Tandja Mamadou and President George W. Bush, Ilstrup inserts the phrase “our president” before Tandja’s name. Point out the discrepancy and Ilstrup shrugs his
Imad Al-Deen Abdullah

There was never any doubt in Imad Al-Deen Abdullah's mind about the type of law he would practice. He plans to work as a commercial litigator.

“I’m a very competitive person,” Abdullah said. “I don’t like people defeating me at anything. The adversarial nature of litigation suits my personality. I don’t shy away from controversy.”

The 25-year-old Abdullah will join the Memphis office of Baker, Donelson, Bearman, Caldwell & Berkowitz, one of the fastest-growing firms in the nation. As a junior associate, he will begin trying cases with limits of $20,000 or less. But with success, he could quickly move up to more important cases.

Wal-Mart, which is headquartered in nearby Bentonville, Arkansas, is one of the firm’s biggest clients. In addition to being the world’s largest retailer, the company generates enough work to keep commercial litigators at Baker Donelson busy.

Abdullah chose Baker Donelson for other reasons, too. During a summer internship, he felt an affinity for the people working at the firm, and his wife liked being close to relatives already living in Memphis.

The couple has a one-year-old son, which has resulted in a few restless nights during law school. But better to be sleepless now than as a working attorney, Abdullah argues. “I can just sit at the back of the class if I’m tired,” he said. “I can’t do that when I’m working.”

As an undergraduate at the University of Minnesota, Abdullah was a sociology major, which might make criminal law seem like a natural fit. But Abdullah sees too many problems with the U.S. criminal justice system. “That’s a very tough area in my opinion,” he said. “I wouldn’t want to be a prosecutor or defense attorney. I couldn’t do either and sleep at night.”

Early in his academic career, it appeared that Abdullah might pursue a Ph.D. in sociology. A stellar student, he was accepted into the department’s honors program. During a summer session, he learned SPSS, an analytical statistical software application, well enough to teach three sessions of it to other undergraduates. He also led an Introduction to Sociology class.

Abdullah also won a spot in the Multicultural Undergraduate Research Program, which allows students to conduct academic research under the guidance of a faculty member. Working with Joachim Savelberg, an associate professor of sociology, Abdullah chose to explore the difference between the way police departments and the media identify criminal suspects and victims. His research culminated in a paper called “Race and Newspaper Reporting on Crime.”

Ask Abdullah why he chose the law over sociology, and there’s not an easy answer. “That’s kind of tough,” he said. “There were very few students of color in my high school [in Lincoln, Nebraska]. My mother was a math teacher there, and whenever something came up, I was made to be the spokesman. I’d get a pink slip, go to the principal’s office and they’d say, ‘Can you go and do this for us?’”

In high school, the towering Abdullah (he’s six feet, six inches tall) focused his competitive energies on athletic pursuits such as basketball. He didn’t join the debate team, he said, because that just wasn’t something jocks did.

Those oral and intellectual skills will soon take center stage, though, in courtrooms in Tennessee and Arkansas. “I can’t imagine being a lawyer and not getting into court,” he said.

By Todd Melby. Melby is a Minneapolis-based freelance writer and independent radio producer.

Niger is a desperately poor nation. At about $800, its per capita gross domestic product is one of the lowest in the world. Most people grow their own food, depending on what economists refer to as “subsistence agriculture,” to get by. Life expectancy is just 42 years, ranking it 217th among 225 nations.

“The people I met there are the nicest in the world. They live in destitute poverty. In my village of 700 people, I lived in a mud hut with no running water. I slept outside. Yet in spite of that, people there will give you anything,” Ilstrup said.

For Ilstrup’s part, he taught literacy courses, educated locals on the dangers of HIV/AIDS, and started a community garden. But his most successful effort, he said, was as a soccer promoter.

“It was the best thing I did,” Ilstrup said. “Villages played each other in matches. It provided a distraction from everyday living.”

In addition to Africa, the 28-year-old Ilstrup is also passionate about politics. In college, he interned with a member of the British House of Commons. Today, he serves as an aide to U.S. Congressman Martin Sabo, a Democrat. While he’s attracted to government service because it can improve people’s lives, the fast-talking, intense Ilstrup also enjoys speculating about what positions local politicos might run for in upcoming elections.

So, what’s next for Ilstrup?

There are two answers to that question, really. Ilstrup views law school as “the last great liberal arts education,” and squeezed as many international-focused classes into his studies as possible. That philosophy might help explain why he has no plans to practice law. Other than that, though, he’s not sure what’s next. “I don’t know,” he said. “And that’s the brilliant part.”
Student Organization Spotlight

The Public Interest Law Students’ Association (PILSA) is a relatively new student group at the University of Minnesota. Yet from its beginning, PILSA has taken on issues of public interest education and advocacy with full force. PILSA has taken an active student leadership role, not only in furthering public interest curricular development, but also in fundraising, awareness, and developing a strong public interest mission and vision for the Law School.

PILSA believes that a strong, visible public interest commitment enhances “the U” and the legal community as a whole. The ultimate goal is to make public interest/public service a viable, desirable career option for all, by supporting current students as well as those already working in the field. The breadth of “public interest” allows PILSA to recognize and serve a diverse range of student ambitions, while at the same time connecting those students with others who may choose a different career, but not a different mission. PILSA serves all who are motivated to serve the community before themselves.

During the fall of 2004, PILSA was extraordinarily active at the Law School. A new lunchtime speaker series brought public interest practitioners to the Law School to share “real world” experiences, and to provide practical advice for students interested in similar paths. Organizations represented included the Minnesota Legal Aid Society and the Minnesota AIDS Project.

PILSA is also proud to work closely with Dean Johnson in developing new public interest programs at the Law School, as well as improving those that already exist. The PILSA board’s regular meetings with the Dean have established an important connection.

The University of Minnesota Law School recently held its 3rd Annual Race for Justice 5K Fun Run & Walk. This year’s race was held on Sunday, April 17, 2005 at the Nicollet Island Pavilion in Minneapolis. All proceeds benefit University of Minnesota students and graduates pursuing careers in public interest law.
between public interest students and the school’s administration, a relationship that benefits the entire Law School community. PILSA is actively working with the Dean and other members of the administration on several proposals for new public interest-related programs.

In addition to awareness and advocacy efforts, PILSA also has a fundraising role. One of PILSA’s primary annual projects is coordination of the “Race for Justice” 5K Run/Walk, held each spring in downtown Minneapolis. In its second year, the 2004 “Race for Justice” attracted more than 300 people to the starting line. Students, faculty, alumni, and friends teamed up to raise more than $7,000 for the Loan Repayment Assistance Program (LRAP). As a result of the event’s growth and success, proceeds from the 2005 event will support two constituencies: LRAP will continue to be a “Race for Justice” beneficiary, and, for the first time, PILSA has teamed up with the Law School’s Minnesota Justice Foundation student chapter to provide financial support for the newly established Public Interest Clerkship (PIC) program for current students.

The future of PILSA appears very bright. Public interest groups have grown at law schools across the country, and the University of Minnesota is no exception. More than 70 students created a “standing-room-only” environment at PILSA’s organizational meeting this past fall, and attendance at successive meetings has consistently doubled that of just one year ago. The success of the Race for Justice shows the wider legal community’s receptiveness and willingness to contribute to under-supported, but vital, public interest programs, and the success of PILSA suggests that the legal community’s future is in good hands. Awareness of and emphasis on the public interest and public service fulfills not just the mission of PILSA, but the mission of all who choose to practice law as it was originally intended to be practiced—to serve the public good.

By Matt Gehring, Class of 2006 and co-president of the Public Interest Law Students Association.

Law Students Honored for Public Service
The Sixth Annual Law School Public Service Program recognition ceremony was held on April 5. The event was co-sponsored by the Minnesota Justice Foundation, the University of Minnesota Law School, Hamline University School of Law, the University of St. Thomas School of Law, William Mitchell College of Law, and the Minnesota State Bar Foundation. The ceremony honored graduating students from all four Minnesota law schools who have completed 50 or more hours of volunteer legal service during their time in law school.

These University of Minnesota law students, together, volunteered 7,760 hours!

Mark Benjamin Abbott  
Paige Lindsay Abramson  
Collette Lucille Adkins-Giese  
Shay Alanna Agsten  
Rachel Anderson  
Sofia Birgitta Andersson  
Divya Arora  
Gulzar Babaeva  
Amanda Beaumont  
Angela Marie Behrens  
Catherine Biestek  
Jennifer Bond  
Mychal Andrew Bruggeman  
Megan Anne Burroughs  
Peter A. Carlson  
Matthew Cavell  
Joshua Paul Dau  
Katharine Deters  
Joseph Devlin  
Josh Alan Dubois  
Brandon Dale Finke  
Jennifer Anne Fischer  
Debra Holly Frimerman  
Michael Allen Gehret  
Sarah Gorajski  
Eric J. Gottwald  
Emerald Ayrhart Gratz  
Julia Halbach  
Benjamin Paul Hewitt  
Michelle Laura Horovitz  
Josh Caleb Houston  
Amanda Johnson  
John Joseph Kelly  
Patricia Sue Kickland  
Jonathan Krieger  
Noriko Kuotsu  
Brent Elliot LaSalle  
R. Reid LeBeau  
Thomas Earl Lockhart  
Sarah Mae Lofgren  
Daniel Thomas Lund  
Andrea Lyn Martin  
Bridget Rebecca McCauley  
Sarah McLeran  
Nigel Mendez  
Ryan Richard Miske  
Kirsten Olson  
Patricia Perez  
Sarah Katharine Peterson Stensrud  
Jessica Leigh Phares  
Peter Rasmussen  
Elizabeth E. Rein  
Christianne A. Riopel  
Jennifer Rogers  
Sarah Elizabeth Ruter  
Meghan Justine Ryan  
Juliana Salcedo  
Steven Carl Schoenberger  
Drew Smith  
Gregory William Smock  
Sara Sommarstrom  
John Matthew Stern  
Patrick M. Stura  
Rebecca Bates Verreau  
Hema L. Viswanathan  
Jeremiah Michael Wagner  
Nicholas Collins Woomer  
Laura Ann Young  
Lu Zhou
Scholarship Spotlight

Mike McHale Scholarship Fund

To attract and retain a talented and diverse student body, the University of Minnesota Law School uses scholarships, fellowships, and other forms of financial aid to attract intelligent and motivated students from around the country and the world. Scholarships make it possible for students to pursue their legal education at the Law School regardless of their financial circumstances. This is why scholarships such as the Mike McHale Scholarship Fund help maintain the Law School's tradition of excellence and enhance its future.

Mike McHale entered the University of Minnesota Law School in 1995 and aspired to a career in Intellectual Property Law, specializing in matters related to medical science. He was building an exciting future at a busy Minneapolis intellectual property firm. A gifted scientist, McHale also possessed fine communications skills and personal charm that made him uniquely effective in translating technical scientific ideas for his legal colleagues. He had earned a Ph.D. from the University of Minnesota in Biochemistry, Molecular Biology and Biophysics following his summa cum laude graduation from the University of St. Thomas with a B.A. in Chemistry and Biology.

Mike McHale’s uncle, Kenny McHale, and his parents, Ernie and Patti, with the first McHale Scholar, Anthony Jacono (Class of 2000).

Despite his commitment to his studies, he worked hard to find the balance between career and home life. Halfway through his second year at the Law School, his sudden death prevented the fulfillment of his life’s brilliant promise.

In 1997, his family and friends established a scholarship fund in his name to celebrate his life and extraordinary accomplishments. They wished to give support and encouragement to other promising and gifted law students who embody some of McHale’s characteristics. His family and friends felt that this was the best way to continue the contribution to the community that McHale’s life promised. He was a lover of golf and much of the money for the scholarship has been raised through golf tournaments in his memory.

Hundreds of people have made contributions to the scholarship fund over the years. Mike McHale’s presence is missed every moment by those who knew him. His memory is even stronger as we look at all of the bright and dedicated students that are succeeding in Law School in part because of the Mike McHale Scholarship Fund. The 2004–05 scholarship recipient is Victor Jonas (Class of 2005).
Reform in The “Brave Kingdom:” Alternative Compensation Systems For Peer-To-Peer File Sharing

BY JOSEPH GRATZ

INTRODUCTION

In act three, scene two of The Tempest, Stephano, a drunken steward, has just crowned himself mock-king of the island on which he and his master are stranded. He hears music, but he cannot tell where the music is coming from. “This will prove a brave kingdom to me,” he says, “where I shall have my music for nothing!”

Like Stephano, millions of Internet users stand amazed at the variety of music available to them “for nothing.” Technology has made instant distribution of music to home computers widely available. Most people do not pay for their downloads. The peer-to-peer file sharing world teeters on the edge of legitimacy. Users are unsure of whether to start paying for music or keep downloading with hope the music will keep playing.

The instability of the current peer-to-peer file sharing situation, is captured by the story of Brianna LaHara. After using KaZaA to share her favorite songs, Brianna was sued for copyright infringement, and she settled for $2,000. Brianna is twelve years old. What combination of fear, desperation, and hubris could drive the Recording Industry Association of America (RIAA) to sue a child on behalf of its member record companies?

The answer is the popularity of peer-to-peer file sharing. Among young music fans, peer-to-peer file sharing (“P2P”) is an exceedingly popular way to consume music. For some, P2P is the only way to access music. P2P certainly owes much of its popularity to its price. It is free, but other factors also contribute to its widespread use. The selection is unbeatable; any music ever released on compact disc (CD) is likely to be available on a P2P network. The most popular songs are widely available and, because of their popularity, download in a flash. Because each song is downloaded at zero marginal cost to the consumer, music fans can try music they would otherwise not purchase; if they don’t like it, they can simply delete it. The problem is that much of this P2P downloading is illegal. Since neither artists nor record companies profit from P2P downloads, as downloading becomes a popular alternative to purchasing CDs the viability of the music industry’s current structure is threatened.

Licensing under the current regime makes legitimate peer-to-peer distribution of commercial recordings very difficult. Unlike traditional broadcasting and webcasting, no compulsory license is available for distribution via P2P. To distribute a song legally via a P2P service, one would have to negotiate directly with the owner of the copyright in the sound recording (usually the record company).

Several scholars have proposed alternative compensation systems. Neil Weinstock Netanel, William W. Fisher III, and Jessica Litman, among others, have proposed systems through which copyright holders could be compensated for the use of their songs without regaining control over distribution. A levy would be placed on all good used to consume media—particularly on broadband internet access. Fisher’s analysis indicates that a $5 per month tax on broadband would more than replace all revenues copyright holders lose from P2P downloads. The money would be distributed to copyright holders (or, in Litman’s proposal, to the artists themselves) in proportion to the amount each work is used. The proposals diverge on the best methods of measuring usage and dividing up proceeds.

This article presents an alternative compensation system that is technically feasible, economically sound, and does not require modifications to international agreements to which the United States is a party.

AN ALTERNATIVE COMPENSATION PROPOSAL

A. Mechanics of the Proposal

1. Goals

The compensation schemes proposed by Fisher and Netanel focus on compensating copyright holders for lost revenues due to CD sales. The systems are designed to simulate a world without P2P copying. But we no longer live in a world without widespread P2P copying, and it is simply not possible to put that particular cat back in that particular bag. If we are to give copyright holders the choice to opt out, they do not opt out into a world of perfect control over their copyrighted works. They opt out instead into a world in which uncompensated copying is socially accepted and routine in all segments of society, in which lawsuits against hundreds of consumers have failed to make an appreciable dent in file sharing activity, and in which Digital Rights Management technologies are cracked routinely.

Student Scholarship

Joseph Gratz, a third-year student at the University of Minnesota Law School, is Articles Editor of the Minnesota Journal of Law, Science, and Technology. He holds a BA in English and Theatre and a Certificate in Technical Communication from the University of Wisconsin–Madison. Following graduation, he will clerk for Judge John T. Noonan of the Ninth Circuit Court of Appeals in San Francisco, California. Reform In The Brave Kingdom, an excerpt of which appears below, was the winner of the 2004 Nathan Burkan Memorial Competition at the University of Minnesota Law School, sponsored by the American Society of Composers, Authors, and Publishers, and was published in the Minnesota Journal of Law, Science, and Technology, vol. 6 (2004).
Our system does not need to make the record companies whole; all it must do is provide an environment more attractive than the one that exists today. Given the dire straits in which the record industry has lately found itself, this should not be too difficult. There is room for a scheme that improves on the status quo without reaching the status quo ante bellum.

2. Scope
The compulsory license will be limited to musical works. Only noncommercial use will be privileged; however, the commercial distribution of copies for noncommercial use will be allowed. The services of these “download service providers” will be heavily levied, and profits will be small because such services will have to compete with legal downloads from peers; the presence of a free alternative will tend to depress prices and provide incentives for value-added services, like organization of music, information about artists, community features, and other popular services. This will also allow artists, record companies, and their affiliates to distribute the music they produce directly to consumers, though, as described below, only peer-to-peer shares will be measured for purposes of compensation.

Noncommercial derivative works will be allowed. To the extent that they are substantially similar to the original, they will have the same or a similar audio fingerprint as the original, and will be counted in the popularity of the original. To the extent that it is not substantially similar, the use of the original will not be counted for purposes of compensation.

If a musician wishes to create a derivative for commercial use, she will have to negotiate with the copyright holders, as she would now. Commercial derivatives would be counted just like originals, and private contracts between the creator of the derivative and the copyright holder in the original would govern what portion of the derivative author’s revenues from the levy system would be passed on to the copyright holder in the original.

3. Participation
Copyright holders may opt out of the system. If they do, they will have the same rights they do today. If copyright holders choose to opt in, they must register and deposit a copy of the work with the Copyright Office. This registration will be separate from all subsisting copyrights, and the registration will not be valid until it is approved by all owners of copyright in the underlying works, such as musical works, scripts, and sampled works. All underlying copyrights must be registered and deposited before the compulsory license scheme registration will issue. This requirement forces the owners of the underlying copyrights to bargain, because no compulsory license revenue accrues until a valid registration issues—a penalty default rule.

At first, this does not seem like much of a penalty default rule. After all, if the parties refuse to bargain and/or fail to register, they all retain exclusive, proprietary rights enforceable against the world. But how enforceable are those rights, really, against noncommercial home use? Home use is difficult to detect and deter. Once a compulsory license scheme is in place, P2P networks will become legitimate avenues for the distribution of all sorts of content. No longer will copyright holders be able to argue that the majority of content swapped on P2P networks is infringing. There will be at least a “substantial noninfringing use” for any software or device used to store, copy, share, or play back audio or video. Lawsuits against operators of second-generation P2P networks have failed so far, and they are likely to continue to fail.

By shifting the context in which P2P networks operate from one of presumptive infringement to presumptive noninfringement, we make it much more difficult for copyright holders to stop unauthorized sharing. While copyright holders are nominally offered a choice, the most profitable option should be participation in the compulsory licensing regime.

So why not just say what we are doing? Why not throw open the gates and refuse to allow copyright holders to opt out? First, allowing this nominal choice keeps us from violating treaty obligations. Second, the appearance of a choice will make the implementation of compulsory licensing more politically feasible. Finally, this system allows the owners of underlying copyrights in the work the opportunity to privately bargain and agree on how to split up the money they receive. This system of private ordering will set prices more accurately than a government-mandated system of splitting up proceeds among copyright owners.

4. Collection
A levy will be placed on products used to consume digital media; a levy on home broadband internet access alone is likely to produce the necessary revenues. Fisher and Netanel have performed good analyses of the types of goods that should be levied and what levy amounts would be necessary.

5. Measurement
The sole measure of the popularity of a work will be the number of peers making it available for download. This has a number of advantages. First, it fairly accurately reflects whether the user listens to the song or watches the movie; disk space being scarce, unwanted media are likely to be deleted. Because users will have no incentive to disable the sharing function of their P2P software once file swapping is legal, the musical tastes of the vast majority of P2P users will be reflected. By refusing to share, all they accomplish is denying compensation to their favorite musical artists; they do not pay any less, but they lose the power to control where part of their money goes.

Second, it is by its nature public and verifiable. P2P networks function by accurately returning a list of the hosts on which a particular file can be found; this method exploits that feature. In fact, a version of this popularity measurement method is already being used by a private company to generate data on the popularity of MP3 files on behalf of major record companies. Third, it is easy to implement in existing systems, since all P2P networks natively include the required functionality.

Finally, it can be implemented while allowing the use of open-source software and without violating e2e. When the copyright holder registers the work, she includes a deposit copy of the work in digital form. The copyright office, using a publicly-available, royalty-free audio fingerprinting algorithm, generates and posts the audio fingerprint of the song. The measurement authority runs a number of computers that crawl P2P networks, querying randomly-selected hosts for a list of the audio fingerprints of the files they’re sharing. The hosts cannot send audio fingerprints of files they are not in fact sharing, since the measurement servers periodically download randomly-selected files as a spot-check mechanism, and it is impossible to derive a corresponding audio file from an audio fingerprint. There will be criminal penalties for causing a host to falsify its reports; violators will be caught through these spot-checks.

If the audio fingerprint of a downloadable file matches that one file with the copyright office, the work will be credited with one “availability.” If it does not match, no credit will be given. This will encourage copyright holders to make “official” versions of their works widely available on P2P networks, to make it even more likely that each host sharing the file results in an “availability.” P2P servers run by copyright holders or their
affiliates will be required to identify themselves to the measurement crawler; failure to do so will result in stiff penalties, including contributory and vicarious liability.

This way, the measurement authority receives an accurate picture of the popularity of each file without placing measurement in the network itself, without trusting each individual host to report information that is not immediately verifiable, and without supplanting existing P2P protocols.

6. Distribution

The market has already decided the relative value of works by their popularity. The regulatory system should not alter the prices of “votes,” and those votes are divided differently, each host gets the same number of “votes,” and those votes are divided equally among all works in that host’s collection.

For work \( x \), the overall share of the pool (\( S_x \)) is:

\[
S_x = \frac{A_x}{F_{x, n}}
\]

where \( n \) is the total number of works in the sample, \( A \) measures the number of hosts on which the work is available, \( F \) measures the total number of works shared by the hosts sharing the work, and \( S \) is the percentage of the total pool to be distributed to the registrant of \( x \).

To determine the amount paid to each registrant, we simply multiply by the total pool of money to be distributed, so

\[
P_x = T \times \frac{A_x}{F_{x, n}}
\]

where \( T \) is the total pool of money to be distributed and \( P \) is the payment to the registrant of \( x \).

So, for example, imagine three users, Arthur, Boris, and Carrie. A has 3 songs in his collection. B has 2 songs in his collection. C has 5 songs in her collection. A and C are both sharing “Baby One More Time.” B is sharing “Saint Simon” by The Shins. A, B, and C are all sharing “Say Yes” by Elliott Smith. A is sharing “Come Home, Baby Jule” by The American Analog Set. C is sharing “The District Sleeps Tonight” by The Postal Service, “Fox in the Snow” by Belle and Sebastian, and “Allison” by Elvis Costello. Thus, Britney receives 12.8% of the pool, The Shins receive 25.6%, Elliott Smith receives 15.4%, The American Analog Set receives 15.4%, and The Postal Service, Belle and Sebastian, and Elvis Costello each receive 10.3%.

Thus, this method of measurement does not allow any one user or class of users to have a disproportionate effect on the distribution of funds, can be calculated using publicly available data, and distributes funds based entirely on the popularity of the work.

CONCLUSION

An alternative compensation system based on taxation and compulsory licensing will retain the efficiencies of a market while eliminating the negative effect of property rights on semiotic democracy. Further, implementing such a system will compensate copyright holders who currently receive no remuneration for noncommercial P2P sharing of their works. No alternative compensation system will mollify all stakeholders, but by making policy choices that are technologically feasible, economically sound, and in accordance with international treaties, such a system will improve consumers’ access to culture and creators’ incentives to create.

FOOTNOTES

3. Id.
4. Id.
5. See http://whatacrappypresent.com (last visited October 17, 2004) (hazardously warning parents against giving CDs as gifts because kids routinely download music).
7. An audio fingerprint is a unique identifier of the audio content of a song. It does not change when the audio is converted from one file format to another. Since the audio fingerprint is shorter than the audio file itself, there necessarily exists more than one audio file that generates a given audio fingerprint. However, the chances of such a collision are so small that it is unlikely that one will occur in many hundreds of years.
8. The “work” here means the sound recording or audiovisual work that is the final product of the production process.
9. A penalty default exists when the law sets a default rule that neither party will want, forcing the two parties to reveal information to each other and to decide on bargained terms. See Ian Ayres & Robert Gertner, Filling Gaps in Incomplete Contracts: An Economic Theory of Default Rules, 99 Yale L.J. 87, 91 (1989) (introducing the concept of the penalty default).
12. See supra note 6.
15. \( A_x/F_{x} \), for each of the works is 0.25, 0.5, 0.3, 0.3, 0.2, 0.2, and 0.2, respectively. The sum of \( A_1 \ldots A_n/F_{1 \ldots n} \), then, is 1.95. The percentage of the pool for each work is found by dividing its \( A_x/F_{x} \) value by 1.95.
Balancing State Budgets at a Cost to Fairness in Delinquency Proceedings

BY ANDREA L. MARTIN

Andrea L. Martin is a third year student serving the Minnesota Law Review as a Managing Editor. This article is adapted from a Note appearing at 88 Minn. L. Rev. 1638. Last spring, the Law Review awarded Martin’s Note a Volumes 35 & 36 Memorial Fund Award for Outstanding Staff Publication. Martin is uncertain what her future holds beyond graduation.

Imagine a twelve-year-old child of average intelligence who is charged with a felony count of damage to property. The child and parent arrive at juvenile court on the day of arraignment and apply for court-appointed counsel. The court administrator determines the child qualifies for appointed counsel and informs the child’s parent that she must pay a $100 fee. While waiting to meet with the appointed counsel, the parent tells the child that she will not pay the $100 fee and suggests the child should consider waiving the right to counsel. The child is torn, but abides by the parent’s wishes. This intense conflict of interest between parent and child represents only one of many problems with a co-payment statute requiring parents of juvenile respondents to make a co-payment for court-appointed counsel.

In summer 2003, the Minnesota legislature raised public defender co-payment fees in an attempt to generate revenue to balance the ailing state budget. The Minnesota Supreme Court invalidated the co-payment statute in State v. Tennin because it failed to include a judicial waiver provision. Unfortunately, commentators and courts, including the court in Tennin, have said little, if anything, about the impact of co-payment or reimbursement statutes on juvenile respondents. Unlike adults, juveniles face a system with fewer procedural safeguards that is increasingly punishment-oriented; are susceptible to adult coercion; and more frequently lack the capacity to make good legal decisions.

This Article concludes that the Minnesota Supreme Court erred in failing to analyze the co-payment’s application to juveniles separately—even a revised statute would be unconstitutional as applied to juveniles. Further, if future courts find a revised statute constitutional as applied to juveniles, the legislature should reconsider applying co-payments to juveniles.

I. THE RIGHT TO COUNSEL FOR JUVENILES AND PAYMENT FOR THAT RIGHT

A. The Right to Counsel for Juveniles

In 1967, the Supreme Court addressed some of the inadequacies of juvenile courts in In re Gault. The Court held that pursuant to the Fourteenth Amendment juveniles have a right to counsel for delinquency proceedings in which the juvenile faces a loss of freedom. The Court found counsel necessary to assist juveniles in preparing and presenting a defense, questioning the facts, dealing with the complexities of the law, and insisting that proceedings are handled lawfully. Following Gault, most states codified the right to counsel for juveniles. Whether juveniles exercise that right raises the issue of waiver.

Similar to adults, juveniles can waive their right to counsel, but the Court has never addressed waiver of this in juvenile delinquency proceedings. Despite juveniles’ constitutional right to counsel, many questions still exist concerning the application of waiver. Legal experts have conducted significant research regarding the effectiveness and application of waiver requirements. Professor Barry Feld of the University of Minnesota and the General Accounting Office have found rates of representation for juveniles vary dramatically across jurisdictions. The American Bar Association has cited waiver as a cause of inadequate counsel for juveniles.

Minnesota created an Advisory Task Force on the Juvenile Justice System in 1992, which studied juveniles’ right to counsel and waiver. The 1994 waiver statute resulting from the Task Force’s efforts requires knowing, intelligent and voluntary waiver, but also has improved protections. The juvenile must be advised by an attorney of the risks of self-representation and counsel must confirm to the court the consultation occurred. If the child waives his or her right to representation, the statute requires court-appointed stand-by counsel for certain juveniles.

B. Recoupment Through Reimbursement Statutes

The requirement that states provide representation for many adult and juvenile defendants means states must also fund the representation. Every state in the country, as well as the federal government, has statutes providing for recovery of funds spent on court-appointed representation. While the statutes vary, they generally require defendants to repay costs of representation if they later become able to pay.

The Supreme Court found reimbursement statutes permissible in Fuller v. Oregon. The Court held that reimbursement statutes do not infringe on indigent defendants’ exercise of their Sixth Amendment right to counsel, reasoning that the state provided free counsel during all stages of the criminal proceedings as required by Gideon v. Wainwright. The Court stated the knowledge of possible future liability does not affect eligibility to obtain counsel and noted that Oregon’s statute only applied to those able to pay without “manifest hardship.”
The Supreme Court has never determined to whom the state can extend liability for costs of court-appointed counsel, but the Minnesota Court of Appeals has addressed the issue. In In re Welfare of M.S.M., a Minnesota district court ordered the juvenile and his parents to reimburse the county $3,191 for costs of the juvenile's representation. The appellate court affirmed, noting that the parents had a reasonable opportunity to be heard by the court concerning their ability to pay.

C. Recoupment Through Co-Payment Statutes

States also use co-payment statutes to recover the costs of appointed counsel. In June 2003, the Minnesota State Legislature passed significant amendments to a statute that had required a $28 copayment for public defender services unless a judge waived such payment. As amended, the statute eliminated the judicial waiver provision and provided new tiered amounts for the copayment. The amount depended on the severity of the charge and the jurisdiction of the court. For a juvenile facing delinquency charges, the statute required a $100 co-payment from the juvenile's parents. The amended statute still allowed representation regardless of defendants' (or juvenile respondents') ability to pay immediately.

II. STATE V. TENNIN: THE CONSTITUTIONALITY OF CO-PAYMENTS

A. The Minnesota Supreme Court's Holding in State v. Tennin

In early September 2003, an adult challenged the constitutionality of the amendments to the co-payment statute in State v. Tennin. A Minnesota district judge ruled the statute unconstitutional because it did not allow judges to waive the fee. The Minnesota Supreme Court granted accelerated review of the statute specifically to address the question: "Does Minn. Stat. § 611.17, subd. 1(c), as amended, violate the right to counsel under the United States and Minnesota Constitutions?" In affirming the trial court decision, the court relied exclusively on the United States Supreme Court's holding in Fuller, reasoning that the Oregon statute contained two waiver components: (1) defendants can only be ordered to repay legal expenses if they have the ability to pay, and (2) the repayment costs may be remitted "if payment will impose manifest hardship on the defendant or his immediate family." After comparing Minnesota's co-payment statute to the Fuller statute, the court found "the Minnesota co-payment statute had no similar protections for the indigent..." Thus, the court invalidated the entire statute as amended.

B. Constitutionality of the Co-Payment Statute as Applied to Juveniles

While correct in eliminating the statute's application to juveniles and adults, the decision in State v. Tennin made no mention of the portion of the co-payment statute that applied to juveniles' parents. The court failed to recognize the two ways the statute applied differently to juveniles than it did to adults. First, juveniles' right to counsel is based on the Fourteenth Amendment, not the Sixth Amendment. Next, because the statute required that the juvenile's parents pay the $100 co-payment, additional legal questions arise about imputing liability to the parent.

1. Application of the Co-Payment Statute to Parents of Juvenile Respondents

Legally, the doctrine of necessities (and other situations involving parental liability for their children) support application of a co-payment to parents. While the co-payment statute invalidated in Tennin presented due process problems for parents, revising the statute to provide for judicial discretion as prescribed by Tennin, would probably resolve this particular problem.

2. Application of the Co-Payment Statute to Juveniles

Even though adding a judicial waiver provision would cure the statute's application to parents, it would not cure the statute as applied to juveniles. At a minimum the Fourteenth Amendment requires counsel as "part of a fair hearing required by due process." The co-payment imposes a hurdle to this component of due process for the juvenile by implicating parental liability. The co-payment statute frustrates the juvenile's straightforward due process right to counsel by making a parent, whose interests may conflict with the juvenile's interests, responsible for paying for the juvenile's right to counsel. Even with the possibility of judicial waiver, this statute creates a financial incentive for parents to coerce their children into waiving counsel. Because co-payment statutes implicating parents, even with judicial waiver, compromise a juvenile's right to counsel, such statutes violate the Fourteenth Amendment when applied to juveniles. Thus, a Minnesota co-payment statute would continue to suffer constitutional defects if only reformed to include judicial waiver.

Imposing a parental co-payment requirement with judicial discretion may seem similar to applying a reimbursement statute to a parent. However, the temporal difference in the application of these statutes provides a significant distinction. Because the co-payment is determined at the time of representation, the possibility of a co-payment motivating a parent to interfere with his or her child's representation is much greater than the more remote possibility of reimbursement.

III. POLICY IMPLICATIONS OF THE MINNESOTA-TYPE CO-PAYMENT STATUTE AS APPLIED TO JUVENILES

If the courts validate a Minnesota co-payment statute amended to include judicial discretion, the legislature should still reconsider a co-payment statute's application to juveniles' parents. Social scientists question whether juveniles can truly make informed, intelligent legal decisions. While many older adolescents have acquired problem-solving and reasoning skills similar to adults, their judgment is quite dissimilar. Juveniles evaluate risk differently than adults by valuing possible positive outcomes more than possible negative outcomes, and they discount the impact of their decisions on the future more than adults. Additionally, juveniles are subject to parental influence, and generally make less independent decisions.

In addition, introducing parents into the representation process reverses some of the progress made by the 1994 amendments to the waiver procedure. Applying the co-payment statute to parents of juveniles reintroduces the problem of coercive parents, which the amendments sought to resolve. Application of a co-payment statute to parents of juveniles creates a new conflict of interest between the financial interests of the parent and the legal best interests of the juvenile, which the waiver statute was not designed to address. Therefore, a co-payment statute applying to parents conflicts with an underlying purpose of existing state law and compromises the progress of the waiver amendments.

Finally, the application of this statute produces absurd results in two regularly occurring situations in juvenile court.
First, the statute is difficult to apply to families in the child protection system when the child commits a crime while in the custody of the state. Because the statute does not define “parents,” liability for the co-payment could potentially extend to a number of unintended parties. The definition of “parent” could include the biological parent, legal guardian, custodial parent, step-parents, foster parents, or even a county social services agency!

Another absurd application of the statute manifests when a parent is the victim of a juvenile’s misconduct. The statute would require the victimized parent to fund the defense of his or her assailant. This situation presents an enormous conflict of interest and unfair burden for the parent. In light of these policy implications, the legislature should carefully reconsider the operation of a co-payment statute.

IV. ALTERNATIVES
Assuming that the legislature amends the co-payment statute to include judicial waiver, there are three ways that such a co-payment statute or the juvenile waiver statute could be further amended or reformed to make the operation of a co-payment statute more fair as applied to juveniles. Viable alternatives include (1) making counsel non-waivable for juveniles facing delinquency hearings, (2) applying the co-payment directly to juveniles, or (3) not applying a co-payment statute to juveniles. Optimally, the legislature should abandon the application of the co-payment statute to juveniles.

Ultimately, however, if the courts validate a co-payment statute that imposes liability on parents for their children’s co-payments and the legislature refuses to remove the parental burden, future courts should broadly construe Tennin in favor of juveniles and cautiously apply such a statute. The court in Tennin held a co-payment should not be enforced if it imposes “manifest hardship” on the defendant. The court, however, did not provide a clear definition “manifest hardship.” While the court did not explicitly say that “manifest hardship” refers only to financial hardship, this is a logical inference. “Manifest hardship” for a juvenile and the juvenile’s parent, however, may include contexts outside of the financial realm. Carefully assessing individual juveniles’ situations and applying a liberal understanding of “manifest hardship” could provide additional needed protection to juveniles.

CONCLUSION
The Minnesota legislature should proceed with caution in redrafting the co-payment statute. If the legislature strictly adheres to the guidance given by State v. Tennin, the resulting statute would still violate juveniles’ right to counsel under the Fourteenth Amendment. Even if later courts found such a revised statute constitutional, juveniles face challenges that adults do not encounter, and thus the legislature should reconsider applying a co-payment statute to juveniles and their parents.

Amending a statute to not apply to juveniles and relying on the reimbursement statute would be most effective. Other, perhaps less effective or more costly options also exist, such as making counsel mandatory for juveniles or making a co-payment waivable while eliminating a parental burden. In the event that the legislature re-enacts the co-payment statute with parental liability, future courts may be able to curb some of the absurd consequences of such a statute by interpreting “manifest hardship” broadly. However, many negative impacts on juveniles would remain. Not subjecting juveniles to co-payment statutes is the only foolproof way to avoid the negative impacts of such a statute on juveniles, and perhaps the value of fairness in the system is worth the financial cost to the state.

FOOTNOTES
1. MINN. STAT. § 611.17(c) (Supp. 2003).
2. State v. Tennin, 674 N.W.2d 307 (Minn. 2004).
4. The Minnesota rule codifying juveniles’ right to counsel explicitly states a “child has the right to be represented by an attorney.” MINN. R. JUV. P. 3.01.
7. MINN. R. JUV. P. 3.04.
10. MINN. STAT. § 611.17(c) (Supp. 2003).
11. See State v. Tennin, 674 N.W.2d 403 (Minn. 2004).
Counteracting Theft and Fraud: The Applicability of RICO to Organized Retail Crime

BY RYAN STAI

For thirty years, Donnie Ellis terrorized financial institutions in the Minneapolis-St. Paul metropolitan area. During the 1990s, Ellis ran his own criminal ring of over thirty members. According to law enforcement officials, Ellis’s ring earned an astounding $500,000 per year from its fraud and forgery activity, and caused another $250,000 in burglary damage to homes and vehicles.

“Ellis [was] the kingpin,” said one of the law enforcement investigators responsible for Ellis’s arrest in February 2004. Ellis oversaw a theft and fraud ring in which each member played an independent role. The ring first obtained stolen credit cards, checking accounts, and driver’s licenses to create false identities. Middle management, composed of individuals working directly under Ellis, recruited people to make fraudulent purchases at retail establishments. Different people returned the merchandise for a full cash refund.

In many ways, Ellis’s ring is reminiscent of traditional organized crime groups, complete with a kingpin, middlemen, and runners. While it appears that Ellis’s group has finally been eviscerated, the question arises as to whether an approach under the federal racketeering statutes could have eliminated the ring well before it amassed $5 million in profits. Just as the federal criminal Racketeer Influenced and Corrupt Organizations Act (RICO) was successfully implemented against the mob, perhaps it can also be used against major theft and fraud rings.

I. THE ECONOMIC IMPACT ORGANIZED RETAIL CRIME RINGS

Losses from check fraud exceed $20 billion each year and are expected to increase at a rate of 2.5 percent each year. Annually, more than three million Americans are victims of crimes in which a new fraudulent credit account is opened in their name, resulting in a nationwide financial loss of $32.9 billion. Crimes in which a victim’s existing credit account is misappropriated annually affect more than six million Americans and produce a financial loss of $14 billion.

Retailers annually lose $31.8 billion due to shoplifting, and organized retail theft represents “the most pressing security problem confronting retailers.” Theft losses from organized groups are estimated to be as high as $15 billion per year.

II. FEDERAL RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS ACT

A. The History and Purpose of RICO

In 1970, Congress passed the Racketeer Influenced and Corrupt Organizations Act. The purpose of RICO was to “seek the eradication of organized crime...by strengthening the legal tools in the evidence-gathering process...and by providing enhanced sanctions and new remedies to deal” with organized criminals. The difficulty in prosecuting organized crime leaders prior to RICO rested in their insulation from the activities of the organized group. The leaders of the rings, “when caught, were only penalized for what seemed to be unimportant crimes,” and criminal prosecutions of the overall organization were inhibited.

The advent of RICO allowed prosecutors to charge and present evidence against the organization as a whole, resulting in the indictment of key leaders of the organized group. Subsequent successful prosecution resulted in the removal of organized crime leadership. As a result, membership in organized criminal groups became a “fearful prospect for professional criminals,” and the power of traditional organized crime groups greatly decreased.

While criminal RICO contains four substantive offenses, the most applicable to organized retail crime is the prohibition of running an enterprise through racketeering activity.

B. The Elements of RICO and its Application to Organized Retail Crime Rings

RICO requires three general elements: a pattern of racketeering activity, the existence of an enterprise, and an effect on interstate commerce.

1. Pattern of Racketeering Activity

The statutory definition of RICO requires a “pattern of racketeering activity,” consisting of defined predicate offenses committed within a ten-year period. Supreme Court jurisprudence, however, renders the statutory definition virtually meaningless. In Sedima, S.P.R.L. v. Imrex Co., the Supreme Court noted “while two acts are necessary, they may not be sufficient.” The Court later elaborated that a pattern involves a relationship between the predicate acts and the threat of continued activity. Illegal acts of a ring that “have the same or similar purposes, results, participants, victims, or methods of commission” establish the necessary relationship between the predicate acts. The Court also decided that a “series of related predicates extending over a substantial period of time” fulfills the “continuity” requirement.

Several of RICO’s predicate offenses apply in the context of organized retail crime. For example, organized rings that steal from retail establishments in different states violate federal laws if they transport stolen merchandise between...
states. Rings that perpetrate cargo theft violate statutes prohibiting theft of interstate shipments of merchandise. Financial fraud rings utilizing fake identification cards violate laws involving identification documents or “access devices.” Rings that defraud financial institutions violate additional federal laws.

Organized retail crime is not profitable unless several acts of theft and fraud are committed. Due to transactional price limits and the desire to minimize attention to their activity, fraud rings generally engage in numerous small fraudulent purchases. In doing so, these rings typically pass fraudulent instruments over a prolonged period.

2. The Existence of an Enterprise
RICO defines an “enterprise” as either a legal entity or a group of individuals associated in fact. RICO’s definition includes both legitimate and illegitimate enterprises and is “equally applicable to a criminal enterprise that has no legitimate dimension.” An enterprise has two requirements: a common purpose among a group of individuals and evidence of an “ongoing organization” of individuals that function as a continuous unit.

Organized retail criminal rings exist for a common purpose, and their economic motivations are well documented. That these rings commit illegal acts as a means of profit while a hierarchy exists to divide the proceeds evidences this common purpose. An additional common purpose is proven through the ring’s goal of acquiring profits.

Donnie Ellis’s group typifies the general structure of a financial fraud ring. Often, the leader of the ring organizes the members and coordinates their fraudulent activity, producing and dispersing counterfeit checks to “runners,” distributing the profits from fraudulent activity, and recruiting individuals to pass counterfeit and stolen checks. Generally, members below the leader conduct the fraudulent activity, in a role similar to “mules” in the drug trafficking world.

In a theft ring, a “booster” steals specifically requested merchandise and sells it to a “fence.” The fence then sells the merchandise either to legitimate consumers or to an illegitimate repackaging entity. Illegitimate repackaging entities sell the merchandise to legitimate retailers or to wholesalers who mix the stolen merchandise with legitimate products.

Regardless of the type of ring, someone sits at the top of the hierarchy and oversees the entire organization. A ring is formed either from associations within a prior criminal syndicate or when an individual envisions a lucrative criminal endeavor and recruits members to assist. While many financial fraud and theft rings conduct their activity in local metropolitan areas, highly profitable groups operate on a multi-state or national level.

The majority of circuits additionally demand that an enterprise entail a separate and distinct structure “beyond that which is necessary merely to commit each of the...predicate racketeering offenses.” Evidence that the ring is involved in multiple predicate acts and other functions on a continual basis, or that the organizational structure stretches beyond what is necessary to effectuate the predicate offenses, is sufficient to satisfy the separate and distinct requirement.

The Supreme Court has acknowledged that, in accordance with RICO’s legislative history, the enterprise requirement is to be broadly construed. RICO charges have been brought against criminals whose racketeering activity consists of a “series of crimes having lesser connections than have traditionally been permitted even in conspiracy prosecutions.”

Organized retail crime rings frequently exist for other purposes, such as drug trafficking. It is common for rings engaged in retail crime to partake in other illegal acts, such as weapons, prostitution, car theft, and burglary. An increasing trend is the funneling of theft and fraud-related profits to fund foreign terrorists groups. Lastly, these groups serve as social units, often composed of individuals who have known each other for several years.

Theft and fraud activities of organized rings often extend beyond the requisite acts of the predicate offense. For example, theft of merchandise from a retail establishment or an interstate shipment of goods does not require an organizational aspect that involves middlemen, repackaging, and distribution. Moreover, financial fraud rings that acquire counterfeit identification also engage in an enterprise unit involving a complex scheme of creating and passing counterfeit checks.

3. Effect on Interstate Commerce
Finally, RICO requires an effect on interstate commerce. The predicate offenses, however, need only have a minimal impact on commerce. Organized retail crime groups affect interstate commerce in several ways. Their criminal acts often reach a regional or national level. Groups engaging in acts of identity theft victimize individuals, financial institutions, and businesses throughout the country.

III. THE PRACTICALITY OF APPLYING RICO TO ORGANIZED RETAIL CRIMINALS
RICO is rarely used against organized retail crime. Because of the requirement of predicate offenses, different statutes already cover acts committed by organized retail criminals. Under certain circumstances, RICO may actually complicate a prosecution due the concepts of enterprise, racketeering, and pattern.

However, identifying, catching, and prosecuting the high-ranking members of an organized ring is extremely difficult. Removing the hierarchical leadership generally results in dissipation of the ring, most often through prosecution of all of its identifiable members. Prosecuting only the predicate acts proves inadequate, as it fails to implicate the individuals responsible for the group’s organization. Overall, prosecution of the predicate acts alone would only end the activity of a few unimportant, easily replaced members of the group. Donnie Ellis provides the perfect example of how a ringleader, and the ring itself, can survive efforts directed at its individual criminal acts, but crumble when law enforcement focuses on the entire ring.

RICO further provides a means for the centralization of often complex and multijurisdictional crimes. A unified focus is required to effectively combat retail crime. RICO centralizes investigation and prosecution of these rings in entities capable of handling them, such as the United States Attorney’s Office and the FBI. While criticism of the federalization of state crimes exists, it is important to recognize that RICO attaches only to the predicate acts that have already been federalized.

CONCLUSION
Historically, RICO has proven its worth. Enacted as a means of eliminating the strength of the mob, RICO enabled the government to strike at organized criminal activity. While the creators of RICO may have envisioned removing traditional mob influence as RICO’s sole purpose, they had the foresight to develop a powerful and versatile weapon capable of combating all forms of organized criminal activity. The broad and liberal construction of RICO proves that an extension of RICO into the realm of organized retail crime is within the intent of its drafters. RICO is a viable weapon to counteract the tremendous growth of organized theft and fraud rings.

The author is grateful for the assistance
FOOTNOTES
4. NAT’L WHITE COLLAR CRIME CTR., ORGANIZED CRIME 2 (Sept. 2002).
5. PED. TRADE COMM’N, IDENTITY THEFT REPORT 7 (Sept. 2003).
8. Id.
10. 84 Stat. at 923.
15. See Walter N. Hansen, Combating Check Fraud, 68 FBI L. ENFORCEMENT BUL 10 (May 1999).
20. Id. at 240.
21. Id. at 242.
23. See id. § 659; id. § 2314; id. § 2315.
24. See id. § 1028; id. § 1029.
25. See id. § 1334.
26. See Press Release, U.S. Dep’t of Justice, Five Women Arrested on Financial Fraud Charges Allegedly Scammed $600,000 in Merchandise at Retail Stores Using False IDs (Oct. 2, 2002).
29. Id. at 583.
30. See United States v. London, 66 F.3d 1227, 1244 (1st Cir. 1995).
31. See, e.g., United States v. Hunter, 323 F.3d 1314, 1316 (11th Cir. 2003).
32. See E-mail from John McCullough, Director, Retailers Protection Association, to Ryan Stai (Oct. 1, 2003) (on file with author).
34. Interview with Chris Nelson, Dir. of Investigations, Target Corp., in Minneapolis, Minn. (Oct. 29, 2003) [hereinafter Nelson].
35. See Nelson, supra note 34; Rogers, supra note 33, at 20.
37. See, e.g., United States v. Riccobene, 709 F.2d 214, 224 (3d Cir. 1983).
41. Id.
42. See U.S. DEPT. OF HOMELAND SEC., INVESTIGATIVE PROGRAMS: PROTECTING AMERICA’S FINANCIAL SYSTEMS 4 (July 8, 2003); Nelson, supra note 34; Hanson, supra note 15, at 11.
43. See NAT’L WHITE COLLAR CRIME CTR., supra note 4, at 3; Nelson, supra 34.
45. See, e.g., United States v. Miller, 116 F.3d 641, 674 (2d Cir. 1997).
46. See Coffey, supra note 11, at 1045.
47. See Hansen, supra note 15, at 12; Coffey, supra note 11, at 1038.
48. See Miller, supra note 7, at 5–11; Attack on La Cosa Nostra, supra note 12, at 12.
49. See Attack on La Cosa Nostra, supra note 12, at 17–19.
51. See id. at 920–24.

Students enjoying the food and live music at the Law Library baseball kickoff celebration.

Dean Alex Johnson and Associate Dean Joan Howland at the Law Library’s annual celebration of the opening of the Minnesota Twins baseball season.
Perhaps the greatest assets of the Law School are its alumni, who simultaneously represent and support the high quality of a University of Minnesota Law School education. The Law School could not be a premier teaching facility without the support of our loyal and generous graduates. We profile several distinguished alumni in this issue, and offer a story about The Honorable William C. Canby, Jr. of the U.S. Court of Appeals for the Ninth Circuit. You also will find the customary Class Notes section and memorials to several notable alumni who have passed away. Finally, be sure to check the new Alumni Events Calendar that we hope will make it easier for you to attend events at the Law School. We look forward to seeing you.

ABOVE: Members of the Class of 1974.
Distinguished Alumni Profiles

Shinobu Garrigues
CLASS OF 1998

Like many children, one of Shinobu Garrigues’ earliest memories is of playing with a dog. But in her case, the big, black dog was on board a freighter that was making its way across the Atlantic Ocean. She also remembers a sailor named Zlatko who enjoyed pinching and patting the cheeks of the four-year-old Shinobu and her older sister.

After arriving in Europe, the Garrigues family piled into a Volkswagen van (which they’d brought along with them) and endured the bumpy roads of eastern Europe, Turkey, Iran, Afghanistan, and Pakistan, before arriving at their final destination: India. The trip wasn’t a vacation. They stayed for four years before moving to the island nation of Tonga and, eventually, South Korea.

It’s little wonder then, that Garrigues, 35, is now an attorney specializing in international and project finance law at Hogan & Hartson in Washington, D.C. 

Garrigues attended high school in the U.S., won a Rotary Club scholarship to study for one year in Spain, and completed her undergraduate degree at the University of Colorado at Boulder—in what else?—International Affairs.

With an eye on attending the University of Minnesota Law School, Garrigues moved to the Twin Cities in 1992 to establish residency. She helped edit a trade magazine for a few years, was admitted to the Law School, and made a point of enrolling in international human rights courses.

Although she speaks some Portuguese, Japanese, Tongan, and French, Garrigues is fluent in English and Spanish, including Spanish legal terminology. That knowledge has made her the firm’s key associate in deals involving the establishment of a wireless communications system in Bolivia, a Guatemalan hydroelectric plant, and a Brazilian-Bolivian natural gas pipeline.

“I’m one of the few people who speak Spanish legalese [at the firm],” she said.

Garrigues is upbeat about her pro bono work, which includes serving on the board of the Washington, D.C., chapter of the Society for International Development, an organization dedicated to equitable economic progress worldwide.

“Many people think economic development alone will lead to better lives for everyone, but that’s not necessarily the case,” she said.


Don’t be surprised if someday she ends up dumping that publication in favor of a Japanese-language version of the same newspaper.

Ruilin Li
CLASS OF 2001

Like many talented immigrants to the United States, Ruilin Li couldn’t make full use of her skills when she arrived here from China. After graduating with a bachelor’s degree in law from Tianjin Normal University in 1989, she practiced law for that city’s first, and largest, firm.

But upon arriving in Minnesota five years later, Li wasn’t able to continue her career in exactly the same manner. She needed to obtain a J.D. and pass the bar exam first. And, at least for a while, those moves were out of the question.

“I didn’t even dare to think about law school,” Li said. “I needed to work on my language skills.”

Li had studied English for years in China, but lacked fluency. She could read an English-language newspaper, but needed to improve her speaking skills. Living in Minnesota provided her with plenty of opportunities to do just that.

In 1995, she landed a job at Fredrikson & Byron in Minneapolis as an office clerk. Two years later, she became the first foreign legal consultant licensed to practice Chinese law in the Minnesota.

At the time, many U.S. businesses were just beginning to explore the advantages of doing business in China. The move helped Fredrikson & Byron expand the services its International
Group could offer clients, and allowed Li to write and negotiate business contracts between U.S. and Chinese firms. She also traveled to Beijing to represent the firm in an arbitration case.

It didn’t, however, allow her to practice U.S. law. And that urge persisted. So, a year later, Li began studying at the University of Minnesota Law School. “I really loved law school,” she said, fondly.

In 2001, she completed work on her J.D. and returned to Fredrikson & Byron. While international law is a natural fit for her, Li also handles securities, mergers and acquisitions, and corporate governance matters.

Li particularly enjoys working with the Sarbanes-Oxley Act of 2002, which gave the U.S. Securities and Exchange Commission more power to crack down on corporate malfeasance. While some people find it hopelessly complex, the intellectual tangles of securities law appeal to her.

“It’s very challenging,” Li said. “It’s so complicated. I didn’t know anything about securities law before coming to the United States. Some people find it boring because there are so many rules and because it’s so complicated. But I like complicated.”

She also enjoys volunteering at the law school. As an attorney mentor for the school’s Professional Development Clinic, Li works with third-year students on drafting basic corporate documents. “I want to contribute whatever I can to the Law School,” Li said.

Greg Raymer
CLASS OF 1992

Life seldom turns out the way one expects. Greg Raymer came to the University of Minnesota as a biochemistry graduate student, with dreams of earning a Ph.D. and a life in academia. He did earn his master’s degree in the discipline, but he didn’t care for the lab work. That pretty much meant putting on hold his plans to earn a doctorate degree.

“I was looking around for something else to do,” Raymer said.

A friend suggested becoming a patent attorney; Raymer investigated the matter and decided his friend was right. After graduating from the Law School in 1992, the Michigan native worked for firms in Chicago and San Diego before moving to Groton, Connecticut, to work for the pharmaceutical giant Pfizer.

End of story? Hardly.

As a law student, Raymer earned extra cash betting on blackjack at Treasure Island Casino. Unlike most gamblers, he didn’t rely on luck to win. Instead, he carefully counted cards, calculated the odds and then decided what to do next.

“When there are more 10s [and face cards] in the deck, you bet more money,” Raymer said. Counting cards gave him only a “small advantage over the casino,” earning him about $7 an hour.

Raymer, 40, found he enjoyed games of chance. At his first job after law school, he discovered that Chicago-area riverboat casinos didn’t offer blackjack, so he switched to poker.

“I thought, ‘If I’m going to do this, I’m going to do it right,’” Raymer said. “I don’t play to lose.” He read books on poker, began playing in low-stakes games, and honed his skills. Along the way, he employed the math and logic skills he learned in biochemistry and the law.

In 2001, Raymer decided he was ready for the World Series of Poker (WSOP), an annual competition. Three years later, he won the event and $5 million of the $25 million pool (approximately 225 players were paid amounts ranging from $10,000 up to $5 million for first place).

“Most people think it’s luck,” Raymer said. “But they’re too lazy to study. They don’t go to the casino to work. They don’t go there to think. But that’s not my style.”

Rather, his style is to win. In the 2004 tourney, the player known as “Fossil Man” (he uses a rock with a small fossil as a placeholder, instead of the traditional poker chip) defeated 2,575 other card sharks, who each paid a $10,000 entry fee to compete in the weeklong event.

Although the victory allowed him to quit his day job, Raymer is under no illusion that he’ll win the WSOP this year—or ever.

“I don’t expect to win every year,” Raymer said. “I’m an above-average player, but my chances of winning any given World Series of Poker are 1,500-to-1. I’m still 50-to-1 against winning it ever again.”

Endorsements, however, earn him money whether he wins or loses. Raymer is a paid representative of PokerStars.com, a poker website based in San Jose, Costa Rica. And he recently finished filming an instructional DVD that will be sold in stores nationwide.

“There are lots of ways to make money other than at the table,” he said.

By Todd Melby. Melby is a Minneapolis-based freelance writer and independent radio producer.
William C. Canby, Jr. (Class of 1956), a Senior Judge on the U.S. Court of Appeals for the Ninth Circuit, celebrates his 25th year on the bench in 2005. Judge Canby has come a long way since his childhood in St. Paul and his years at the University of Minnesota Law School. As he has traveled the world, he has carried with him his Midwestern sensibilities and his public service ethic.

After graduating from the Law School almost fifty years ago, Canby embarked on a career that included, among other things, service as an Air Force officer, a clerkship at the U.S. Supreme Court, a stint as an associate at the Oppenheimer firm in Minneapolis, work in the Peace Corps in Africa, and a law professorship at Arizona State University. As a law professor, he argued an important First Amendment case in the U.S. Supreme Court that established the right of lawyers to advertise their services.

Despite this varied experience, Judge Canby’s most significant imprint may have been in the field of Indian law. He was clerking for a justice on the United States Supreme Court when it held, in Williams v. Lee, that Navajo tribal courts, rather than state courts, have exclusive jurisdiction over civil disputes involving American Indians on the Navajo Reservation. Williams v. Lee ushered in the modern era of tribal self-determination. It also sparked Canby’s life-long interest in Indian law. Before President Jimmy Carter appointed him to the Ninth Circuit, he taught Indian law at Arizona State University. Professor Canby did not leave his passion for Indian law behind when he ascended to the bench. He continues to author West’s Nutshell on American Indian Law, which is now in its fourth edition. Though law professors usually tend to discourage student use of such “study aids,” professors across the country have made Canby’s Nutshell on Indian law a required text in Indian law courses. The classic little book offers an insightful and pithy exposition of Indian law, and is viewed as a learned treatise. It has been cited in numerous federal appellate decisions and even by the Supreme Court. In a somewhat unusual role for a sitting federal appellate judge, Canby has also been asked regularly by Congress to testify about federal Indian law and policy. Along with all of these accomplishments, the judge is widely appreciated within the national Indian law community for his congenial nature, his sharp intellect, and his lack of pretension.

Judge Canby’s international experience has also been noteworthy. As a young lawyer in the early 1960s, he left the United States for four years to help establish fledgling Peace Corps programs in Africa, ultimately managing the Peace Corps offices in Ethiopia and Uganda. There he worked with other idealistic young public servants—two of whom, Harris Wofford and Paul Tsongas, eventually became United States Senators. Shortly after becoming a law professor, Canby returned to Africa as a Fulbright Professor in Uganda. He was in Uganda when the notorious Idi Amin took control of the government, causing the young professor to cut short his fellowship and return, with his family, to the United States. Thirty years later, he returned to Africa in 2001 to attempt to facilitate peace during the war in Ethiopia that began when Eritrea broke away and asserted its independence. Though Canby’s shuttle diplomacy during the 2001 visit did not produce an immediate end to the dispute, the broader efforts eventually succeeded in producing peace in the region.

Though he and his wife Jane now live in Scottsdale, Arizona, they return to the Twin Cities often to visit family, and the judge joins old friends from this area on an annual hunting trip to Canada each fall.

99.18% Percentage of our students who passed the Minnesota bar exam on the first attempt in July 2004.
Class Notes

Send us your news

Tell us about the important things that happen in your life! We welcome submissions for inclusion in the Class Notes section of the Law Alumni News. Submit your news through our Web site at: www.law.umn.edu/alumni/submit.html

You can also send your update to Scotty Mann via e-mail at smann@umn.edu, regular mail at N160 Walter F. Mondale Hall, 229 19th Avenue South, Minneapolis, MN 55455, or fax at (612) 626-2002. We need your submissions by September 1, 2005 for inclusion in the next issue.

In the future we are hoping to greatly expand the Class Notes section. To that end, we are interested in finding a volunteer from each class who would be willing to serve as a class reporter. The Class Reporter will gather information from classmates and write a class report for each of the two yearly issues of the Law Alumni News. If you volunteer we’ll provide you with contact information for your classmates and we’ll send them a postcard (to be returned to you) asking for their news; if you like we’ll also give them your phone number and e-mail address so that they can contact you directly. If you are interested, or know of a classmate who you think would be right for the job, please e-mail Scotty Mann or call him at (612) 626-5899.

Thank you for keeping in touch!

Class of 1954 Reunion

1954

Bernard P. Friel recently earned an award for distinguished service from the National Association of Bond Lawyers. Friel is of counsel at Briggs and Morgan, practicing in the firm’s Business Law section.

1965

Thomas K. Berg is the director of the Minnesota region for Hinshaw & Culbertson, LLP. Prior to joining the firm in 1997, Berg served as the U.S. attorney for Minnesota and for four terms in the Minnesota House of Representatives.

1967

J. Dennis O’Brien joined Littler Mendelson’s Minneapolis office as a shareholder; previously he was a partner with Rider Bennett. O’Brien represents management in labor law and labor relations, including labor relations and collective bargaining, employee discipline and discharge and employment litigation.

1968

James R. Schwebel was selected as one of “The Best Lawyers in America” as published by Woodward/White, Inc.’s Best Lawyers in America 2005–2006.

1969

Judge Myron (Mickey) S. Greenberg is retiring from the Fourth Judicial District Court bench after 18 years of service. He will remain active in the legal community through mediation/arbitration pursuits, international legal training and other Hennepin County affiliated efforts.

E. Richard Larson was voted one of the 2005 Southern California Super Lawyers in the February 2005 issue of the Law & Politics publication of the same name. Larson was honored for his work in Civil Rights law, particularly with the NAACP Legal Defense and Educational Fund.

1971

Richard G. Mark was named President of Briggs and Morgan for 2005.

1972

Former Minnesota Supreme Court Justice James H. Gilbert was awarded the Distinguished Jurist Award from the Academy of Certified Trial Lawyers of Minnesota. Upon retiring from the bench in 2004, Judge Gilbert founded the James H. Gilbert Law Group, PLLC, in Minnetonka.

Nicholas C. Lindahl was appointed director of Koepke & Daniels’ estate planning department. Before joining the firm he practiced with Coopers & Lybrand in Minneapolis and Honolulu and for 12 years in his own firm in Honolulu. His practice focuses on estate and income tax planning for individuals, families and related businesses.

The Government Lawyers Division of the State Bar of Wisconsin recently honored Dennis J. Verhaagh for his pro bono work. Verhaagh is an environmental engineer for the Wisconsin Department of Natural Resources and lives in Green Bay.

1973

J. Patrick Plunkett was elected as the managing partner of Moore, Costello & Hart, PLLP in St. Paul.

Thomas M. Sipkins joined the law firm of Maslon Edelman Borman & Brand in Minneapolis as a partner. He practices in the area of commercial litigation, employment and labor management.

1974

Joseph M. Goldberg has been named Assistant General Counsel—Director of Legal Services of Sentry Insurance in Stevens Point, WI, supervising attorneys and staff of Sentry’s General Counsel Office, as well as its Compliance Department Staff. Goldberg joined Sentry in 1993 after practicing insurance defense and coverage litigation in Minneapolis.

Class of 1954 Reunion
In Memoriam Tribute

James H. Binger
Class of 1941

James H. Binger, a respected and loyal graduate of the Law School, passed away on November 3, 2004 at the age of 88. All of the members of the Law School family felt his loss.

Mr. Binger grew up in St. Paul. After attending Yale University, he obtained his law degree from the University of Minnesota. He worked at a Minneapolis law firm that later became Dorsey & Whitney, and later joined Honeywell Inc., becoming its president in 1961 and chairman in 1965. Mr. Binger served on the board of the McKnight Foundation from 1974 to 1996, and was instrumental in steering the Foundation’s efforts in international dispute resolution and the arts. His keen business acumen and bold spirit rendered him successful in activities as diverse as skilled equestrian and owner of major Broadway theatres, yet this dashing figure was equally respected for his gracious, unpretentious manner and anonymous philanthropy.

Mr. Binger was married for more than 60 years to Virginia McKnight Binger, who passed away in 2002. His son, James M. Binger; daughter, Cynthia Binger Boynton; four grandchildren; and four great-grandchildren survive him. Another daughter, Judith Binger Billings, died in 1989.

Mr. Binger was a remarkable man whose support of his alma mater touched each and every facet of what we endeavor to accomplish at the Law School: training ethical lawyers who are committed to the public interest. He was one of the law school’s most philanthropic alumni, but chose to give without recognition and to keep the magnitude of his contributions private.

Mr. Binger’s generous support of our Law Library was integral in establishing it as one of the best in the world. His endowment of one of our most prestigious chairs, the Everett Fraser Chair in Law, allowed the Law School to recruit and retain Mary Louise Fellows, the first tenured, chaired female professor of law at the Law School. His generous support was essential in establishing this Law School as one of the premier public law schools in the country.

We at the Law School are extremely proud to count Mr. Binger as one of our graduates. His humility, generosity, and genuine kindness belie the notion that lawyers are greedy, rapacious, and inimical to the best interests of society. James H. Binger exemplifies those attributes that we hope to instill in all of our students and graduates, and we know that he will continue to serve as a role model for the next generation of lawyers in Minnesota.

John D. Kelly has become a Fellow of the American College of Trial Lawyers. Kelly practices with Hanft Fride, P.A. in Duluth.

1975
Frederick E. Kaiser has become a general partner at the law firm of Hansen, Dordell, Bradt, Odlaug & Bradt in St. Paul. His practice consists of alternative dispute resolution, personal injury and workers’ compensation.

1976
John C. Goetz was recently selected among “The Best Lawyers in America” as published by Woodward/White, Inc.’s Best Lawyers in America 2005–2006.

Gregory A. Kvam was named Vice-President of Briggs & Morgan, P.A. in Minneapolis for 2005.

1977
Peter W. Riley was selected among “The Best Lawyers in America” as published by Woodward/White, Inc.’s Best Lawyers in America 2005–2006. He was also honored as one of 15 “2004 Attorneys of the Year” in Minnesota by Minnesota Lawyer.

1979
Timothy J. McLarnan, a partner with the Moorhead law firm of McLarnan, Hannaher and Skatvold, was one of three finalists announced by Governor Tim Pawlenty, ’86, for a 7th Judicial District trial court bench vacancy.

1981
William M. Habicht is the president of Messerli & Kramer in Minneapolis, where he practices in the Business Law Department.

1982
William C. Hicks was elected to the board of directors at Messerli & Kramer in Minneapolis; he is chair of the firm’s Credit and Collections Department.

Lauren E. Lonergan will serve on Briggs and Morgan’s Board of Directors for 2005.

1983
Leslie M. Altman joined Littler Mendelson’s Minneapolis offices as a shareholder; previously she practiced with Rider Bennett. Altman concentrates her practice in the area of workers’ compensation.

Robert A. Gust published a legal thriller, Liars Dice. You can find Bob’s book in major bookstores and online from the publisher, www.italscabooks.com. Liars’ Dice is set in Minnesota and is inspired by actual events.

James J. Long was named Secretary of Briggs and Morgan in Minneapolis.

Mary S. Ranum was elected to the board of directors at Fredrikson & Byron in Minneapolis. She is the chair of the Real Estate group and a member of the Banking Practice group, and works with lending institutions, major retailers and real estate developers on acquisitions, financing and leasing.

1984
Jill I. Frieders is one of three finalists for the Minnesota Court of Appeals vacancy that will occur with the retirement of Judge James C. Harten on March 31, 2005. Frieders is the managing partner with the O’Brien and Wolf law firm in Rochester; her practice is primarily in the area of family law.

1986
Elena L. Ostby has been appointed to the 2nd Judicial District trial court in Ramsey County by Governor Tim Pawlenty, ’86. Judge Ostby had been in private practice in Roseville since 2001; prior to that she was a shareholder with Briggs and Morgan.
In Memoriam Tribute
Isabel Pattee Fryer
Granddaughter of the First Dean of the University of Minnesota Law School
Isabel Pathee Fryer passed away on December 31, 2004 at the age of 97.

Isabel Pattee was born in 1907 in St. Paul, Minnesota, to Charles S. Carl and Una Pattee Carl. She graduated from the University of Minnesota School of Business Administration in 1929, and worked at the Continental Illinois Bank in Chicago, IL until 1938. She returned to Minnesota to join Archer-Daniels-Midland Company in Minneapolis, working there until World War II. She served for three years in the Women’s Army Corps, stationed in New Guinea, the southern Philippines and Luzon during her tour of duty.

On March 14, 1960, she married Vincent Fryer, and they farmed in South Dakota until his death in 1988. Isabel remained on the farm for several years until moving into Britton, SD, in 1991.

Mrs. Fryer had a sharp mind well into her later years, and was making the decisions on her own farm land until just a year ago. She was a kind and gentle person, and will long be remembered for her generosity to many local organizations, and as a benefactor to the Law School. Mrs. Fryer and her cousin, the late Pattee Evenson, grandchildren of the first dean of the Law School, established the William S. Pattee Professorship in Law. Many at the Law School fondly remember her modesty and wit.

Mrs. Fryer is survived by a cousin, Elizabeth Farnell; close friends, Mirl and Eunice Foster and their children; and a host of friends and neighbors. She was preceded in death by her parents and her husband.

Mavis Van Sambeek was one of only 55 Minnesota attorneys elected as a fellow of the American College of Trust and Estate Counsel. She is the chair of the Trusts and Estates Practice Group at Lindquist & Vennum in Minneapolis.

Matthew J. Goggin has become an equity partner at Carlson, Caspers, Vandenburg & Lindquist in Minneapolis.

The Law Offices of Peter L. Klenk & Associates continues to grow beyond Philadelphia, with two new associates and new offices in Bucks County, PA and South Jersey, PA; the firm also has offices in New York State. Klenk was recently named to a select list of “Super Lawyers” in the practice of Trust and Estate Planning by a survey of Pennsylvania lawyers.

Katherine L. McGill joined the University of Minnesota Libraries as the Director of Development. She was previously with Pae gre & Benson in Minneapolis where she provided legal counsel as an attorney with the Construction Group.

Gregory B. Perleberg has joined the IP and technology services group of Maslon Edelman Borman & Brand in Minneapolis.

Christopher K. Larus has become a partner of Fulbright & Jaworski. He focuses his practice on trademark, copyright, patent, trade secret, and other complex business disputes at the firm’s Minneapolis office.

Fredrikson & Byron elected Susan D. Steinwall to serve on its foundation board. Steinwall is a shareholder in the firm’s Real Estate group and practices real estate, land use and environmental law in Minneapolis.

1992

Sean C. Gibbs has been appointed to the 10th Judicial District trial court; Gibbs will fill the vacancy created by the resignation of the Judge Lynn C. Olson in Anoka County. Prior to his appointment, Gibbs was an attorney in the criminal division of the Anoka County attorney’s office, where he had worked since 1995.

James K. Lee has joined the Los Angeles office of Kirkpatrick & Lockhart in the business litigation practice. Lee is a litigator who has represented numerous Korean companies in complex business disputes involving industries such as electronics, semiconductors, automotive, and telecommunications.

Kendal H. Tyre was recently appointed chair of the National Bar Association’s (NBA) corporate diversity initiative task force; he previously served as chief of staff to the President of the NBA. Tyre practices corporate and franchising law at Nixon Peabody, LLP in Washington, DC, where he co-chairs the firm’s Diversity Action Committee.

1993

Jenneane Jansen is a new board member for the Fund for the Legal Aid Society of Minneapolis.

Cindy B. Tapper was elected to the Board of Directors of the University Paediatrics Foundation. She worked as an estate planning attorney for several years before choosing to be a full-time mother to her three sons.

1994

Jeffery Ali was named a board member for the Fund for the Legal Aid Society of Minneapolis. Ali is the Hiring Partner at Merchants & Gould and focuses his practice on patent litigation, counseling clients regarding patent enforcement and licensing.

Jessica (Hughes) Jackson has joined the law firm of Mackall Croune & Moore in downtown Minneapolis as a partner and visionary leader on their employment practice group.
Timothy T. Mulrooney has been named a shareholder of Henson & Efron in Minneapolis. Prior to joining Henson & Efron, Mulrooney practiced with the Minneapolis city attorney’s office and the Hennepin County attorney’s office.

1995

Andre T. Hanson has joined Fulbright & Jaworski’s Minneapolis office as a senior associate; he focuses his practice on contract law, products liability, and litigation.

Amy Lynne Hermanek received a Rose and Jay Phillips Award at the Courage Center’s Celebration of Courage event. The award recognizes individuals with disabilities for success in their field. Hermanek has been a staff attorney with Central Minnesota Legal Services since 1998.

Thomas C. Mahlum was recently named as a partner at Robins, Kaplan, Miller & Ciresi in Minneapolis. He practices in the areas of intellectual property litigation and business and trial litigation.

Lora E. Mitchell has been appointed chair of the Intellectual Property Litigation Group at Fredrikson & Byron in Minneapolis.

Jeffrey H. Rutherford has joined Lightfoot, Vandevelde, Sadowsky, Medvene & Levine in Los Angeles, CA, as a partner. He will litigate criminal and civil matters in the federal and state courts.

1996

Katheryn A. Andreensen joined Bonnabeau, Salyers, Stites and Doe in Minneapolis as a partner. She will practice in the areas of information, technology law, contracts, and intellectual property law.

David H. Patzer is a new shareholder in Godfrey & Kahn’s Estate Planning Practice Group in the firm’s Milwaukee office. His areas of practice include fiduciary income taxation, estate and gift taxation, probate administration, and the preparation of marital agreements, wills, trusts and other estate planning instruments.

Michael J. Rugani is now an assistant city attorney in the Minneapolis City Attorney’s Office. Previously Michael practiced in California and St. Paul.

Stephen F. Simon was elected to the Minnesota State House of Representatives.

Mark T. Skoog is now a shareholder at Merchant & Gould in Minneapolis.

Paul J. Yechout joined the corporate legal department of Select Comfort Corporation as Corporate Counsel, Employment Matters.

1997

John J. Bursch was recently named a partner at Warnor Norcross & Judd in the firm’s Grand Rapids, MI, office. Bursch is the founder and chair of the firm’s Appellate Practice Group, concentrating his practice in appellate and business litigation.

Michael P. McNamee of Meagher & Geer in Minneapolis has been admitted to practice before the United States Supreme Court.

Daniel J.M. Schally was appointed to the Valdez District Court in Valdez, Alaska. Governor Frank M. Murkowski said “Daniel has been serving the people of Alaska in Ketchikan [as an assistant district attorney]... I am confident that he will make an excellent judge.” Judge Schally serves on the board of directors of Community Connections and KRBD community radio, and is a member of the Ketchikan Area Arts & Humanities Council.

James J. Sticha was recently elected as a shareholder in the corporate law department at Leonard, Street and Deinard’s Minneapolis office.

1998

Christopher L. Lynch of Lindquist & Vennum was recently named partner at the firm’s Minneapolis office.

David Schultz recently published a new book titled, the Encyclopedia of Civil Liberties in America. The book examines the history and hotly contested debates surrounding the concept and practice of civil liberties. It provides a detailed history of court cases, events, Constitutional amendments and rights, personalities and themes that have had an impact on civil liberties in America.

Erik G. Swenson is now a shareholder at Merchant & Gould in Minneapolis.

Mark H. Zitzewitz of Lindquist & Vennum was recently named partner at the firm’s Minneapolis office. Zitzewitz was also named a Rising Star in the December/January 2005 issue of Minnesota Law & Politics.

1999

Raymond P. Hoffman (Ray) became a principal at Gray Plant Mooty in Minneapolis.

Jason S. Mills joined Morgan, Lewis & Bockius in Los Angeles in the litigation section. Recently Jason completed a seven-month tour in Iraq, where he prosecuted

Ellen Yee has accepted a tenure track faculty position at Drake University Law School; she will join the faculty in the Summer of 2005 as an Assistant Professor of Law, teaching criminal law and legal ethics and professional responsibility. Drake’s Dean David Walker said that he and his colleagues are “thrilled to have her.”

In Memoriam Tribute

Kristin J. (Allard) Vollmers
Class of 1997

Kristin J. (Allard) Vollmers passed away on January 5, 2005, at the age of 34. She was born in 1970 in Grand Forks, North Dakota, received a B.A. summa cum laude from the University of North Dakota and a J.D. from the University of Minnesota with honors. She married Todd Vollmers (Class of 1998) and the couple moved to Washington, D.C. where she worked for the law firm of Green, Stewart, Farber & Anderson, which soon merged with Akin, Gump, Strauss, Hauer & Feld. She later joined the firm of Latham and Watkins. The couple and their two children had just moved back to Minneapolis, where she was joining the legal staff at Medtronic, Inc.

She is survived by her husband Todd and sons John and Joseph; and her mother and sister, Karen Allard and Katherine Allard. Her father Roger “Max” Allard preceded her in death.

She was loved by many people, lived life joyfully, and touched countless numbers of people with her kind and loving spirit. She especially enjoyed spending time with her husband and sons, and looked forward to trips home to Grand Forks to be with her parents, sister, and relatives. She loved being a mother and was devoted to her sons. The faculty and staff at the Law School and former classmates will miss her unforgettable laugh, irrepressible spirit, and uncommon kindness. Gifts can be made to the Law School in her memory through the Kristin J. (Allard) Vollmers Memorial.
On February 1, the Minnesota Supreme Court held an oral argument at the Law School. Pictured from left to right: Associate Justice Sam Hanson, Associate Justice Russell Anderson (Class of 1968), Associate Justice Alan Page (Class of 1978), Chief Justice Kathleen Blatz (Class of 1984), Associate Justice Paul Anderson (Class of 1968), Associate Justice Helen Meyer, and Associate Justice Barry Anderson (Class of 1979).

courts-martial in a hostile combat environment for the 1st Marine Division operating in the Al Anbar province.

Ranga S. Nutakki has joined the law firm of Maslon Edelman Borman & Brand in Minneapolis as an associate. He will focus on business and securities law.

Scott B. Paxton practices as an associate in the business and commercial litigation group of Leonard, Street and Deinard in Minneapolis.

Robert L. Schumann joined the St. Cloud office of Leonard, Street and Deinard as an associate in the corporate law section.

2000

Clayton W. Chan has been selected as a “Rising Star” by Minnesota Law & Politics. Chan practices at Winthrop & Weinstine in Minneapolis in the Estate Planning and Business Succession Planning Department.

Ryan D. Chandlee joined Robins, Kaplan, Miller & Ciresi in Minneapolis as an associate. He is focusing his practice in the area of business litigation.

Erik F. Hansen joined Hellmuth & Johnson PLLC in Eden Prairie, where he will concentrate on civil litigation, construction litigation, and appellate practice representing businesses and homeowners.

Timothy M. Kelley joined Leonard, Street and Deinard in Minneapolis as an associate in the environmental law and litigation groups.

Roshan N. Rajkumar of Bowman and Brooke LLP was named one of 15 Up-and-Coming Attorneys by Minnesota Lawyer (March 21, 2005). To be eligible, attorneys must have been admitted to the bar within the last six years.

Christopher D. Stall is now an associate in the business law practice group at Moss & Barnett in Minneapolis.

2001

Krista D. Barrie joined Leonard, Street and Deinard in Minneapolis as an associate. She is in the business and commercial litigation group.

Benjamin L. Felcher recently married Amy Coxy Williams at Wave Hill, the public garden in Riverdale, the Bronx. Felcher is an associate at Storch Amini & Munves in Manhattan.

Mark A. Hamre joined Leonard, Street and Deinard in Minneapolis as an associate. He practices construction law.

Bradley J. Hintze recently joined the law firm of Michael Best & Friedrich. He is a member of the Land & Resources Practice Group in the Milwaukee office and will concentrate his practice in all aspects of real estate law.

Melissa B. Maloney joined Fryberger, Buchanan, Smith & Frederick P.A. in Duluth as an associate attorney practicing real estate law.

Michael S. Rosow is an associate at Winthrop & Weinstine in Minneapolis, where he practices in the Creditor’s Remedies and Bankruptcy practice groups.

Sarah Sonsalla (Wasmundt) is an associate with Kennedy & Graven, Chartered, in Minneapolis. She practices municipal law.

Kathleen E. Stendahl practices in the Franchise and Distribution group of global behemoth DLA Piper Rudnick Gray Cary, in their Chicago office.

2002

Jessica J. Clay is an associate at Nichols, Kaster & Anderson, PLLP in Minneapolis. The firm represents employees in employment discrimination, sexual harassment, and overtime violation matters.

Karen T. Olson has joined the law firm of Lubov & Associates in Minneapolis. She will practice primarily in the area of domestic relations law.

Colleen “Kelley” Pulkrabek joined the Law Offices of Peter L. Klenk & Associates in Philadelphia, PA, after completing her LL.M. in estate planning at the University of Miami Law School.

Greta M. Tackebury has joined Clark Hill & C精致 as an associate in the Litigation Practice Group in the Birmingham office. Tackebury was previously with an international law firm in Phoenix, Arizona, where she represented clients in a variety of litigation areas, including business and commercial law, ethics and professional liability, and eminent domain.

2003

Minnesota Lawyer (March 21, 2005) named Emily J. Good of Minnesota Advocates for Human Rights and Carolina A. Lamas of the Ramsey County Public Defender’s Office as Up-and-Coming Attorneys. Approximately 15 attorneys were chosen to receive the honor; to be eligible, attorneys must have been admitted to the bar within the past six years.

Jeremy L. Johnson joined Mansfield, Tanick & Cohen in Minneapolis as an associate attorney. He will work in the areas of class action litigation, antitrust litigation, and real estate.
Ryan W. Marth is an associate at Robins, Kaplan, Miller & Ciresi in Minneapolis. His areas of practice include antitrust and trade regulation, business trial and litigation, and mergers and acquisitions.

Benjamin L. Schneider is at Quarles & Brady LLP in its Chicago office. He practices in the bankruptcy & creditor's rights and litigation areas.

Ryan E. Strom joined Fruth, Jamison & Elsas, P.A. in Minneapolis.

Dean D. Miller practices at Winthrop & Weinstine in Minneapolis as an associate in the General Corporate Practice Area, among others.

Bor Yang joined Central Minnesota Legal Services as a staff attorney. Her practice focuses on family law and government benefits.

2004

Busola A. Akinwale, Kate E. Jaycox, Kelly K. Pierce, and David B. Zucco joined Robins, Kaplan, Miller & Ciresi in Minneapolis as associates. Busola and David are in the IP litigation section, Kate practices in the areas of medical malpractice, mass tort, and personal injury, and Kelly is in business trial and litigation.

Jeffrey A. Abrahamson, Katie M. Connolly, and Devon Shuster have joined Briggs and Morgan as associates. Jeff, Katie, and Devon are members of the Business Litigation Section. Katie is also in the Labor and Employment sections.

Jennifer L. Haluptzok joined the law firm of Michael Best & Friedrich. She is a member of the Litigation Practice Group in the Milwaukee office.

Joshua P. Hill, Rebecca E. Molloy, and Jenny Winkler joined Dorsey & Whitney in Minneapolis. Josh and Jenny are associates in the trial group and Rebecca practices in the banking group.

Jeremy Howard and his wife Katie Howard have opened a chocolate store, Winans Fine Chocolates and Coffees, in Norman, OK; anyone passing through can find them at 207 E. Main Street.

Joshua Lim is an associate at Cohn Lifland Pearman Herrmann & Knopf in Saddle Brook, New Jersey, practicing in the commercial litigation department.

Mary Elizabeth Mackey received the annual Tarlton Fellowship from the Tarlton Law Library at The University of Texas School of Law and the University of Texas School of Information. The fellowship is for scholars with JD degrees pursing careers in law librarianship.

Heather Ichel Olson joined the law firm of Gray Plant Mooty as an associate in the St. Cloud office focusing her practice on business and general litigation.

Dennis S. Puzz, Jr. is with Best & Flanagan in Minneapolis, where he is an associate. His practice areas include business law, Native American law, and real estate law.


Kell L. Schoff now practices at Choate, Hall & Stewart in Boston, doing IP and corporate work.

Bryan Smith joined Littler Mendelson’s Minneapolis office, where he practices employment and labor law.

Mollie M. Smith joined Fredrikson & Byron in Minneapolis as an associate in the firm’s litigation group. She represents clients in a broad range of commercial disputes.

2005

Nathan Nelson is the 2005 recipient of the Federal Bar Association’s Judge Edward J. Devitt Award.

The Minnesota American Indian Bar Association awarded scholarships to Andrea Yardley, Oglala Sioux Tribe, and R. Reid LeBeau II, Cheyenne River Sioux Tribe.
In Memoriam

CLASS OF 1931
Donald E. Nelson
Edina, MN
January 28, 2005

CLASS OF 1932
Maurice H. Strothman
Bloomington, MN
January 9, 2005

CLASS OF 1933
Lincoln L. Arnold
Arlington, VA
November 3, 2004

CLASS OF 1935
James F. Ryder
Franklin, TN
May 27, 2003

CLASS OF 1937
Frank N. Graham
Mendota, MN
March 4, 2004

CLASS OF 1938
Stanford Dodge
Moose Lake, MN
October 28, 2004

CLASS OF 1940
Norman L. Newhall
Minneapolis, MN
February 5, 2005

CLASS OF 1941
James H. Binger
Minneapolis, MN
November 3, 2004

CLASS OF 1947
William D. Hawkland
Baton Rouge, LA
November 7, 2004

CLASS OF 1948
O. Paul Lund
Hayward, CA
October 4, 2004

CLASS OF 1948
John E. MacGibbon, Sr.
Monticello, MN
January 30, 2005

CLASS OF 1949
David C. Donnelly
St. Paul, MN
February 3, 2005

CLASS OF 1951
John H. Demouilly
Salem, OR
February 13, 2003

CLASS OF 1952
James D. Simpson
Washington, DC
October 15, 2004

CLASS OF 1953
Richard C. Stassen
Muncie, IN
February 26, 2005

CLASS OF 1954
Donald E. Price
Wilmington, NC
November 26, 2004

CLASS OF 1957
Frederick A. Hein
Brunswick, GA
January 14, 2005

CLASS OF 1966
Robert L. Nys
Minneapolis, MN
November 2, 2004

CLASS OF 1997
Kristin J. Vollmers
Minneapolis, MN
January 5, 2005

CLASS OF 2000
John S. MacEachern
Minneapolis, MN
February 11, 2005

As of March 5, 2005
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THE TWENTY-SIXTH ANNUAL
SUMMER PROGRAM OF CONTINUING
LEGAL EDUCATION SEMINARS
May 31–June 10, 2005

Featuring University of Minnesota Law School Faculty

May 31
8:30–4:30
The Constitution in the Rehnquist Court
Professor Dale A. Carpenter

June 1
8:30–4:30
Understanding the Current State of the Law in Trademarks, Copyright and Related Areas of Intellectual Property
Professor Daniel J. Gifford

June 2
8:30–4:30
War, National Security, and the Constitution: The Constitution after September 11
Professor Michael Stokes Paulsen

June 3
8:30–4:30
Trends in International Estate Planning and Offshore Trusts
Professor Barbara Hauser

June 4
9:00–3:00
The Latest Word in Regulation of Professional Conduct: Rules, Statutes and Cases (morning)* and Dealing with Bias in the Courtroom (afternoon)**
Professor Maury S. Landsman

June 6
8:30–4:30
War Crimes
Professor Fred L. Morrison

June 7
8:30–4:30
M.B.A. Concepts for Lawyers
Professor Edward S. Adams

June 8
8:30–4:30
Systematic Statutory Interpretation
Professor Jim Chen

June 9
8:30–4:30
Election Reform
Professor Guy-UrIEL E. Charles

June 10
8:30–4:30
Patents for the Business Lawyer
Professor Dan L. Burk

6.5 General credits have been requested for each course, May 31–June 3 & June 6–10.
*3.0 Ethics credits have been requested for June 4 (morning).
**2.0 Elimination of Bias credits have been requested for June 4 (afternoon).

For more information www.law.umn.edu/cle/, please call 612-625-6674, or email LSCLE@umn.edu

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May 5    University of Minnesota Law School Conference—With All Deliberate Speed: Brown II and Desegregation's Children
         The Depot, Minneapolis

May 6–7  Institute on Race & Poverty’s Race & Regionalism Conference 2005
         The Depot, Minneapolis

May 7    Reunion for the Class of 1994

May 14   Commencement 2005

May 20   Where are Law, Ethics & the Life Sciences Headed? Frontier Issues
         Full-day symposium sponsored by the Consortium on Law and Values in Health,
         Environment & the Life Sciences and Minnesota Journal of Law, Science & Technology,
         Mondale Hall, Room 25

May 23   Professor Donald Marshall’s Retirement Celebration
         Great Hall, Coffman Memorial Union, 5 to 8 p.m.

May 31–June 10  Twenty-Sixth Annual Summer Program of Continuing Legal Education Seminars

June 16  Alumni Reception during the Minnesota State Bar Association’s Convention in Brainerd, MN

August 2  Alumni Event in Washington D.C.

August 5  Alumni Reception at the ABA Convention in Chicago, IL

September 22  William B. Lockhart Club Dinner

September 23  Law Alumni Association Board of Directors Annual Meeting, Walter F. Mondale Hall

September 24  Homecoming 2005
         Law Alumni Association Homecoming CLE

October 21  Minnesota Law Review Symposium

October 25  William B. Lockhart Lecture—William Eskridge, Jr, John A. Garver Professor of Jurisprudence, Yale Law School

Please contact Sara Jones at (612) 626-1888 or sjj@umn.edu for additional information about these events.