

# LAW QUADRANGLE NOTES

49.3 • SPRING • 2007

- **SPECIAL SECTION:**  
Conferences showcase  
the breadth and reach  
of the law

- **NEW SECTION:**  
Campaign Report

- **A measure of honor**  
*—Mark D. West*
- **Amending Executive  
Order 12866**  
*—Sally Katzen*

The University of Michigan Law School  
Volume 49, Number 3  
SPRING 2007

On the cover: The tower of Michigan Law's Reading Room seen through a window of the renowned Law Library. The Legal Research Building is ranked 94th of 150 of America's best-loved architectural sites in a recent survey conducted for the American Institute of Architects. The survey put Michigan Law's treasured building, designed by the firm of York & Sawyer and built in the first half of the 20th century, on a list with gems like the National Cathedral, Lincoln Memorial, Washington Monument, and Golden Gate Bridge. (Photo by Sam Hollenshead)

Copyright © 2007

The Regents of the University of Michigan.

All rights reserved.

Law Quadrangle Notes (USPA #144) is issued by the University of Michigan Law School. Postage paid at Ann Arbor, Michigan. Publication office:

*Law Quadrangle Notes*, University of Michigan Law School, Ann Arbor, MI 48109-1215.

Published three times a year.

Postmaster, send address changes to:

Editor, *Law Quadrangle Notes*  
University of Michigan Law School  
B38 Hutchins Hall  
Ann Arbor, MI 48109-1215

Faculty Advisors: Steven P. Coley, Edward Cooper, and Yale Kamisar

Editorial Consultant: Catherine Cureton

Editor/Writer: Tom Rogers

Writers: Becky Freligh, Jeff Mortimer, Sarah Vinka

Director of Publications: Lisa Mitchell-Yellin

Design: Laura Jarvis

Photo Credits: Gregory Fox; Sam Hollenshead; University Photo Services (Lin Jones, Scott Galvin, Martin Vloet)

The University of Michigan, as an equal opportunity/affirmative action employer, complies with all applicable federal and state laws regarding nondiscrimination and affirmative action, including Title IX of the Education Amendments of 1972 and Section 504 of the Rehabilitation Act of 1973. The University of Michigan is committed to a policy of nondiscrimination and equal opportunity for all persons regardless of race, sex\*, color, religion, creed, national origin or ancestry, age, marital status, sexual orientation, disability, or Vietnam-era veteran status in employment, educational programs and activities, and admissions. Inquiries or complaints may be addressed to the Senior Director for Institutional Equity and Title IX/Section 504 Coordinator, Office for Institutional Equity, 2072 Administrative Services Building, Ann Arbor, Michigan 48109-1432, 734.763.0235, TTY 734.647.1388. For other University of Michigan information call 734.764.1817.

\*Includes discrimination based on gender identity and gender expression.

The Regents of the University of Michigan  
Julia Donovan Darlow, Ann Arbor  
Laurence B. Deitch, Bingham Farms  
Olivia P. Maynard, Goodrich  
Rebecca McGowan, Ann Arbor  
Andrea Fischer Newman, Ann Arbor  
Andrew C. Richner, Grosse Pointe Park  
S. Martin Taylor, Grosse Pointe Farms  
Katherine E. White, Ann Arbor  
Mary Sue Coleman (ex officio)

**If you are a Law School graduate,  
please send your change of address to:**

Law School Development and Alumni Relations  
109 East Madison  
Suite 3000  
Ann Arbor, MI 48104-2973  
Phone: 734.615.4500  
Fax: 734.615.4539  
E-mail: [jteichow@umich.edu](mailto:jteichow@umich.edu)

**Non-alumni readers and others should address:**

Editor  
*Law Quadrangle Notes*  
B38 Hutchins Hall  
Ann Arbor, MI 48109-1215  
Phone: 734.647.3589  
Fax: 734.615.4277  
E-mail: [trogers@umich.edu](mailto:trogers@umich.edu)

**[www.law.umich.edu](http://www.law.umich.edu)**

## 2 A MESSAGE FROM THE DEAN

## 4 SPECIAL SECTION: The breadth and reach of the law

In rich realization of Oliver Wendell Holmes Jr.'s view of law as "a path to the world," Michigan Law's conferences and symposia use law as the key to open doors to subjects ranging from child advocacy to intelligence gathering and the state of our democracy.

## 30 NEW SECTION: Campaign Report

A new section to keep you informed about the Law School's fundraising initiative.

- Welcome
- John Nickoll meets challenge to endow professorship
- George Skestos honors his parents (and professors) with new faculty chair

## 48 ALUMNI

- Alumni directory work approaches completion
- Brian O'Neill, '74: The wheels of justice are stuck
- New Dean's Advisory Council links Michigan Law, legal profession

## 70 FACULTY

- Faculty adopts new admissions policy
- Reimann, co-editor assays the 'state of the art' of comparative law
- New books by Santacrose, West

## 78 BRIEFS

- Campbell Moot Court final decision
- MLK Day speaker: Injustice must be confronted
- Microsoft VP: Governments lead international decision making

## 88 ARTICLES

- A measure of honor  
—Mark D. West

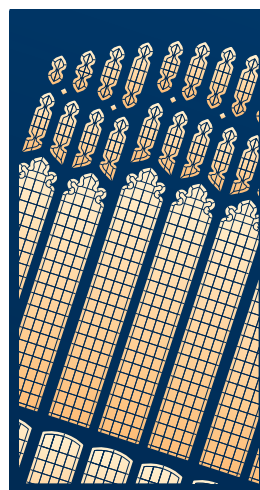
People in Japan sue despite low damages—and win—over some things that sound rather silly. The rules increase people's chances of winning, but even if they had a 100 percent chance of success, shouldn't they be able to get over it?

- On amending Executive Order 12866  
—Sally Katzen

During the last six years, there has been a slow but steady change in the process by which regulations are developed and issued—specifically, in the balance of authority between the federal regulatory agencies and the Office of Management and Budget.



pages 4–29



## BUILDING ON...

THE  
CAMPAIGN  
FOR THE  
UNIVERSITY  
OF MICHIGAN  
LAW SCHOOL

pages 30-47

## A message from Dean Caminker

*“Measure twice, cut once.”* While this is perhaps not the most well-known of proverbs, it’s precisely what we do as lawyers. We view a problem from all sides and perspectives, we anticipate every possible argument and counter-argument, and we develop a nuanced strategy for trial or negotiation before we embark on a course of action.

So it should come as no surprise that we at Michigan Law heeded the sage counsel of this proverb when it came to moving forward on our building expansion project. To be sure, the Quad is architecturally grand and inspiring, but its 80-year-old interior spaces demand rejuvenation and enhancement to underscore our position as a truly world class law school. As you may recall, we have a broadly acknowledged and increasingly compelling need for more and different kinds of space, including

*We have revisited our initial objectives and assumptions, examined how those objectives had evolved in the intervening years, and ultimately arrived at what I believe are achievable ways of having a profound impact on the School and the very special educational experience we offer.*

modern classrooms and seminar rooms, a student gathering place, faculty offices, clinical law student and faculty space, student study areas, and other uses. In the School’s initial attempt to meet these space needs, we consulted with architect Renzo Piano with the idea of building an addition to the Law Quadrangle contained within the block where it currently stands. Piano’s concept (previously featured in *Law Quadrangle*

*Notes*), a distinguished 170,000-square-foot expansion featuring a glass-roofed piazza, would have met most of our space needs in a most elegant manner. Unfortunately, it also would have required a financial investment that was sobering even at that time, \$135 million, and which has since ballooned via construction cost increases to over \$175 million, with further significant annual increases in the offing. This was clearly stretching the School’s capacity, notwithstanding the support of many generous alumni and friends who have already invested in the building expansion.

Cost alone encouraged us to measure twice before committing to such an expensive project, but we also reexamined a number of other, critically important factors. One was an expected six-year construction cycle, which presented three separate problems.

First, we couldn’t so much as break ground for the project until a significant portion of the funding was in hand, which would have left our current space needs unaddressed for quite some time. Second, a lengthy construction cycle would have been disruptive to students, faculty, and staff for intolerably long periods. Particularly in today’s highly competitive admissions environment, I didn’t want three or more incoming classes to experience the Quad only while its beauty was obscured by functionally limiting and unsightly construction projects. And third, since

the designed structure would have partly been built on top of the underground library and would also have required gutting heavily-used areas such as the part of our basement dedicated to student organizations, many important components of the current buildings would have been off-limits for extended periods of time. With our Library ranked among the best in the world and our student organizations among the most active anywhere, effectively shutting down those and other operations for months at a time would have seriously compromised the quality and integrity of the Michigan Law experience.

Just as important as the difficult construction schedule was the issue of opportunity costs and competing priorities. Our stature as a world-class law school is heavily dependent on attracting and retaining prominent faculty and qualified staff, providing financial aid to talented and deserving applicants, and developing resources so we can seek out and pursue exciting and fruitful teaching and service opportunities. With the lion’s share of our financial resources directed toward a new building, it would not be possible to address these other vitally important priorities in a way befitting the University of Michigan Law School. That, I felt strongly, was not an acceptable option.

Finally, we also took time to consider the way in which the University is changing around us even as I write this message. The Law School is no longer the southern gateway to the academic campus; that distinction now belongs to the newly-built home of the Gerald R. Ford School of Public Policy, one block

south of us at the corner of State and Hill Streets. And with the expansion of the University's frontier once again, as has happened throughout the history of this great institution, new site options have opened for new building. In particular, the construction of the Ford School on the far side of the block to the south presents a rare—and fleeting—opportunity to reserve space for the Law School beyond the Quad, and the School is poised to take advantage of that opportunity. Given that we don't know what our future needs may be, or how being landlocked and space-constrained could impact us over the next century, I cannot in good conscience forgo the chance we have now to expand our physical horizon. And beyond opportunities for expansion, new adjacencies open up new pedagogical possibilities, including collaborations with the Ford School and our other near neighbor, the Stephen M. Ross School of Business. Such partnerships would add terrific value to the experience of both students and faculty, and I know many join me in finding these prospects tremendously exciting.

I am therefore deeply grateful that our Building Committee, under the able and farsighted leadership of Rebecca Eisenberg, the Robert and Barbara Luciano Professor of Law, has helped me to wrestle with these issues, interact with all relevant constituencies, and provide guidance in moving forward. We have revisited our initial objectives and assumptions, examined how those objectives had evolved in the intervening years, and ultimately arrived at what I believe are achievable ways

of having a profound impact on the School and the very special educational experience we offer. And we remain well aware that moving ahead expeditiously is critical to our future.

The point worth stressing is that, however many times we looked at the evidence, our conclusions were the same: the original plan's costs had skyrocketed, other high priority objectives also needed to be pursued, the six-year and intrusive construction period was sobering, and the University's expansion offered marvelous potential for new locational options, academic partnerships, and future growth. All of this inclined us toward developing an alternative.

To that end, with our guidance the University recently retained the services of Hartman-Cox Architects of Washington, D.C., to work with us on preliminary services en route to a new building expansion plan for Michigan Law. That was an inspired choice from my perspective. Hartman-Cox boasts an outstanding reputation. The firm is well-versed in academic architecture, including law schools (Georgetown, Washington University, and Tulane among others). And by virtue of personality and relative proximity, I'm confident they'll prove wonderful partners. I encourage you to take a look at their work by visiting [www.hartmancox.com](http://www.hartmancox.com).

Next steps? Once the Building Committee fully briefs Hartman-Cox and the firm develops basic conceptual options, we'll seek approval from the University's Board of Regents to continue with the project and



commence actual design work. At this point, I can't speculate about cost and timetable except to emphasize that whatever we do will be done within our means and completed in the soonest possible time.

I can, however, assure you that the Law School will continue to update you as we proceed to design and execute a beautiful renovation and expansion that will both complement the Quad and reflect our stature as a world-class law school. In the meantime, as concerns the building project, I am optimistic that we have formally exchanged our tape measure for a set of finely-honed shears.

*Evan Caminker*



## 6 Child advocacy— Celebrating the past, divining the future

- 'Kiddie law' is growing up

A retrospective and prospective interview with Child Advocacy Law Clinic founder Donald N. Duquette, '75.

## 14 Listening in: State Intelligence Gathering and International Law

- A matter of integrity  
By Jeffrey H. Smith, '71
- A matter of balance  
By Alexander Joel, '87

## 26 What is happening to law and democracy?

- Law and Democracy in the Empire of Force  
James Boyd White details concerns that led to organizing the conference and goals for the gathering.

### ALSO

#### 12 Fall 2006 Conferences:

- *Great Lakes*
- *Patents and diversity*
- *Taxation and development*
- *Sarbanes-Oxley's impact on business*

#### 24 Spring 2007 Conferences:

- *Populists in action: Direct democracy*
- *Native peoples, medical ethics, and institutional research*
- *Happy, healthy lawyers*
- *International judicial conference*



## The rich diversity of the law

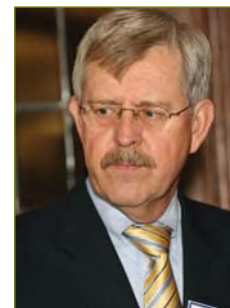
The law is the portal to an endlessly stimulating conversation. Here at Michigan Law, conferences and symposia during this academic year have presented fascinating evidence of the variety of intellectual exchange that the law nourishes, from discussions of patent law in the face of blurringly fast technological change to the interplay of international law with the United States' and other countries' ever-more-global intelligence gathering. The conference Looking Ahead to the Next 30 Years of Child Advocacy both celebrated the 30th anniversary of Michigan Law's pioneering Child Advocacy Law Clinic (CALC) and used the expertise of professionals and scholars from this country and abroad to identify and examine future issues in the field of child welfare.

In this special section on the breadth and reach of the law, on page 6 CALC founder Donald N. Duquette, '75, discusses the clinic, the child advocacy field, and issues of child welfare; on page 14, the keynote address of former CIA General Counsel Jeffrey H. Smith, '71, and the remarks of national civil liberties protection officer Alexander Joel, '87, illuminate issues raised at the conference State Intelligence Gathering and International Law; and on page 26, L. Hart Wright Collegiate Professor of Law James Boyd White explains how changes affecting the role of law and core of democracy led him to co-organize the conference Law and Democracy in the Empire of Force.

Each of these selections also reflects part of the life story of every conference or symposium: Duquette provides history and context; Smith's keynote address and Joel's remarks exemplify the thought-provoking commentary that hallmarks such gatherings; and White shows how shared concerns initiate and then coalesce into the organized exchange of ideas we call a conference or symposium.

On pages 12 and 24, you can peruse agendas of the many other conferences and symposia at Michigan Law this academic year. These conferences are rich in variety—from the Great Lakes to international tax issues, from voter initiatives to Native American exploitation—and they all share the law as their common ground. As White so aptly said in his call for papers, participants could address "human rights, international law, law and economics, the Supreme Court, teaching law, the practice of law, the culture of consumerism, the news media, corporate law and accounting, civil liberties, the uses of history, torture and 'rendition,' government lying and propaganda, the premises on which law works in the world, the way that women are thought about, race, poverty, education, the cultural effects of TV and the Internet, the way Congress talks about its business, etc." Indeed, each conference becomes an extended dialogue that, like the law itself, has the capacity to lead us toward expanded awareness.

PAGE 6



PAGE 14



PAGE 20



PAGE 26





## Looking Ahead to the Next 30 Years of Child Advocacy

MARCH 28 - APRIL 1, 2007

A symposium and celebration of the 30th anniversary of Michigan Law's pioneering Child Advocacy Law Clinic (CALC)

### SPONSOR

Lance Johnson, '65  
U-M *Journal of Law Reform*, U-M Law School  
March 28-April 1, 2007

*Papers from the conference will be printed in a future issue of the Journal of Law Reform.*

### INTRODUCTION

The History of Child Protection in America by Professor John E.B. Myers  
University of the Pacific, McGeorge School of Law

### KEYNOTE ADDRESS

U.S. Senator Debbie Stabenow

### SESSIONS

- Child Well-Being in America
- Child Welfare and Children's Rights Around the World
- 1 • How to Best Protect the Legal Interests of Children?
- 2 • What Role Should Impact Litigation Play in Achieving Justice for Children?
- The Role of Interdisciplinary Education in Child Advocacy
- The Child Welfare Courts of the Future
- The Practice of Child Welfare Law in 2036
- Challenges for the Future of Legal Advocacy for Children and Families

### PHOTO LEGEND

- 1 McGeorge School of Law Professor John E.B. Myers details the history of U.S. child protection.
- 2 *Journal of Law Reform* Symposium Editor Emily Keller, Donald N. Duquette, '75, U.S. Senator Debbie Stabenow, and UN Committee on Children Chair Jaap E. Dock chat during a conference reception.
- 3 Listening intently.
- 4 Children's Rights Executive Director Marcia Robinson Lowry on "What role should impact litigation play in achieving justice for children?"
- 5 Washington State Supreme Court Justice Bobbe Bridge addresses participants.







## Donald N. Duquette: 'Kiddie law' is growing up

In 1976 Donald N. Duquette, '75, right, launched the Law School's Child Advocacy Law Clinic, which today has become perhaps the most-imitated clinical education vehicle in the country. In addition to training law students, the clinic has provided significant, successful assistance for many children and their parents, and Duquette and others associated with CALC have become well known as pioneers and leaders in the field of child advocacy law. Here, Duquette recalls some events of CALC's founding and early years and ponders the future in the field of child advocacy.

**Q: What were your expectations and goals when you launched the Child Advocacy Law Clinic (CALC) 30 years ago? Why did you feel such a clinic was needed?**

**A:** One rarely does anything alone in this world. Then, as now, I was part of a team, a community of people dedicated to addressing a serious social problem—child abuse and neglect. The U.S. Congress, in 1974, passed the Child Abuse Prevention and Treatment Act that provided federal funds to address these problems—if states adopted certain procedures including mandatory reporting of suspected child abuse and neglect and representation of children in such cases. The Harry A. and Margaret D. Towsley Foundation gave a three-year grant to the Law School for an interdisciplinary program in child abuse and neglect that included law, social work, and, within medicine, pediatrics and psychiatry. Dr. Towsley was himself a pediatrician and quite sensitive to the concerns that had gained national attention. He and others recognized the need to develop knowledge and professionals able to meet this challenge of child abuse. The challenge to this nascent interdisciplinary program on child abuse and neglect was to develop a broad-based, interdisciplinary approach to the problem of professional education and advocacy for the abused and neglected child. Each school was to develop clinical, non-clinical, and continuing professional education programs in child abuse and neglect. Before law school I had been a social worker in the field of child protection and foster care. After I graduated from Michigan Law, my first job was as an assistant professor of pediatrics at Michigan State University, where I worked closely with Dr. Ray Helfer, a pioneer in the diagnosis and treatment of child abuse and neglect. When I saw the advertisement for the interdisciplinary project position, I thought my name was on it and applied at once. I was fortunate enough to be hired and began in August of 1976. Our first CALC class of six students met in fall 1976.

Despite the presence of some dedicated individuals, the state of the law and court practice was dismal. It was a rare caseworker, lawyer, or judge who possessed even rudimentary knowledge of the field. The state caseworkers found the court process unpredictable and mysterious. But more seriously, the court and agency procedures did not reflect current psychological knowledge of child development and children's needs for continuity, stability, and prompt decision-making. One of the slogans





coined during this time (by Anna Freud, Joseph Goldstein, and Albert J. Solnit) was “the child’s sense of time,” which translated for child advocacy workers into “Make good decisions, but make them efficiently and promptly.” On one hand, the legal community was hungry for the medical, psychological, and social work information that we had available for them. On the other hand, the non-law community was similarly starved and receptive for information and guidance as to the law and legal procedures. Both camps wanted interdisciplinary procedures that could lead to better outcomes for children and their families.

When the University of Michigan launched the Child Advocacy Law Clinic in 1976, the first child advocacy clinic in the nation specializing in child abuse and neglect, there were about 340,000 children in foster care. These children stayed in the system too long and lived in far too many different placements. Courts and lawyers played a very limited role in these cases. Parents had no right to counsel, child welfare agencies generally did not have legal representation, and the children themselves were not generally represented. The laws governing children in foster care were rudimentary.

What were my expectations at the beginning? I think I had only an intuitive sense that child maltreatment is a problem that could not be addressed by any single discipline and that an interdisciplinary approach to academic inquiry, professional education, and practice would bear positive results for children.

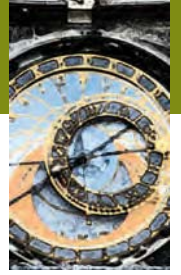
**Q: As you look back over CALC’s 30 years, what accomplishments do you see? And what remains to be achieved?**

**A:** Thirty years later, the system is vastly different. States have developed sophisticated child welfare laws, including a significant body of appellate law. Over the years CALC has been involved

in nearly all of the state initiatives to reform child welfare. I can look at the Michigan Juvenile Code and identify sections where our involvement was instrumental. I can look to particular sections and remember which students helped with the drafting. That part has been gratifying.

In 1990 I wrote a book with an interdisciplinary group of graduate students. *Advocating for the Child in Protection Proceedings* was picked up by a group doing a national study of child representation mandated by Congress and that book became the framework for the study. Our view of the dimensions of child representation became part of the national conversation and influenced many of the model acts and state laws since developed. That part too has been gratifying, but there is so much more to be done.

Courts are now heavily involved in these cases, and lawyers now represent the child, parents, and child welfare agencies. There are as many as 50,000 lawyers involved in child welfare law in the United States. An idea that started here was to certify lawyers as specialists in child welfare law. We partnered with the National Association of Counsel for Children, received a sizeable grant from the U.S. Children’s Bureau, and launched a project to implement lawyer certification in child welfare. The ABA approved the specialty and just last May we certified the first group of lawyers as Child Welfare Law Specialists from Michigan, New Mexico, and California. National groups of judges (National Council of Family and Juvenile Court Judges) and lawyers (National Association of Counsel for Children, the ABA Center on Children and the Law) have provided important leadership in this field. There has been a dramatic increase in the sophistication of national groups addressing the problems of child



maltreatment and children facing foster care.

One of the accomplishments of the CALC of which I am proudest is how well it works as a clinical legal education experience for law students. When we started there were more than a few skeptics who worried that this program in “kiddie law” could not possibly be an experience for “real lawyers.” But our structure of having students represent children, the county agency, and parents, in different Michigan counties with interdisciplinary training and close faculty supervision, has turned out to be a terrific way to grow lawyers. A great deal is at stake in child abuse and termination of parental rights cases. The cases are difficult enough to challenge students (and faculty) yet small enough that the students can take the major responsibility for the case. Acting in three different roles helps the student attorney develop that all-important lawyer skill of analytical objectivity. This has turned out to be a great experience for law students looking to develop the traditional lawyer skills from interviewing, investigation, ethics, interdisciplinary collaboration, and trial practice. The knowledge and skills gained are generalizable to most other areas of law practice, yet we also encourage the altruism and public service so much a part of the U-M Law School tradition. Over the years a number of other law schools have adopted our model of clinical education, and from 1995 to 1998 the W. K. Kellogg Foundation provided a grant that, among other things, required us to disseminate our model to certain states.

Another development in our quest to attract and keep the best and brightest U.S. lawyers in children’s law is the Bergstrom Summer Fellowship in Child Welfare Law. For 13 years we have recruited and selected law students from around the United States to participate in the Bergstrom Fellowship. Thirty of these

students come to the UMLS for training and inspiration before spending the summer in child welfare law practices that we have approved. Upwards of 85 percent of Bergstrom fellows continue to do child and family law.

So, the good news is that the status and sophistication of children’s law has certainly increased over the last 30 years, but has this benefited children? The condition of children in America is not better, and by some measures is worse, than it was 30 years ago. In 2006 there were about 525,000 children in the U.S. foster care system. Approximately 800,000 American children experience foster care each year. These children continue to stay too long and have too many placements.

**Q: What is so special about this particular group of clients?**

**A:** I know it’s a cliché, but children really are our future. You can be passionate about this field out of compassion for innocent children who deserve a fair chance in life. But you can also be committed to justice for children for hard-headed reasons of global competition and maintaining a vibrant and strong economy and society. Out of compassion or out of self-interest, the result is the same.

I personally am a product of the idealistic ’60s. If you want to change society for the better, you should start with the children.

It is satisfying to have a positive impact on the life of one child or of one family. But fostering well-trained children’s lawyers multiplies one’s impact wonderfully as does developing systemic reforms in how cases are handled.

**Q: Do children have different legal needs today than they did when CALC began? Do lawyers who work on their behalf have different needs?**

**A:** We’ve become more sophisticated about these cases and many people are taking a more complex look at these cases. In the early days many were motivated by “child saver” notions that now appear naïve. That is, the thinking often was, what we need to do is get poor, abused, and neglected children away from their evil parents. While that rescue attitude applies from time to time, in most cases it is way more complicated than that. Thankfully more lawyers, judges, and social workers realize that now. People are thinking, how can we remove the danger and not the child? Foster care is not a good long-term solution for kids. They need safety and stability. Lawyers and judges need to take a long look from the very beginning of a case.



So, children’s interests in these cases are better understood. They have an interest in being protected from abusive or neglectful parents, but they also have an interest in preserving the relationship with the parents in most cases. More and more people are recognizing that a child’s interest in careful decision-making may be the premier legal interest. A child’s right to careful decision-making is one of the legal principles that is raised in the *Church* case that [Michigan Law Assistant Clinical Professor of Law] Vivek Sankaran, ’01, brought to the U.S. Supreme Court. (In *Church*, the court assumed jurisdiction over children based on a plea by the father without a separate finding of unfitness against our client, the mother. *Certiorari* was eventually denied.)

The cause of justice for children transcends what happens in courts. Nearly 20 percent of American children still live in poverty. That is a national

disgrace. If parents had more resources to cope with the inevitable stresses of life, fewer children would end up in the court system. Sixty percent of reports of suspected child abuse and neglect are for neglect. A recent report to Congress found that child poverty costs our U.S. economy \$500 billion per year.

Lawyers who work for children do have different needs. They need an interdisciplinary training and a law practice that has access to other disciplines such as social work, psychology, and education. They need support, both emotionally and professionally. Lawyers need to be connected to legal and social science resources. We see many statewide or national listserves in which case issues and personal issues are discussed and solutions shared. We need more of that. Lawyers still need assurance that there are few areas of the law more important than what they are doing. They also need to be paid better.

**Q: You, CALC, and other advocates for children have been instrumental in forming a network of lawyers (more than 50,000 today) involved in child welfare work and establishing ABA certification of Child Welfare Law as a legal specialty. Yet today there are more children in foster care than when you launched CALC in 1976. What is the lesson of this apparent contradiction?**

**A:** Law cannot solve every social problem. Courts are overloaded with cases and problems that courts are not well-suited to addressing. This is an interdisciplinary problem when a specific case is identified. From a systemic perspective, child maltreatment is a broad social problem where societal neglect of families is as much at fault as are individual parents.

**Q: So there still is a great deal to accomplish and change in the field of child advocacy and child welfare law. What does this continuing need bode for legal education and legal practice?**

**A:** This area of the law remains very dynamic. There are unexplored issues everywhere. Constitutional issues are developing and will continue to. That makes it exciting. It also means that child advocacy clinics such as ours will have plenty of interesting issues with which to grapple, while at the same time providing good service to individual children and parents. Child advocacy is an excellent setting for seeing the human side of law and lawyering. Legal education should have experiences for law students generally in which they see the power and responsibility of the law and are challenged to develop the most sophisticated legal skills. For law students looking to pursue a career in child welfare, we always encourage them to be not only "soft-hearted" but also "hard-headed". That is, be the best lawyer you can be.

**Q: What kinds of changes do you foresee for the next 30 years?**

**A:** We must support families better. To protect children, support families, that would be my slogan. We must empower families to take better care of their own. The state is a lousy parent, despite its best efforts. The Detroit Center for Family Advocacy is a model that will take off, giving parents and extended families some legal and social work assistance so they can better provide for their children without involvement of this cumbersome child welfare system. I think courts will get away from merely "processing" cases. This is unfortunate where it happens, but it happens now way too much.

There is a huge debate in the field about whether a lawyer should represent a child's best interests or the stated wishes of the child. The so-called "client directed" approach will not work for the youngest children and will eventually be abandoned, but the client directed approach will be expanded at the older ages so the stated wishes of children as young as 10 or even 7 will be aggressively advocated by lawyers. Children at those ages can have important views about what is best for them that should be fully heard by the court.

We will see more decision-making in 30 years that is not adversarial and that takes place outside the traditional courtroom. Non-adversarial case resolution will become more and more common, including family group conferencing and mediation.

**Q: Many former CALC students have pursued careers in child welfare, others do pro bono work in the field, and, no matter what their current work, graduates consistently refer to CALC as a high point of their legal education. Do you find it rewarding that CALC has played such a significant role in so many graduates' lives?**

**A:** Yes, it is rewarding to hear from students who have become leaders in the child welfare law field or who

*Child Advocacy Law Clinic alumni and current and former CALC faculty in a group photo at the 30th anniversary celebration and conference.*





continue to work day after day on behalf of children and their families. Some very influential national leaders in child law have come through our CALC: Chris Wu, '84, of the California Administrative Office of the Courts and now chair of the National Association of Counsel for Children's Board of Directors; Scott Hollander, '90, the executive director of KidsVoice in Pittsburgh, with a terrific model of interdisciplinary legal representation of children; James Marsh, '90, founder of the Children's Law Center of Washington, D.C., another national model of child representation. (Coincidentally, that office is now directed by Judith Sandalow, whose father, U-M Law Professor Emeritus Terry Sandalow, was dean during the critical formative years of CALC.) Our students are present in law schools, too: David Herring, '85, a former student and then faculty member at CALC who left Michigan Law to start a child advocacy clinic at University of Pittsburgh School of Law, ended up as dean of Pitt Law for nearly 10 years, and continues to be an important scholar in the area; Melissa Breger, '94, is a clinical professor at Albany Law School in a domestic violence clinic; one of the most prominent family law scholars, with a popular casebook on children and the law, is Sarah Ramsey of Syracuse University, who received an LL.M at Michigan in 1982 and worked very closely with CALC in some groundbreaking research. I could go on: Kristin Kimmel, '96, at Lawyers for Children in New York; Beth Locker, '03, at the Georgia Supreme Court's administrative office, doing children's work. We also have many family and juvenile court judges among our graduates, including Court of Appeals judge Maurice Portley, '78, in Arizona, and Patricia Gardner, '83, [Kent County] and Carol Garagiola, '80, [Livingston County] from

Michigan. And this outpouring is just the tip of the iceberg of former CALC students involved in the field.

However, I would estimate that only perhaps 10 percent of our 800 or so alums are doing child and family law careers. The vast majority of the CALC alums are doing traditional practices or not practicing law at all. But they remember their CALC experience very positively. Remember our place in the law school curriculum. We do not set out to train child advocate lawyers. We set out to train the best lawyers in America—smart, well-prepared, and ready to do sophisticated, productive work. Every semester I tell the incoming students that our goal is no less than to give them the best clinical law experience available anywhere in America. We mean that and try to hit that high goal.

The CALC experience exposes these amazing people to an interesting and compelling area of the law and they often stay committed, even if they do not practice in the area. That is one of the reasons our alums tend also to be involved in children's issues either doing pro bono legal work, committee work, or as financial supporters.

Consistent with the role of UMLS to public service, we actively consider it part of our mission to identify and encourage altruism and the public interest ethic. We are hard-headed pragmatists about this work. We are hopeful and confident without being Pollyannas. Whether the motive is compassion or enlightened self-interest, child welfare and child advocacy make sense. ■

*To view a video about the Child Advocacy Law Clinic, go to the Web site: [www.law.umich.edu/centersandprograms/clinical/calc/index.htm](http://www.law.umich.edu/centersandprograms/clinical/calc/index.htm)*



## FALL 2006 CONFERENCES

SEPTEMBER 29, 2006

### *The Great Lakes: Reflecting the Landscape of Environmental Law*

Articles from the conference will appear in the Summer 2007 issue of *Michigan Journal of Law Reform* (40.4).

#### SPONSOR

Environmental Law Society, U-M Law School

#### PANEL DISCUSSIONS

- Federalism and the Great lakes
- The Great Lakes and the Public Trust Doctrine

#### MID-DAY KEYNOTE

Peter Annin, author of *Great Lakes Water Wars*

#### PANEL DISCUSSIONS

- International Law and the Great Lakes
- Great Lakes Policy Panel Discussion

#### EVENING KEYNOTE

Dennis Schornack, chairman, U.S. Section of the International Joint Commission on the Great Lakes

*Peter Boyle of the International Joint Commission on the Great Lakes and Jennifer Day of U-M's School of Natural Resources and Environment listen to the proceedings.*



SEPTEMBER 29 - 30, 2006

### *Patents and Diversity in Innovation*

Articles associated with this conference appear in the Spring 2007 issue of the *Michigan Telecommunications and Technology Law Review* (13.2).

#### SPONSOR

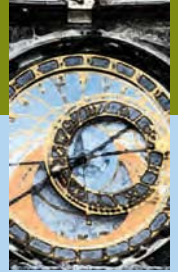
Principal funding provided by a grant from the Park Foundation, U-M Law School, University of Michigan School of Information, University of Michigan Office of the Provost, *Michigan Telecommunications and Technology Review*

#### SESSIONS

- The New Political Economics of Patent Policy: Pressures on a Unitary System
- Industry Differences
- Cost-Benefit Analysis Across Industries
- Dimensions of Economic Analysis
- Boundary Costs, Information Costs, and Transaction Costs
- Industry-Driven Policy and the TRIPS Framework
- Costs of Uniformity and Differentiation
- Institutional Competence, Capacity, and Design I
- Institutional Competence, Capacity, and Design II

*Michigan Law Professor Rebecca Eisenberg, co-organizer of the conference Patents and Diversity in Innovation, addresses participants.*





**NOVEMBER 3 - 5, 2006**

### ***Inaugural INTR Conference: Taxation and Development***

Articles from the conference will appear in a future issue of the *Michigan Journal of International Law*.

#### **SPONSOR**

International Network for Tax Research  
Hosted by U-M Law School

#### **SESSIONS**

- Linkage Between Tax and Development, Overview Issues
- General Tax Policy Design: Case Studies
- Tax Policy Design: Selected Issues for Developing Countries
- International Organizations and the Shaping of Developing Country Tax Systems
- The Impact of Tax Treaties on Developing Countries
- Tax Competition and Developing Countries
- Taxation and Foreign Investment
- Implementing Policy Design in the Real World

*Professors Douglas Kahn and Reuven Avi-Yonah of Michigan Law, and, at right, Yoran Margaliyoth of Tel Aviv University listen as Christopher Heady addresses the conference. Heady is with the Organization for Economic Cooperation and Development's Center for Tax Policy and Administration.*



**NOVEMBER 9 - 10, 2006**

### ***The Louis and Myrtle Moskowitz Conference on the Impact of Sarbanes-Oxley (SOX) on Doing Business***

Articles from this conference appear in 105.8 *Michigan Law Review*, available June 2007

#### **SPONSORS**

U-M Law School; *Michigan Law Review*; Stephen M. Ross School of Business at the University of Michigan

#### **PANEL DISCUSSIONS**

- Whistleblowers and Gatekeepers
- SOX and the Markets
- Internal Controls, Accounting Changes and Stock Options

#### **MID-DAY KEYNOTE**

Simon Lorne, vice chairman and chief legal officer, Millenium Partners LLP

#### **PANEL DISCUSSIONS**

- Non-Profits and Ethics
- View from Practice

*U-M Ross School of Business Professor David Hess ponders a question from the audience.*



FEBRUARY 9 - 10, 2007

## ***State Intelligence Gathering and International Law***

Articles from the conference will appear in a future issue of the *Michigan Journal of International Law*

### **SPONSORS**

*Michigan Journal of International Law*; U-M Law School; U-M International Institute; Cleary Gottlieb Steen & Hamilton LLP; U-M Gerald R. Ford School of Public Policy; U-M College of Literature, Science, and the Arts; U-M Office of the President; U-M Office of the Provost; U-M Department of Political Science; U-M Korean Studies Program; American Constitution Society; LexisNexis

### **KEYNOTE ADDRESS**

Jeffrey H. Smith, '71, partner in Arnold & Porter, Washington, D.C., and former General Counsel of the Central Intelligence Agency

### **PANEL DISCUSSION**

- The desirability, feasibility, and methodology of applying international law to intelligence activities

### **SPECIAL PRESENTATION**

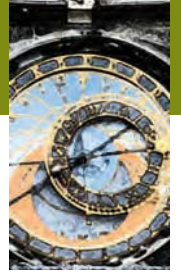
What's international law got to do with it? Good process, good lawyers, transnational law and better intelligence, by the Hon. James Baker of the U. S. Court of Appeals for the Armed Forces

### **PANEL DISCUSSIONS**

- Intelligence gathering and human rights
- Intelligence cooperation, state responsibility, and international criminal law







## A matter of integrity

by Jeffrey H. Smith

The following essay is based on the keynote talk delivered on February 9 by former CIA General Counsel Jeffrey H. Smith, '71 (left), at the Law School conference State Intelligence Gathering and International Law. Smith is a partner at Arnold & Porter in Washington, D.C.

Most lawyers would likely scoff at the notion that espionage activities are constrained in any meaningful way by international law. Indeed, most probably believe that international law's only influence on espionage is that in wartime, spies caught behind the lines out of uniform can be shot. Hardly a sophisticated, or to intelligence services, comforting notion.

But I believe there is a great deal of interaction between international law and intelligence activities. To begin, virtually every state has an intelligence service that seeks to collect information on potential adversaries. These collection activities frequently violate the municipal, or domestic, law of other states. However, because espionage is such a fixture in international affairs, it is fair to say that the practice of states recognizes espionage as a legitimate function of the state and therefore legal as a matter of customary international law.

Evidence of that is that when intelligence officers are accused of operation under diplomatic cover in an embassy, they are nearly always declared *persona non grata* (PNG) and sent home. In exercising the right to PNG a diplomat, the receiving state typically says that their activities were inconsistent with diplomatic activities; I can recall no instance in which a receiving state has said these

activities violate international law.

That international law acknowledges the collection of intelligence by clandestine means, at least as viewed by the United States, is also to be seen by Congress's reaction to the Supreme Court's decision in the *Keith* case in 1972 holding that warrantless electronic surveillance in the United States for domestic intelligence purposes was unconstitutional. That case (which, by the way, originated in Ann Arbor) led Congress to enact the Foreign Intelligence Surveillance Act (FISA) that requires a warrant before the government may engage in electronic surveillance to collect foreign intelligence in the United States—or at least we thought a warrant was required before learning of the President's Terrorist Surveillance Program.

But in considering FISA in 1978, Congress was worried that directing electronic surveillance at foreign diplomatic establishments in the United States would violate the Vienna Convention on Diplomatic Relations and the inviolability of diplomatic missions. In response, the executive branch prepared a list of states that had targeted U.S. diplomatic installations overseas either with electronic surveillance or physical intrusion. As you might imagine, that list was very long. But it satisfied Congress that this was such a widely

accepted practice of states that, although not specifically authorized by the Vienna Convention, one could hardly argue that such activity violated the Convention, since everybody was doing it.

So if espionage activities are consistent with, or at least tolerated by, international law, what activities are prohibited? The first that comes to mind is covert action, which is the secret action by one state to influence the conduct of another state. One of the fundamental tenets of international law is, of course, that one state may not intervene in the internal affairs of another state. It may be a fundamental principle, but it is also fairly tattered. States seek to influence each other daily. Sometimes it's done by economic sanctions or by international political pressure. Most of that activity is clearly legal, although the state that is the target of the efforts almost always says it isn't. But it is difficult to argue, absent some extraordinary circumstances, that covert paramilitary effort to overthrow another government is consistent with international law.

I should add at this point that the overwhelming number of covert actions carried out by the United States in the last few decades have not been designed to overthrow another state. Far more typically, they provide very necessary but secret support to an existing government



Jeffrey H. Smith, '71, delivers his keynote address.

by, for example, specialized training in counter-terrorism or counter-narcotics. However, this does not prevent many from around the world from believing that the CIA has a hand in everything from mad cow disease to global warming. I can assure you it has no role in either.

As I mentioned, American law requires that before the president can engage in covert activity he must make a written “finding” that the activity is important to the national security and that finding must be reported in advance to the congressional oversight committees. Such a finding is required whether it is merely secret assistance to a friendly government by U.S. intelligence agencies or whether it is a full-scale effort to effect “regime change,” to use a term currently in vogue.



It is a curiosity of our legal history that findings and notice to Congress are required even in the most minor of covert actions, whereas no

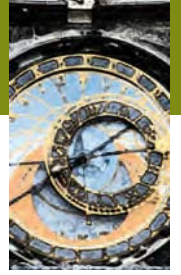
such requirement governs the use of our military forces. The War Powers Resolution of 1973, which requires the president to notify Congress when he deploys forces and provides that they are to be withdrawn within 60 days unless Congress authorizes otherwise, has become toothless. Although Congress authorized the Gulf War in 1990 and the invasion of Iraq in 2003, no congressional authority or advance notice is necessary in order for the president to move military forces around the globe or to engage in very aggressive military activities. These activities, which can carry greater risks of deeper U.S. involvement than covert actions, are often characterized as “preparation of the battlefield.” This activity—think of the president’s desire to mobilize a carrier group in the Gulf as compared to sending a copy machine overseas—is typically carried out in close collaboration with the U.S. intelligence community. Executive branch lawyers and members of Congress often develop headaches in trying to decide whether a particular activity falls under Title 10 of the United States Code, which is the part of the code governing military activities—and hence no presidential finding and no notice to Congress—or whether it’s carried out under Title 50, which governs the intelligence community and does require a presidential finding and notice to Congress. You can imagine that the inclination of the executive branch is always to conclude that a proposed action is a military activity that requires no finding and no notice to Congress.

This dichotomy between Title 10 and Title 50 presents even more difficult problems when it comes to activities in the cyberworld and in space, which

are increasingly vital to the conduct of military, intelligence, and diplomatic activities. As you know, international law is not very well developed with respect to activities in space or in the cyberworld. A host of questions are presented, including what law governs outer space and cyberspace; who has jurisdiction; and which U.S. agencies are authorized to do what. The recent Chinese demonstration of their ability to use a ground-based system to destroy a low earth orbit satellite raises a number of very difficult legal, political, technical, and strategic issues.

Do traditional international legal principles apply to activities in the cyberworld and in space? These are not easy questions to answer, and they become even more difficult when one factors in intelligence activities. Are existing laws adequate or are new laws, based on old principles, needed?

The relationship between intelligence and international law is also raised by President Bush’s new strategy, commonly known as the Pre-emption Doctrine. That doctrine holds, as I’m sure you know, that the United States may engage in unilateral military activity against another state or political group without waiting to respond to an armed attack—for example, to prevent a state from acquiring nuclear weapons. The doctrine, in my view, raises very serious questions under international law. To be sure, there is a right of self-defense. And the United States has long argued—very quietly—that it may be necessary in some rare circumstances to “shoot first.” For example, we never have renounced the first use of nuclear weapons. However, the President’s doctrine goes much further than previous U.S.



positions on self-defense and is premised on the idea that, in the wake of 9/11, there is a new world requiring new rules. I am not so sure of that.

But I am certain that any pre-emptive action would be valid only to the extent that the intelligence information justifying a strike was overwhelming and indisputable. Such certainty in the intelligence business is very rare—as we have tragically seen in the case of Iraq.

Issues similar to those raised by intelligence activities in space and the cyber world, namely—are existing laws adequate?—are raised by the attacks of 9/11. The President was correct, in my view, to regard many existing laws, both domestic and international, as outdated when it came to responding to the terrorist attacks. The President was wrong, however, to therefore conclude that he could act on his own without asking Congress to amend the law or, in the case of international law, without consulting our allies and seeking to develop a consensus on modernizing the laws of war.

For example, then-White House Counsel Alberto Gonzales famously characterized the Geneva Conventions as “quaint” and therefore we were free to ignore them. Would it have not been much better to have begun immediate discussions with your allies about how the Conventions should be updated? That would not, in my view, have prevented the United States from seizing Taliban and Al Qaeda fighters in Afghanistan and even imprisoning them while awaiting trial or, if they had committed no criminal acts, from detaining them as prisoners of war. We should also have sought to amend the statute of the court in The Hague so that those who violated



*Conference participants share views.*

international law by attacking us could be brought to justice, as we did in the case of the Balkans and Rwanda. How much better would it be if the detainees in Guantanamo were held under some sort of international agreement of the coalition partners, rather than unilaterally by the United States.

In creating a new and previously unknown category of enemy combatants, the President acted outside the scope of international law and has caused enormous harm to the United States. As has been widely reported, he ignored the advice of military officers and JAG officers and career lawyers at the Department of State who had been guardians of the United States’ leadership in Geneva Conventions since World War II. William Taft IV, the legal adviser to the Department of State under Secretary Colin Powell, speaking last spring at the Yale Law School, described how ideologically-driven lawyers had

hijacked the process. He said:

“Bearing an abstract hostility to international law, developed in the sheltered environment of academic journals, and equally unfamiliar and unconcerned with our broader policy interests in promoting respect for the rule of law among states as well as within them, these lawyers proposed to create a regime in which detainees were deprived of all legal rights and the conditions of their treatment were a matter of unreviewable executive discretion. Why lawyers, of all people, should want to establish the point that such a lawless regime could legally exist, even as a theoretical matter, much less recommend that one actually be created, is, I confess, beyond me, and in itself it is a sad commentary on the extent to which sophistry has penetrated what used to be widely regarded as an honorable and learned profession.”

Tough stuff from the great-grandson

of the only man to serve both as president and chief justice of the United States Supreme Court.

The President also acted in violation of U.S. law, as the Supreme Court has now said. Indeed, the courts and Congress are beginning to roll back some of the President's asserted authority. For example, last October Congress passed the Detainee Treatment Act, which set up procedures to try some of the detainees in Guantanamo, to afford very limited rights for other detainees to challenge their detention, and under intense pressure from the White House, created two standards for the treatment of detainees. The first standard is for the military and it will be governed by the *Army Field Manual*, which has long been the official U.S. interpretation of the Geneva Conventions. The second is a set of standards to be drafted by the President, in an executive order that has not yet been issued, that would apply to the CIA.

I am deeply troubled by that. I do not believe there should be two standards for the U.S. treatment of detainees. Two standards create confusion in the field and confusion was clearly a major contributing factor to the abuses of Abu Ghraib. Moreover, if the President truly believes the CIA needs to be more aggressive in order to elicit vital information for our national security,



shouldn't the military also be able to use those same techniques? Does the President believe that the military is entitled to

less good information than the CIA? And finally, why should the CIA be asked to undertake risky behavior without knowing whether, when the political winds shift in Washington, they will once again be left out on a limb?

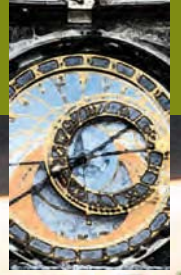
Congress should investigate this, [and] hold hearings on what is effective interrogation. I also believe that Congress should examine the matter of renditions, that is, the practice of moving individuals from one state to another to stand trial, be interrogated, or be imprisoned without going through the formal extradition process. In my opinion, renditions can be valuable tools for law enforcement and intelligence, and the United States has done many in the years before 9/11, [for example] getting Carlos the Terrorist out of Sudan to Paris, where he stood trial. But they should be used only in rare circumstances and when certain criteria have been met. Surely, no state should ever send an individual to another state knowing that he will be tortured or without adequate assurances that basic human rights and due process will be respected—a commitment we've already undertaken by becoming a party to the Convention Against Torture. The recent investigations by Germany and Italy of renditions carried out by individuals alleged to be CIA officers points out the critical need to agree upon appropriate legal bases for renditions.

Why does all this matter? As lawyers, we instinctively say, "Because it's the law." But one cannot merely say to cabinet officers or the president, "You can't do that because it will violate international law," and expect them to immediately scuttle whatever wild misadventure they were considering. The challenge is to persuade political leaders that

not only will a proposed action violate international law, but that if we do it, the consequences will ultimately make us weaker, not stronger; that the short term gain will be outweighed by the long term harm. Why? Because the United States cannot act alone. We need help to solve virtually every international legal problem we face. Other governments—and their people—care about international law. They care about maintaining the United Nations. They care about the Geneva Conventions. They care about playing by the rules. They understand that these rules, developed over many years, protect us all. And when the United States flaunts these rules, as many nations believe we have, it makes it far more difficult for them to cooperate with us on other challenges we face. There also are times the United States seeks to invoke international law—and we can't flaunt it on Monday and invoke it on Tuesday.

As I said at the outset of my remarks, there is one issue that runs consistently through all of these issues—and that is integrity. It may seem odd to say that integrity is as essential to the intelligence process as it is to the legal process. But I believe it to be true.

The fundamental role of intelligence in the formulation and execution of policy is to establish "ground truth" and to speak truth to power. Said another way, it is to maintain the integrity of the process. By that I mean the job of intelligence officers is to provide the facts to the policy makers so that they understand the consequences of different courses of action. Intelligence officers, who live in a world of deception and denial and secrecy, must be scrupulous in reporting the facts, as they understand



them, to the policy makers. The Director of National Intelligence must have the courage to say, “Mr. (or perhaps Madam) President, your policy is failing.”

As you know, under our system there is supposed to be a bright line between those who provide intelligence and those who make policy—rather like the separation of church and state. Unfortunately, that separation has not always been sufficiently maintained and every time it has been breached, we have paid a heavy price.

The most recent example is the failure with respect to weapons of mass destruction prior to the invasion of Iraq. Whether that was a result of poor trade craft on the part of the analysts or political pressure from the White House is debatable. My own view is that it’s some of each. But at its base, it is a failure of integrity.

In the intelligence business, secrecy is critical. We use deception to protect our most vital secrets and we employ deception to acquire—George Tenet was fond of saying “steal”—the vital secrets of others. But intelligence officers live in a world of secrecy and it is often, as the novelist says, a world of mirrors where the truth is hard to find.

Secrecy is seductive and it can be corrosive. It tempts those who operate in the secret world to cover up wrongdoing or to believe that things done in secret are more important than things done in the open. The recent film *The Good Shepherd* deals as well with the corrosive effect of long term secrecy as anything I have seen.

The challenge is to use deception and secrecy but assure that the end result is honest, that is, that the integrity of the process is maintained. I know of

no other profession that uses dishonest behavior to achieve honest results. And that puts special burden on the integrity and quality of people in the intelligence community, including their lawyers, to ensure that the game stays honest.

If one sets aside the secrecy, deception, and false beards, lawyers have much the same responsibility in our broader society. We have an obligation, as officers of the court, to ensure that the law is enforced, that the system works. We often have to tell our clients things they don’t want to hear—to speak truth to power. And getting the headstrong CEO of a company not to do something that may be illegal can sometimes be just as challenging as getting a cabinet officer not to violate international law. Trust me on that one.

In a democracy, it is the law that ensures the playing field is level, the rights of minorities are protected, and elections are fair. In other words, the law ensures the integrity of the process. And lawyers and judges have a special responsibility to make the system work. If our integrity fails, the system fails. If the system fails, our country fails. ■





## A matter of balance

by Alexander Joel

*The following essay is based on remarks delivered at the Law School February 10 as a member of the panel discussing "Intelligence Gathering and Human Rights," part of the symposium State Intelligence Gathering and International Law. The author (left), a 1987 graduate of the Law School, is the civil liberties protection officer for the director of National Intelligence (DNI), filling a position created by the Intelligence Reform and Terrorism Prevention Act (IRTPA) of 2004, which also created the DNI. According to the author: "Congress enacted the IRTPA because it felt that reform of the intelligence community was needed in order to prevent another 9/11, and created the DNI to lead the 16 agencies of the intelligence community. It created the author's position to ensure that as we strengthened our intelligence capabilities, we remained protective of privacy and civil liberties."*

I'd like to get right to the point and discuss the so-called domestic wiretapping case that many of you are quite familiar with. In that case, the plaintiffs claimed that the government had instituted a system of secret surveillance that may have intercepted their communications without court order or judicial review. The government defended the program on the grounds that it was necessary for national security, and that applicable legal principles did not require a court order, or even informing the plaintiffs whether they had been surveilled. The government argued the program's protections were legally sufficient: There had to be specific factual indications for suspecting the target; only the individual suspect and his contacts could be targeted; the surveillance had to be approved by senior officials; it was for limited—albeit renewable—durations; and it was subject to close oversight.

You know the outcome. The court upheld the surveillance, and dismissed the complaint. I am referring, of course, to the case of *Klass and Others v. Germany*, before the European Court of Human Rights, decided September 6, 1978. The court examined whether Germany's secret surveillance program was consistent with Article 8 of the European Code of Human Rights—the privacy right—which provides that there shall be no interference by a public authority with the exercise of the right to privacy except in



accordance with the law and to the extent necessary in a democratic society in the interests of national security. It found that secret, warrantless domestic wiretapping was not a violation of the right to privacy, provided that there were “adequate and equivalent guarantees safeguarding the individual’s rights.”

For obvious reasons, I find this to be a fascinating case. While it’s important to remain mindful of the oft-repeated admonition of the European Commission on Human Rights, that “reference to other systems [is of] limited relevance,” *Klass* and its progeny do lay out several key points that should resonate when considering how the United States protects privacy in the conduct of secret intelligence activities. Of course, this case is not binding on the United States, and by discussing it, I am by no means suggesting that it establishes any sort of legal precedent for the United States. I do think, however, that it is important to remember that, as illustrated by the *Klass* case, the challenges we face today in the United States are not unique, and that these challenges are in some ways inherent to the collection of intelligence in a free and democratic society.

- First and most obviously, it is interesting to note that the court said that judicial review was preferred, but not required, so long as there are “adequate and equivalent guarantees.” The Foreign Intelligence Surveillance Act, on the other hand, requires a court order for surveillance in most cases, and the surveillance previously conducted under the Terrorist Surveillance Program is now subject to FISA court orders as well.
- Second, the court recognized the need for secrecy in conducting surveillance, a need that could continue for “years,

even decades.” This need for secrecy creates a fundamental problem, one that I face every day. How do you provide necessary transparency while also keeping secrets? As recognized by *Klass*, one way of doing this is creating what I call agents of transparency—internal and external overseers who have the security clearances to see what the intelligence agencies are doing.

- Third, the court found that the mere possibility of abuse was not enough by itself to invalidate a system of secret surveillance. It is, of course, vitally important that we do what we can to guard against rogue, illegal, or inappropriate actions on the part of our intelligence officials and agencies. But the possibility that such action may occur should not by itself shut down otherwise important intelligence activities. Instead, we must, as the *Klass* court found, ensure that we have the right safeguards in place

to guard against abuse and misuse of information and authority.

- Fourth, and of greatest interest to me, the court founded its decision on the principle of “balance.” This is a principle that one finds embedded in the U.S. Constitution, the preamble of which states that we are establishing and ordaining this Constitution to both provide for the common defense and secure the blessings of liberty. The *Klass* court cited a similar formulation in the preamble to the Convention, and stated that “this means that a *balance* must be sought between the exercise by the individual of the right [to privacy] and the necessity . . . to impose secret surveillance for the protection of the democratic society as a whole.”

I’d like to pursue this concept of balance. When we talk of safety and freedom—security and liberty—as a balance, some worry this implies that if

*Panelists ponder how intelligence gathering and human rights mix. From left: Human Rights First Washington Director Elisa C. Massimono, '88; Duke University Law Professor Francesca Bignami; keynote speaker and former CIA General Counsel Jeffrey H. Smith, '71; Civil Liberties Protection Officer Alexander Joel, '87; and U-M Law Professor and panel moderator Daniel Halberstam.*





you have more of one, you necessarily have less of the other. I think of it this way—if we add more to the security side of the scale, we

have to do things differently on the other side to safeguard our liberties, to keep the scale balanced.

I have an inside perspective on how we’re maintaining that balance. We rely on what I call the civil liberties protection infrastructure. It is founded on our Constitution, which establishes a system of checks and *balances*. I am a product of this system—my position is established by statute, yet I am a career civil servant working within the executive branch. I meet periodically with congressional staff to discuss a variety of issues, ranging from electronic surveillance to data mining, and expect many, many more such meetings in the coming months—and I welcome them.

Also in the Constitution is the Bill of Rights, not the least of which is the Fourth Amendment’s protections against unreasonable searches and seizures. The Fourth Amendment has generated an enormous body of case law, much of which is applicable by analogy to our intelligence activities. We are, of course, bound and constrained by the Fourth Amendment.

In this system of separated powers, Congress has enacted various statutes to regulate how the executive carries out its activities. The National Security Act of 1947 established the Department of Defense and the Central Intelligence Agency. It contains the so-called “law enforcement proviso,” which states that the CIA shall have no internal security functions or law enforcement

or subpoena powers. This was to avoid creating another secret internal security force, like the Gestapo of Nazi Germany. The Posse Comitatus Act, enacted after the Civil War, imposes a comparable restraint on our military. FISA establishes a system of judicial orders for electronic surveillance and physical searches for foreign intelligence. The Privacy Act imposes the fair information practices principles on the information collected and retained by the U.S. government—these principles were first articulated and enacted into law in the United States, and are now reflected in laws around the world. And there are a panoply of laws governing specific types of data and specific activities.

Like the intelligence agencies of every country, our agencies have their own particular history. In the 1970’s, after Watergate, two congressional committees (Church and Pike) conducted in-depth investigations of alleged abuses by our intelligence agencies. They had spied on Americans for reasons that were only remotely related to national

security, penetrated student organizations, surveilled the women’s liberation movement and the NAACP, and otherwise gone beyond the bounds of what we as Americans were willing to tolerate from our intelligence services. These sorts of abuses were not unique to the American experience—other countries went through similar periods of investigation and regulation.

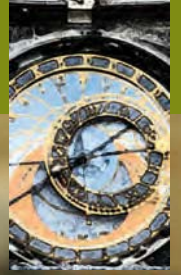
Following these investigations, new rules were established and codified restricting what intelligence agencies could do inside the United States and with respect to United States persons anywhere in the world. Their current incarnation is Executive Order 12333, issued by President Reagan in 1981. Under EO 12333, intelligence agencies are further constrained by guidelines established by the head of the agency and the Attorney General. These rules are interpreted and applied by agency Offices of General Counsel, and audited and enforced by agency Offices of Inspector General.

Just as important, following those

*Duke University Law Professor Francesca Bignami addresses the conference.*







hearings both the Senate and the House established intelligence oversight committees. These committees have secure facilities to receive and store classified information, and by law are kept fully and currently informed of significant intelligence activities, including violations of law. These are not the only committees that impact the intelligence community—the judiciary, homeland security, armed services, and appropriations committees also exercise varying degrees of oversight and control over intelligence activities. By having the ability to hold hearings, enact legislation, and control the power of the purse, the Congress has powerful tools at its disposal to serve as a check and balance on the conduct of intelligence activities.

Since 9/11, Congress has further reinforced the civil liberties protection infrastructure. It created not only my position, but also that of the Privacy and Civil Liberties Oversight Board, which has advice and oversight responsibility for privacy and civil liberties issues arising out of counterterrorism activities across the federal government. There are also other privacy and civil liberties officers throughout the federal government, such as at the Department of Justice and the Department of Homeland Security. And Congress is currently considering further additions to this system of internal checks and balances. I believe we have a healthy, robust infrastructure in place that helps provide “adequate and effective guarantees” of individual rights.

Striking that balance is not easy, and showing the public that we are maintaining that balance, even less so. But I believe in the system—in *our* system. It is a system of internal *and* external checks and balances, of rules that reflect the wisdom and experience of genera-

tions, under a Constitution that has stood the test of time, and implemented by people sworn to support and defend that Constitution. It is not perfect—nor are the alternatives—and I view it as my job to find ways to improve it. It is a system that is comparable in many ways to those of other countries, which are working closely with us to protect against the global threat of terrorism. It is a system that, as the *Klass* court envisioned, enables necessary intelligence activities to go forward while providing “adequate and effective guarantees” of individual rights. ■



The law is the portal to an endlessly stimulating conversation.

## SPRING 2007 CONFERENCES

**MARCH 22, 2007**

### ***Populists in Action: An afternoon symposium on direct democracy and initiative campaigns***

Articles from the conference will appear in the Summer 2007 issue of *Michigan Journal of Law Reform* (40.4).

#### **SPONSORS**

Michigan Lawyers Chapter and the U-M Law School Chapter of the American Constitution Society

#### **DISCUSSIONS**

- Progressive Politics and Ballot Initiatives
- Scholars on Direct Democracy
- Issue Panel and Michigan Panel

*U-M Public Policy Professor Liz Gerber, left, and University of California-Berkeley Professor Bruce Cain explain social science data on voter initiatives.*



**MARCH 30, 2007**

### ***American Indian Law Day— Preventing Exploitation: Native Peoples, Medical Ethics, and Institutional Research***

#### **SPONSOR**

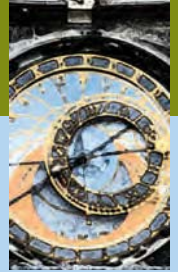
Native American Law Students Association

#### **DISCUSSIONS**

- The Havasupai Tribe's suit against Arizona State University for misuse of blood samples
- Panel on institutional review boards

*Panelists Pilar Ossorio of the University of Wisconsin Law School and William Freeman of Northwest Indian College, Bellingham, Washington, discuss issues of medical research related to Native American nations.*





**APRIL 7, 2007**

***Happy Healthy Lawyers:  
A Conference on Attorney Wellness  
and How to Improve It***

**SPONSOR**

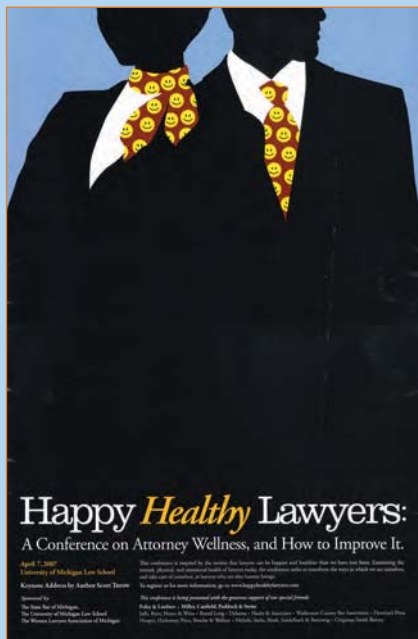
State Bar of Michigan; U-M Law School;  
Women Lawyers Association

**KEYNOTE**

Author/attorney Scott Turow

**SESSIONS**

- Attorney health and happiness: What is the status quo, and why?
- Self-assessment
- Breakout sessions



**MAY 16 - 18, 2007**

***15th Annual  
International Judicial Conference***

**SPONSORS**

Furth Family Foundation, co-sponsored by U-M Law School

**INTERNATIONAL AND FOREIGN LAW PANELS**

- The Incorporation of Treaty Law and the Law of Nations into Domestic Judicial Decision-making
- Judicial Borrowing: International and Comparative Law as Nonbinding Tools of Domestic Legal Adjudication

**COMMERCIAL LAW PANELS**

- Judicial Autonomy for Corporate, Commercial, and Trade Adjudication
- Special Courts or Functions in Complex Corporate and Commercial Adjudication—Corporate, Capital Markets, Tax, Labor/Employment and Intellectual Property

**GENERAL DISCUSSION**



APRIL 13 - 14, 2007

## *Law and Democracy in the Empire of Force*

### HOST

U-M Law School

### SESSION 1

- Democracy and Prophecy:  
A Study in Politics, Rhetoric, and  
Religion
- Some Chords of Freedom
- The Resilience of Law

### SESSION 2

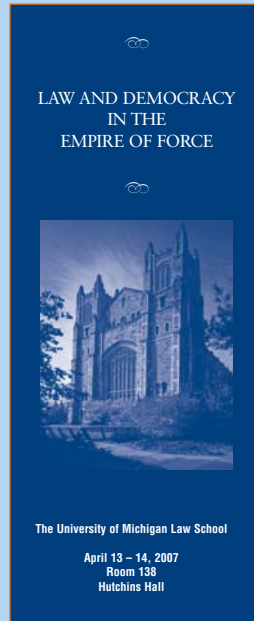
- The Age of Accusation
- Abolishing the Criminal Law:  
The UK "Anti-Social Behavior Order"
- Privacy's End

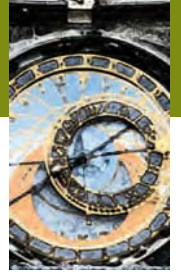
### SESSION 3

- Justice Jackson's Republic and Ours:  
What the Steel Seizure Cases  
Mean Today
- Law, Economics, and Torture
- An Oresteia for Argentina:  
Between Fraternity and the  
Rule of Law

### SESSION 4

- Ennobling Politics
- "If We Differ Over a Moral Question,  
Call Me Wrong, but Don't Call Me  
a Relativist"
- Law as a Tool: The Consequences  
for American Government





## Law and Democracy in the Empire of Force

*An interview with conference co-organizer James Boyd White*

*Michigan Law Professor James Boyd White (left) and H. Jefferson Powell of Duke University Law School co-organized the conference Law and Democracy in the Empire of Force, held at the University of Michigan Law School April 13-14. Here White discusses reasons for organizing the conference and insights he hopes may be realized through the discussions that take place.*

**Q:** This conference seems to reflect the concept that the consideration, practice, and study of law can lead its followers into nearly every conceivable aspect of our society, past, present, and perhaps most significantly here, future. Is this what is happening here?

**A:** Of course it is true that law does not stand alone as an isolated cultural phenomenon, but is deeply connected both to the process of politics and government that produce it and to virtually every aspect of the culture and society in which it will have its meaning. Just think of a trial, in which any body of knowledge may become relevant, from medicine to engineering to linguistics to theology. Equally important, all of our talk about law makes deep and largely unarticulated assumptions about its authority, which in our country rests ultimately on a faith that the law is the product of what we call democracy. If that faith is threatened, law is threatened too; but it also works the other way, that when law is threatened, democracy is put into question.

What led Jeff Powell and me to organize the conference was a sense we both have—which of course others might not share—that somehow our world is changing under our feet faster than we can see it or understand it, especially with respect to the fundamental character of law and democracy. It shows

up everywhere: in law teaching, judicial opinions, the nature of law practice, international relations, legal scholarship, congressional deliberations, and so on. In each of these fields we each keep feeling that our expectations are perpetually thwarted or upset, and not always in a good way.

The idea of the conference is to bring together a dozen people who to some degree share this sense to speak frankly about some aspect of the reality they perceive, in the hopes that we can increase our understanding of what is going on. Each person was asked not just to write a paper of the usual kind, but to pause, and ask themselves what of all the things that might be said they think most needs to be said. The idea is less a meeting of experts than a conversation among thoughtful people.

We hope these talks will ultimately appear in a book, and that in that form, as well as in the conference itself, it may stimulate conversation by others on these themes.

**Q:** This conference posits the idea that not only is change often outstripping our ability to understand, assimilate, or cope with it, but that change is “especially” affecting “the fundamental character of law and democracy.” Can you elaborate?

**A:** Yes, that is the idea. It may give some sense of the range of dimensions in

which we see these changes happening if I just give you the list of topics about which we suggested the speakers might wish to think: human rights, international law, law and economics, the Supreme Court, teaching law, the practice of law, the culture of consumerism, the news media, corporate law and accounting, civil liberties, the uses of history, torture and “rendition,” government lying and propaganda, the premises on which law works in the world, the way that women are thought about, race, poverty, education, the cultural effects of TV and the Internet, the way Congress talks about its business, etc., etc. All of these topics raise the question, What is happening to law and democracy?

**Q:** Does this mean the pillars of our value system are under siege by forces we often cannot understand, assimilate, or cope with?

**A:** Yes, and our thought is to try to understand these forces, in the hope that we can begin to deal with them more directly and wisely.

I want to stress here that it would be far too easy just to blame the present administration for these things. It is



true that the changes we have in mind are partly the work of that administration—Guantanamo, rendition, signing statements, etc.—but they are also the work of far more powerful forces in our culture, present in the Clinton administration as well for example, forces of which the present administration is a symptom rather than a cause. In a way the really important issue is not what the government is doing that some of us find



disturbing, but what makes it possible for it to do these things. The question that interests us is not what is happening in the administration, but

what is happening in the larger world.

We hope this conference will offer a set of perspectives that will advance our understanding of the multifarious and deep-seated changes in the midst of which we find ourselves. Perhaps think of it as a dozen snapshots of a world in change.

**Q:** Citing Simone Weil’s “Empire of Force” phrase, as you do in the title of the conference, indicates there is hope for resisting the more dehumanizing of these changes. Is this the idea for this gathering, to give voice to strategies for preserving the best parts of the bedrocks we once called “law” and “democracy”?

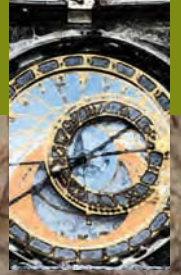
**A:** Yes, in a sense this is the whole idea. What Simone Weil suggests in her wonderful sentence is that the only meaningful resistance to what she calls the “empire of force”—by which she means not just jackbooted thugs and secret police, but all the forces at work in a culture that lead us to dehumanize each other, to trivialize human experience, to disregard injustice—lies

ultimately in individual acts of mind by which we can increase our understanding of these forces, as they are at work in the world and in ourselves, and learn how “not to respect” them, that is to strip them of the authority our culture gives them, so that we may re-establish proper authority, here the authority of law and democracy. How to do this is the central question for her, and, as you know, it is also the center of my own recent book, *Living Speech*.

**Q:** Several of the titles for conference presentations are especially provocative and thought-provoking, like “Some Chords of Freedom,” “The Resilience of Law,” “The Age of Accusation,” “Privacy’s End,” your own “Law, Economics, and Torture,” and “Justice Jackson’s Republic and Ours: What the Steel Seizure Cases Mean Today.” While they appear to address different topics, are they instead examples of different perspectives on the same problem, all illuminated by the light of law and democracy?

**A:** I do think that as the papers were presented and discussed and thought about during the conference we perceived that we were all talking about different aspects of much the same problem, a large cultural shift that is deeply affecting the way we think about both law and democracy. I hope that one result of the conference, and of the book to come out of it, is that we shall see the problem we address emerging into the light where it can be more fully perceived and responded to. I do not know that this will happen; it was our faith that it might happen, our hope that it will happen, that moved Jeff Powell and me to organize this conference. ■





The law embodies the story of a nation's development through many centuries, and it cannot be dealt with as if it contained only the axioms and corollaries of a book of mathematics.

Oliver Wendell Holmes Jr.  
*The Common Law* (1881)



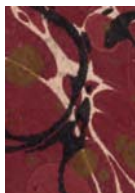
# NEW SECTION: Campaign Report

## IN DETAIL

- 31** Welcome
- 32** Nickoll meets challenge to endow professorship
- 33** Skestos honors his parents (and professors) with new faculty chair
- 34** Tauber gift to name Hutchins classroom for family
- 35** Degnan estate gift to honor her husband
- 36** Olsons add to endowment fund
- 36** Commitments from New York alumni will name classroom for Weil Gotshal firm
- 37** Recent gifts
- 38** Rieckers receive University award for volunteerism
- 38** Campaign Steering Committee
- 39** Dinner honors Michigan Law supporters
- 40** Reunion Giving

- 32** END PAPER DETAIL FROM "HISTORY OF ENGLISH LITERATURE," VOL. IV, PART II BY H.A. TAINÉ, D.C.L., 1898.

PART OF THE COLLECTION OF WILLIAM W. COOK'S BOOKS LOCATED IN HIS LIBRARY, ROOM 913 LEGAL RESEARCH BUILDING.





## Welcome

I am pleased to introduce Campaign Report, a new section of *Law Quadrangle Notes* that will keep you informed of the progress of the Law School's current fundraising initiative, "Building On: The Campaign for the University of Michigan Law School."

On these pages you will find news of recent gifts, as well as stories about alumni and friends who are helping to ensure the success of our campaign through their gifts. I want to take this opportunity to extend my deepest appreciation to all who have invested in Michigan Law through their support of "Building On."

As you may know, our campaign has four major goals:

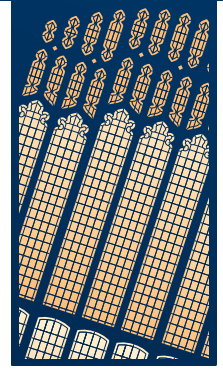
- **Facilities support:** To help the Law School build the best learning and teaching environment for a 21st century legal education.
- **Faculty support:** To help recruit and retain world-renowned legal scholars and teachers in today's highly competitive market for law faculty.
- **Student support:** To provide critical resources for recruiting students who belong at Michigan Law and for helping to ease their debt burden upon graduation.
- **Law School Fund:** To increase annual alumni participation in this vitally important source of unrestricted funding, which gives the Law School the flexibility to respond to new initiatives and pressing challenges at the time it is most needed.

We have come a long way since the campaign was publicly launched on May 14, 2004, and we celebrate our successes. But, as you can see from the illustration measuring our progress, we still have much work to do. All gifts made through December 31, 2008, will be counted toward our campaign goals.

In 2009, the Law School will celebrate its sesquicentennial, marking the beginning of another 150 years of excellence in legal education. I can think of no better way to help position Michigan for the future than through a gift to an aspect of the Law School's mission that matters to you. For more information on the campaign, visit [www.law.umich.edu/campaign](http://www.law.umich.edu/campaign).

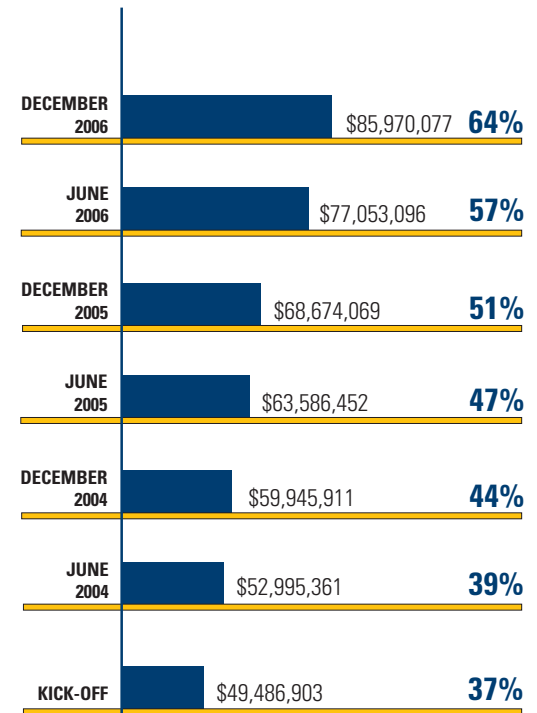


Todd M. Baily  
Assistant Dean for Development and Alumni Relations



BUILDING ON..  
THE  
CAMPAIGN  
FOR THE  
UNIVERSITY  
OF MICHIGAN  
LAW SCHOOL

### THE CAMPAIGN FOR THE UNIVERSITY OF MICHIGAN LAW SCHOOL



## NICKOLL MEETS CHALLENGE TO ENDOW PROFESSORSHIP

When President Mary Sue Coleman announced a University-wide challenge grant program last fall to encourage the creation of new endowed professorships, John F. Nickoll, '60, of Los Angeles, was among the first to respond.

"By getting outstanding professors, you can really help the Law School and the students," says Nickoll, who, as a member of the Law School's Campaign Steering Committee, understands the critical importance of recruitment and retention of first-rate faculty. "I think it is a very good cause, and I'd like to see the School's rankings stay up there."

In December, Nickoll made a \$1.5 million gift to endow the John F. Nickoll Professorship through the President's Donor Challenge Fund. Under the terms of the challenge, which began October 1, 2006, the Fund provides a match of \$500,000 for each of the first 20 fully endowed professorships secured by gift agreements between the start date and December 31, 2007.

Nickoll remembers his years at the Law School as enjoyable, and says his favorite professors were L. Hart Wright and Roy L. Steinheimer.

After graduation Nickoll was admitted to the Wisconsin bar. He never practiced law but chose instead to forge a business career, starting with a job as house counsel for a Milwaukee-based financing concern.

Nickoll moved to Los Angeles and in 1970 co-founded The Foothill Group Inc., a specialized financial services company engaged in asset-based commercial lending and money management services, of which he was also chairman and chief executive officer.

In 1995 Foothill was acquired by Norwest and in 1998, the company became a unit of Wells Fargo & Company via the Norwest/Wells Fargo merger. When Nickoll retired last year, Wells Fargo Foothill was the nation's largest bank-owned asset-based lender.

In addition to the professorship, Nickoll has made generous gifts to the building construction fund and the Law School Fund. He served on the host committee for the Law School's campaign kickoff in the Los Angeles area.



"BY GETTING OUTSTANDING PROFESSORS,  
YOU CAN REALLY HELP THE LAW SCHOOL  
AND THE STUDENTS."

## SKESTOS HONORS HIS PARENTS (AND PROFESSORS) WITH NEW FACULTY CHAIR

Like many a Michigan Law alum, George A. Skestos, '52, of Columbus, Ohio, can instantly call his favorite professors to mind: William W. Bishop Jr., Edgar N. Durfee, and Paul G. Kauper, '32, three luminaries of their day.

"They were wonderful professors," says Skestos, "so I thought giving a professorship was a natural thing to do."

Skestos' recent gift of \$1.5 million endows the Frances and George Skestos Professorship through President Mary Sue Coleman's Donor Challenge Fund. The fund is providing a \$500,000 match for the gift as one of the first 20 fully endowed professorships secured by gift agreements since October 1, 2006, when the challenge began.

It is Skestos' preference that the chair be held by a teacher or scholar of contract or commercial law.

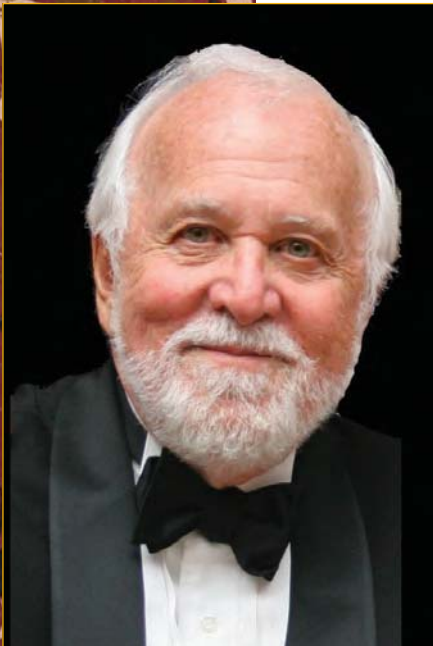
The professorship honors the memory of Skestos' parents, who made it possible for him to be a three-time Michigan alum, earning a B.A. in history in 1948 and an M.B.A. in 1951, in addition to his J.D.

"My father was of Greek origin," says Skestos, who also gives generously to the Law School Fund. "He worked hard and sent me to Ann Arbor, so I'm doing the professorship in honor of him and my mother."

Skestos is founder, past president, and chief executive officer of Homewood Corporation, a Columbus-based home building company. His son George is also a Michigan alum, with a 1990 B.A. from the College of Literature, Science, and the Arts.

One of that special group of Wolverines who have affectionate ties with both the U-M and Ohio State University, Skestos served on Ohio State's board of trustees for nine years, with a one-year term as president. With his wife, Tina, he served as a co-chair of "The Power to Change Lives," a fundraising initiative for the Ohio State University Medical Center.

"Although I have been deeply involved with Ohio State, I feel strongly about Michigan and the Law School," says Skestos. "Some of my happiest days were spent at the University of Michigan."



"MY FATHER...WORKED HARD  
TO SEND ME TO ANN ARBOR, SO  
I'M DOING THE PROFESSORSHIP IN HONOR  
OF HIM AND MY MOTHER."

## TAUBER GIFT TO NAME HUTCHINS CLASSROOM FOR FAMILY

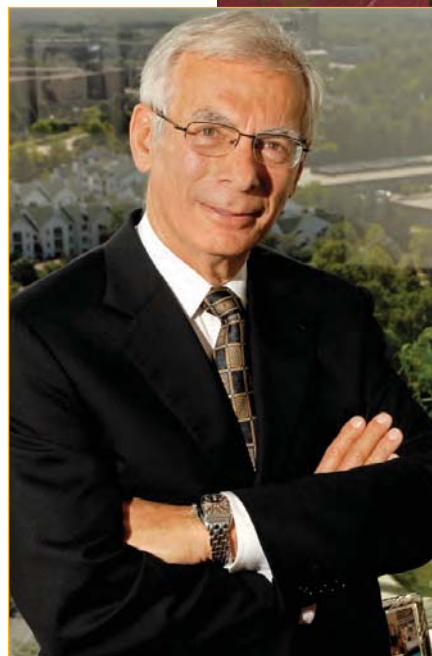
Joel D. Tauber, '59, has made a \$1.5 million campaign commitment to the Law School, part of a total gift of \$4.1 million to The Michigan Difference campaign.

In recognition, room 138 in Hutchins Hall will be named the Tauber Family Room in a ceremony to be held this fall. The name reflects the Tauber family's long relationship with Michigan Law. Tauber's father, Benjamin, was a 1930 L.L.B. alumnus, and his son, Brian, received both a J.D. from the Law School and an M.B.A. from the Stephen M. Ross School of Business in 1992. Joel Tauber earned a B.B.A. in 1956 and an M.B.A. in 1963, both from the Ross School.

Tauber, chairman of Tauber Enterprises in Southfield, Michigan, is one of the University's most engaged alumni as both donor and volunteer. A member of President Mary Sue Coleman's Advisory Group, he is currently a national vice chair of The Michigan Difference and chairs its Greater Detroit Leadership Gifts Committee. He is a former member of the Law School Committee of Visitors and a past president of the Law School Detroit Major Gifts Committee, among many other volunteer roles. He and his wife, Shelley, have hosted many events on behalf of the University.

In 2005 the University recognized Tauber with the David B. Hermelin Award for Fundraising Volunteer Leadership. His accolades also include the Alumni Achievement Award for 1998 from the Ross School, awarded annually to the alumnus or alumna whose attainments in their professional fields have brought distinction to themselves, credit to the school, and benefit to their fellow citizens. This spring he received an honorary doctorate from Tel Aviv University.

Tauber's campaign commitment to the Law School is designated for the building expansion fund.



TAUBER . . .  
IS ONE OF THE UNIVERSITY'S  
MOST ENGAGED ALUMNI AS BOTH DONOR  
AND VOLUNTEER.

## DEGNAN ESTATE GIFT TO HONOR HER HUSBAND

The late James G. Degnan, '53, traveled hundreds of miles from Michigan's Upper Peninsula to be educated at the University of Michigan, years before the completion of the Mackinac Bridge.

That was the first of many journeys for the alumnus, whose career as a real estate developer eventually took him all over the mainland United States and Hawaii.

"He was a brilliant, brilliant man," says his widow, Isobel R. Degnan, "and he enjoyed his work very much."

When her husband died suddenly in 2004, Degnan began to consider an estate plan, keeping James' wishes in mind. She thought immediately of the Law School as an institution that had earned her husband's lifelong respect. Recently Degnan finalized a bequest of \$2 million to endow a faculty chair in her husband's memory.

"A University of Michigan professorship is one thing I know he really would have wanted," she says. "He would be very proud of that."

James Degnan hailed from Escanaba and came to Ann Arbor as an undergraduate pre-law major. He met his future wife in St. Louis, her hometown, while traveling to the West Coast for military service during the Korean War. When the couple married, they lived in California, and later, upon James' retirement, in Arizona.

While James was developing large shopping centers, Isobel Robinson Degnan, an accomplished, classically trained pianist, was perfecting her music. Known as Robin—the nickname bestowed on her by her sorority sisters—Degnan has studied and performed throughout her life. On a recent morning, she was working on a sonata by Schubert, the composer whose work she most enjoys performing these days.

"At one time, I thought only of Chopin, Chopin, Chopin," says Degnan, with a laugh. "But your tastes change as you age."

For the Law School, Degnan's friendship is far more than a grace note.



DEGNAN THOUGHT IMMEDIATELY OF THE LAW SCHOOL AS AN INSTITUTION THAT HAD EARNED HER HUSBAND'S LIFELONG RESPECT.

## Olsons add to endowment fund

Ronald L. Olson, '66, and Jane Olson, of Pasadena, California, have made an additional \$500,000 campaign gift to the Ronald L. and Jane Olson Fund, an endowment they created during the Law School's previous campaign. The couple has also made a multi-year pledge to the Law School Fund at the Cavaedium Society level of \$2,500 or more per year.

The Olsons are major benefactors of the School's Program in Asylum and Refugee Law.

Ronald Olson is a senior partner with Munger, Tolles & Olson in Los Angeles. Jane Olson is a human rights activist.

"Jane and I are proud of our family's association with Michigan Law," said Ron Olson. "We want to be part of the campaign to make the school even better for future generations."

Two of the Olsons' three children are alumni of Michigan Law: their son, Steven, '95, and their daughter Amy Duerk, '99. Steven's wife, Elizabeth Graham Olson, is a 1997 alumna.



Ronald L. Olson, '66,  
and Jane Olson

The Olsons served on the host committee for the Law School's campaign kickoff in the Los Angeles area. They have hosted many other events for the University and the Law School, most recently a luncheon for University President Mary Sue Coleman during the 2007 Rose Bowl festivities. They co-chaired the Los Angeles Major Gifts Committee during the University's last campaign.

Ronald Olson serves on the University's Western States Campaign Committee and is an honorary member of the Law School's Campaign Steering Committee. He was a member of the former Committee of Visitors.

## Commitments from New York alumni will name classroom for Weil Gotshal firm

Four New York area alumni have joined with the firm of Weil, Gotshal & Manges to make a gift of \$1 million. The gift will become part of the building expansion fund.

In recognition, Room 116 in Hutchins Hall will be named the Weil Gotshal Room in a ceremony to be held this fall.

The alumni are Martin Bienenstock, '77, of Katonah, New York; Michael Levitt, '83, of Alpine, New Jersey; A. Paul Victor, '63, of New York City; and Barry Wolf, '84, of Scarsdale, New York. Bienenstock and Wolf are partners with Weil Gotshal. Levitt is chairman and chief investment officer of Stone Tower Capital in New York City. Victor recently retired from Weil, Gotshal, where he was a partner for almost 36 years, and is now a partner with Dewey Ballantine.

Levitt serves on the University's Investment Advisory Committee. Victor is a member of the Dean's Advisory Council and was a member of the former Committee of Visitors.



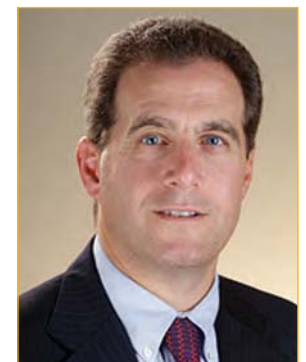
Martin Bienenstock, '77



Michael Levitt, '83



A. Paul Victor, '63



Barry Wolf, '84

## Recent gifts

Hundreds of alumni and friends are stepping forward to make gifts to the current campaign, “Building On: The Campaign for the University of Michigan Law School.” Here is a sampling of those generous donors and their areas of support:

**Robert E. Baker, '55, and Anne M.**

**Baker**, of Bloomfield Hills, Michigan, and Scottsdale, Arizona, have made a \$100,000 gift to the building expansion project. Baker, who is retired from DaimlerChrysler, served on his 50-year reunion committee.



**The Honorable Bobbe Jean Bridge and Jonathan Bridge**, of Seattle, are supporting the Child Advocacy Law Clinic with a gift of \$105,000. Bridge is an associate justice of the Washington State Supreme Court.

**Stuart M. Finkelstein, '85, and Beth**

**Finkelstein**, of Chappaqua, New York, have made a \$50,000 gift in support of the Law School Fund, the Debt Management Program, and need-based scholarships. Stu Finkelstein is a partner at Skadden, Arps, Slate, Meagher & Flom LLP, where he has been practicing tax law since graduating from the Law School. He serves on the University's Tri-State Major Gifts Committee and was a member of his 20-year reunion committee.

**W. Robert Kohorst, '78, and Shelley Allen** of La Canada, California, have made gifts totaling more than \$150,000 to support the building expansion project and other priority Law School programs. Bob Kohorst is president of Everest Properties. He served on the host committee for the Law School's campaign kickoff in the Los Angeles area.

**Neil R. Mann, '74, and Patricia R. Mann, '74**, of Lake Forest, Illinois, have made a \$200,000 gift to the building expansion project. Neil Mann is a partner with Chapman and Cutler. The Manns served on the host committee for the Law School's campaign kickoff in the Chicago area.

Colleagues of **Philip McWeeny, '64**, of Toledo, Ohio, made gifts totaling more than \$150,000 to endow the Philip McWeeny Scholarship in honor of his retirement from Owens-Illinois Inc., where he was vice president and general counsel.

Numerous memorial gifts totaling more than \$130,000 were made in honor of **Roger Siske, '69**, to endow a scholarship in his name. Leadership gifts were made by **Regina Siske**, of Glencoe, Illinois, who requested that contributions in her husband's memory be directed to Michigan Law; **Ben and Jeanette Beavers** of Highland Park, Illinois; and the firm of **Sonnenschein Nath and Rosenthal**, where Siske was a partner. The firm gift was coordinated by **Eric Oesterle, '73**, of Glen Ellyn, Illinois, a partner in Sonnenschein, who serves on the Law School's Campaign Steering Committee and volunteers in many other capacities for the Law School. The Roger C. Siske Scholarship honors Roger Siske's excellence in character, his lifetime service to the law, and his many valuable contributions to the legal profession. Siske, who died in January 2006, was a nationally-recognized employee benefits and executive compensation lawyer who was with Sonnenschein for more than 36 years. He worked in the firm's Chicago office and served on its national management committee.

**Robert E. Spatt, '80, and Lisa Spatt**, of Stamford, Connecticut, have made a gift of \$100,000 to the building expansion project and the Law School Fund. Robert Spatt is a partner with Simpson Thacher & Bartlett in New York City. He served on his 25-year reunion committee.

**Jeffrey E. Susskind, '79, and Janis Susskind**, of Los Angeles, have made a \$100,000 gift to support the building expansion project. Jeffrey Susskind, an investment management consultant, served on the host committee for the Law School's campaign kickoff in the Los Angeles area.



## Rieckers receive University award for volunteerism

**J**ohn E. Riecker, '54, and his wife, Margaret Ann (Ranny) Riecker, of Midland, Michigan, were among six key University supporters named recipients of the prestigious David B. Hermelin Award for Fundraising Volunteer Leadership for 2006.

The Rieckers, honorary national co-chairs of The Michigan Difference campaign, have given generously of their time and resources to many units of the University, including the Law School. John Riecker served on the Law School's former Committee of Visitors and remains deeply engaged with the School.

The Hermelin Awards, presented annually, honor volunteers who best reflect the character, fundraising prowess, and passionate dedication to the University exemplified by the late David Hermelin, an alumnus of the Stephen M. Ross School of Business who in 2000 received an honorary doctor of laws degree from Michigan.

A Detroit area philanthropist and entrepreneur who served as the U.S. ambassador to Norway, Hermelin was a tireless volunteer for many organizations. Over more than two decades of service to Michigan, his volunteer leadership roles included serving as co-chair of the Campaign Steering Committee for the billion-dollar Campaign for Michigan in the 1990s.

The Rieckers received the award October 20 at the Intermission Gala, a celebration of the accomplishments of the first half of the University-wide campaign.

*John E. Riecker, '54, left, Margaret Ann (Ranny) Riecker, U-M President Mary Sue Coleman, and Rich Rogel, national chair of The Michigan Difference campaign, share a moment during award ceremonies last fall.*



## Campaign Steering Committee

Leo R. Beus, '70  
Beus Gilbert PLLC  
Scottsdale, Arizona

Bruce P. Bickner, '68  
Chair  
DEKALB/Monsanto Company  
(retired)  
Sycamore, Illinois

William J. Bogaard, '65  
Mayor, City of Pasadena  
Pasadena, California

Richard Burns, '71  
Hanft Fride PA  
Duluth, Minnesota

Evan Caminker  
Dean  
University of Michigan Law School  
Ann Arbor

Terrence A. Elkes, '58  
Honorary Chair  
Apollo Partners LLC  
New York City

Robert B. Fiske Jr., '55,  
Honorary Chair  
Davis Polk & Wardwell  
New York City

Saul A. Green, '72  
Miller, Canfield, Paddock & Stone  
Detroit

William R. Jentes, '56  
Honorary Chair  
Alternative Dispute Resolution  
Chicago

Robert M. Klein, '65  
Butzel Long (retired)  
Bingham Farms, Michigan

Herbert Kohn, '63  
Bryan Cave LLP  
St. Louis, Missouri

Barrie Lawson Loeks, '79  
Loeks & Loeks Entertainment  
Grand Haven, Michigan

Gregory T. Mutz, '73  
AMLI Residential  
Chicago

John M. Nannes, '73  
Skadden, Arps, Slate,  
Meagher & Flom LLP  
Washington, D.C.

John Nickoll, '60  
Wells Fargo Foothill (retired)  
Los Angeles

Charles F. Niemeth, '65  
Baker & McKenzie LLP  
New York City

Richard Odgers, '61  
Pillsbury Winthrop LLP  
San Francisco

Eric A. Oesterle, '73  
Sonnenschein, Nath  
& Rosenthal  
Chicago

Ronald L. Olson, '66,  
Honorary Chair  
Munger, Tolles & Olson  
Los Angeles

Dennis Ross, '78  
University of Michigan  
Law School  
Ann Arbor

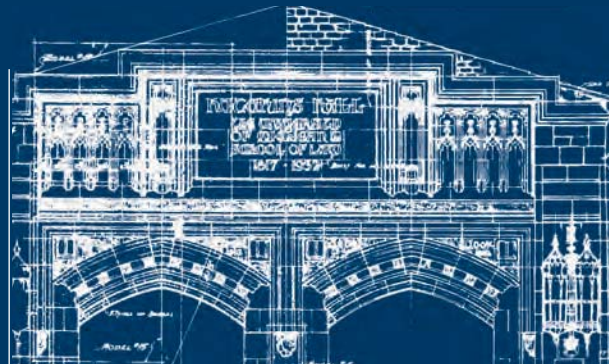
Mary E. Snapp, '84  
Honorary Chair  
Microsoft Corporation  
Redmond, Washington

Keith C. Wetmore, '80  
Morrison & Foerster LLP  
San Francisco

Kathryn D. Wriston, '63,  
Honorary Chair  
Director of Various  
Organizations  
New York City



## Dinner honors Michigan Law supporters



The lamps in the Lawyers Club glowed a little brighter on the evening of October 21, 2006, when a group of the Law School's most generous supporters were honored at a special dinner.

The event was held in conjunction with the University's Intermission Gala, part of The Michigan Difference campaign.

Dean Evan Caminker welcomed the group. In a short program after dinner, representatives of the Law School expressed gratitude to the guests for all they have made possible at the School. Speakers included the dean; Margaret A. Leary, director of the Law Library; Professor Donald N. Duquette, '75, director of the Child Advocacy Law Clinic; Kristin Klanow, 3L; and John Reed, the Thomas M. Cooley Professor Emeritus of Law.

The U-M singing group the Friars put the finishing touch on the evening with a razzle-dazzle performance.



*Dean Caminker thanks participants for their generous support.*



*Wallis and Robert Klein, '65, LL.M. '66, with Lois Gamble.*



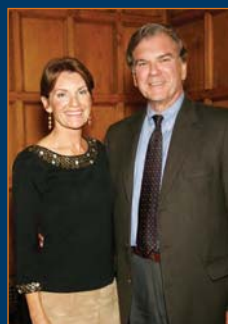
*Third-year law student Kristen Klanow thanks guests for their generous support of the student experience.*



*Clinical Professor Donald N. Duquette, '75, describes the impact of private gifts on the Child Advocacy Law Clinic. Duquette founded and directs the clinic, which marks its 30th anniversary this academic year. (See interview on page 7.)*



*Front row: Donna Hartwig and Anne Baker; back row: Gene Hartwig, '58, Ruth Zinn, Frank Zinn, '59, and Bob Baker, '55*



*Rebecca MacDonald and Arnold Nemirow, '69.*



*Harold Rosenn, '41, and Sallyanne Rosenn share a moment with Law Library Director Margaret Leary.*



*The Friars entertain.*

## Reunion Giving

The recognitions on these pages reflect all class giving during each class reunion counting period, which began July 1, 2005, and ended November 24, 2006. Total Class Giving includes all gifts made during this period to all aspects of the Law School's mission. The Law School Fund is Michigan Law's largest source of unrestricted private donations; as such, the Law School Fund provides the opportunity to respond to new initiatives and pressing concerns when this flexibility is most needed. All gifts made during this period are counted toward the Law School's current campaign, "Building On: The Campaign for the University of Michigan Law School."

### Save the dates! 2007 REUNIONS

#### September 7-9, 2007

for the classes of 1952, 1957, 1962, 1967, 1972, and 1977

#### October 12-14, 2007

for the classes of 1982, 1987, 1992, 1997, and 2002.

For reunion updates, visit:  
[www.law.umich.edu/alumnianddevelopment](http://www.law.umich.edu/alumnianddevelopment)  
and click on the **Reunions** link.



*The next generation gets familiar with the Quad while parents mingle at the tailgate.*

## CLASS of 1951

### 55th Reunion

**Chair:** William W. Milligan  
**Committee:** Richard A. Bell; Rex Eames; Richard M. Kaplan; Donald G. Leavitt; S. Noel Melvin; Harry Pincus Jr.; Horace J. Rodgers; Walter J. Russell; Henry C. Ryder; Lloyd J. Tyler Jr.; Howard VanAntwerp III

**LSF Gifts and Pledges...\$91,084**  
**Total Class Giving.....\$96,759**

**\$50,000 and above**  
S. Noel Melvin

**\$5,000 and above**  
Kenneth C. Hamister  
Larry H. Snyder

**\$2,500 to \$4,999**  
George M. Hartung  
Stuart E. Hertzberg  
Richard M. Kaplan

**\$1,000 to \$2,499**  
Jon Jitsuzo Chinen  
Walter L. Dean  
Robert K. Fukuda  
Donald G. Leavitt  
Frederick E. MacArthur  
James E. McCobb  
James E. Townsend  
Lloyd J. Tyler Jr.  
Thomas C. Walsh

**\$1 to \$999**  
Herbert M. Balin  
Ralph G. Bauer  
Richard A. Bell  
Robert L. Borsos  
Prentiss M. Brown Jr.  
David E. Dutcher  
Rex Eames  
Frank Elkouri  
Edward Elukin  
Hugh A. Garnett  
John Joseph Gordon\*  
Richard W. Henes  
Richard L. Hershatter

William C. Hiscock  
George H. Hopkins  
Thomas W. James  
Russell Stover Jones  
Irwin Lapping  
David Benson Lipner  
Douglas L. Mann  
Richard S. Marx  
Robert M. Muir  
John L. Naylor Jr.  
Lucien N. Nedzi  
Patrick D. Neering  
Albert J. Ortenzio  
Thomas J. O' Toole  
Shelton C. Penn  
Walter Potoroka  
Robert L. Richardson Jr.  
Henry C. Ryder  
Marlin F. Scholl\*  
Robert B. Seeley  
Forrest G. Shaw  
Robert H. Silk  
Robert O. Sornson  
Melvyn J. Stauffer Jr.  
Paul W. Steere  
Rollyn L. Storey  
Harney B. Stover Jr.  
J.C. Tattersall  
Norman H. Tendler  
Howard VanAntwerp III  
Andrew J. Warhola  
Albert V. Witham  
Herbert M. Wolfson

## CLASS of 1956

### 50th Reunion

**Chair:** Raymond H. Dresser Jr.  
**Fundraising Chair:** William C. Cassebaum

**Committee:** William F. Anhut; Jack G. Armstrong; William R. Brashear; Joseph Butler; John C. Cary Jr.; William F. Crockett; Paul R. Haerle; Irving Leon Halpern; James S. Hilboldt; William R. Jentes; John Andrew Kelly Jr.; Robert S. McCormick; John H. McDermott; Richard

W. Morrison; Roger H. Oetting; Charles B. Renfrew; Edward L. Shank; Lawrence W. Sperling; Charles G. Williamson Jr.; Norman A. Zilber

**LSF Gifts and Pledges..\$170,355**  
**Total Class Giving.....\$1,051,514**

**\$1,000,000 and above**  
Richard J. Riordan

**\$500,000 to \$999,999**  
William R. Jentes

**\$50,000 to \$99,999**  
William C. Cassebaum  
Raymond H. Dresser Jr.

**\$10,000 to \$24,999**  
Jack G. Armstrong  
Robert S. McCormick  
John H. McDermott  
Edward L. Shank

**\$5,000 to \$9,999**  
Eric E. Bergsten  
William R. Brashear  
William F. Crockett  
James S. Hilboldt  
John Andrew Kelly Jr.  
Henry West Leeds  
Richard W. Morrison  
Charles B. Renfrew  
Roger Wood Wilkins  
Norman A. Zilber

**\$2,500 to \$4,999**  
Dennis J. Barron  
John C. Cary Jr.  
Donald R. Ford  
Richard A. Jones  
Roger H. Oetting

**\$1,000 to \$2,499**  
Richard R. Dailey  
Eugene H. Gilmartin  
Paul R. Haerle  
Irving Leon Halpern  
Hazen V. Hatch  
John B. Huck  
Thomas A. Lazaroff  
Gordon L. Nash



Michigan Law t-shirts are a big hit with Angelica Ochoa, '01, and Marcela Sanchez, '01, at reunion registration.



Speaker Brian O'Neill, '74, demonstrates his Michigan spirit to fellow alumni.

James T. Neef  
Cynthia Vary Peterson  
Harold H. Plassman  
Roy Franklin Proffitt  
Robert O. Rosenman  
William G. Sessler  
Donald W. Shaffer  
Labron K. Shuman  
David W. Swanson  
James A. Timmer  
Charles G. Williamson Jr.  
Murray Yolles

**\$1 to \$999**

Stephen C. Bransdorfer  
Hugh R. Braun  
Harland M. Britz  
Herbert R. Brown  
Robert A. Brown Jr.  
William D. Brusstar Jr.  
Shirley J.C. Burgoyne  
William L. Cahalan Jr.\*  
William Y. Chalfant  
George F. deClaire  
Walter R. Denison  
Glenn S. Dennis  
Marvin Dubrinsky  
Daniel P. Ernst  
Norman E. Gaar  
Merritt W. Green II  
Daniel S. Guy  
Robert L. Halbrook  
Edward A. Hansen  
Gerald B. Helman  
Frank C. Henry  
John F. Kruger  
Sherwin J. Malkin  
F. William McKee II  
Nathan K. Parker Jr.  
Morton A. Polster  
Edward A. Quinnell  
Murray B. Schwartzberg  
Lawrence W. Sperling  
George R. Stege III  
Shoshana B. Tancer  
Edwin S. Taylor  
Robert S. Thompson  
Dale VanWinkle  
Charles T. Zimmerman

**CLASS of 1961**  
**45th Reunion**

**Co-Chairs:** James N. Adler;  
Laurence M. Scoville Jr.; William  
Y. Webb

**Committee:** Harold S. Barron;  
James H. DeVries; Raymond H.  
Drymalski; William S. Farr Jr.;  
Barry I. Fredericks; Irvine O.  
Hockaday Jr.; Richard M. Leslie;  
Daniel E. Lewis Jr.; Kenneth  
Sparks; L. Vastine Stabler Jr.;  
James M. (Mack) Trapp; Lloyd E.  
Williams Jr.

**LSF Gifts and Pledges ..\$136,325**  
**Total Class Giving .....\$409,854**

**\$100,000 and above**

Henry B. Pearsall

**\$50,000 to \$99,999**

William A. Krupman  
Gregor N. Neff  
Stanley R. Zax

**\$25,000 to \$49,999**

Harold S. Barron

**\$10,000 to \$24,999**

James N. Adler  
James H. DeVries  
James M. Trapp  
William Y. Webb

**\$5,000 to \$9,999**

Arthur R. Gaudi  
Elliott C. Miller  
John Edward Porter

**\$2,500 to \$4,999**

James R. Cripe  
Richard L. Kay  
Richard M. Leslie  
Richard W. Odgers  
Lloyd E. Williams Jr.

**\$1,000 to \$2,499**

Richard O. Ballentine  
John H. Bradbury  
Calvin A. Campbell Jr.  
Barry I. Fredericks

Louis Frey Jr.  
Jackson L. Frost  
Donnelly W. Hadden  
Richard J. Heafey  
Bernard Heller  
H. Russel Holland  
Michael Klynn  
Daniel E. Lewis Jr.  
Francis C. Marsano  
George A. Mathewson  
J. Bruce McCubbrey  
Richard E. McEachen  
Robert L. McLaughlin  
Cecil R. Mellin  
Laurence M. Scoville Jr.  
L. Vastine Stabler Jr.  
Stanley A. Williams

**\$1 to \$999**

Robert R. Anderson  
Walter M. Andrew Jr.  
H. Gregory Austin  
Bruce Alden Barnhart  
Robert S. Bolton  
James H. Booker  
Phillip S. Brown  
Donald M. Burkhardt  
J. Philip Burt  
George D. Cameron III  
John E. Cochrane  
Frederic K. Conover  
Bruce J. Daniels\*  
Frederick S. Dean  
Charles A. DeGrandpre  
Virginia M. Diaz  
Raymond H. Drymalski  
Warren E. Eagle  
John J. Esposito  
William S. Farr Jr.  
John A. Fiske  
Stanford E. Gass  
Lewis G. Gatch  
William J. Giovan  
Allan R. Gitter  
Jerome B. Greenbaum  
Stuart S. Gunckel  
James A. Hourihan  
Frederick R. Hubbell  
Thomas E. Hunter  
Anson More Keller

Merwyn M. Kroll  
Walter V. Kron  
Peter F. Levin  
John F. Lymburner  
G. Gregory Michael  
Timothy J. Murtaugh III  
Jerome D. Neifach  
Robert E. O'Connor  
Ben E. Olive  
Bruce N. Parsons  
John L. Peschel  
Robert A. Pfaff  
Hanson S. Reynolds  
Russell H. Riggs  
Gerald F. Rosenblatt  
Albert J. Russell  
Timothy F. Scanlon  
Robert A. Shupack  
Donald A. Slichter  
Charles H. Stark  
Robert M. Steed  
Norton L. Steuben  
Paul S. Teranes  
Robert E. Thorne  
W. Gerald Thursby  
David C. Todd  
Daniel E. Tolfree  
Walter W. Winget

**CLASS of 1966**  
**40th Reunion**

**Chair:** James A. Magee

**Committee:** Douglas M. Cain;  
George C. Coggins; Dewey B.  
Crawford; Barbara E. Handschu;  
Fred E. Schlegel; William C.  
Whitbeck; Thomas G. Washing;  
Richard J. Williams;

**LSF Gifts and Pledges ..\$213,225**  
**Total Class Giving .....\$926,725**

**\$500,000 and above**

Ronald L. Olson

**\$200,000 to \$499,999**

Samuel Zell

\* Deceased

## Reunion Giving



*Christine Gregory, '96, director of student affairs, catches up with Ross Romero, '96.*

### **\$50,000 to \$99,999**

Richard C. Sneed

### **\$10,000 to \$24,999**

Michael L. Carter  
Dewey B. Crawford  
J. Alan Galbraith  
Roger A. Goldman  
Terence Murphy  
Richard J. Williams

### **\$5,000 to \$9,999**

James G. Phillipp  
John M. Walker Jr.  
William T. Wood Jr.

### **\$2,500 to \$4,999**

Alfred M. Butzbaugh  
Douglas M. Cain  
William E. Doster  
Thomas A. Pliskin

### **\$1,000 to \$2,499**

Jonathan L. Birge  
Terrance K. Boyle  
Robert E. Epstein  
Peter S. Galloway  
Paul E. Goodspeed  
Michael D. Gordon  
Bruce M. Groom  
David M. Guinn  
Robert E. Heller  
Morton Q. Levin  
John H. Martin  
Robert S. Paye  
Fred E. Schlegel  
Erik H. Serr  
Judith L. Teichman  
Richard F. Vitkus  
Thomas G. Washing  
Kenneth J. Wysoglad

### **\$1 to \$999**

Stanley G. Andeel  
William C. Anderson  
Horace Andrews Jr.  
James G. Barnes  
William G. Barris  
Robert D. Becker  
Robert W. Beicke  
Robert S. Berkwitz  
Rodger V. Bittner  
Stephen A. Bodzin

Nathaniel P. Breed Jr.

Jon D. Carlson  
Thomas D. Chase  
A. Balfour Chinn Jr.  
George C. Coggins  
William M. Colby  
James F. Companion  
Douglas M. Crowley  
Eugene F. Dattore  
William B. Davis Jr.  
Michael C. Devine  
Robert A. Dimling  
Dennis C. Drury  
George M. Elsener  
Edwin G. Emerson  
S. Cody Engle  
Robert J. Epstein  
James C. Ervin Jr.  
Thomas S. Eveland  
Eric J. Fauri  
John E. Ferris  
Gerald B. Fincke  
Sidney L. Frank  
Thomas D. Geil  
George J. Genndening  
Robert E. Gilbert  
Ronald D. Glotta  
Hiram S. Grossman  
Joseph P. Hafer  
Kenneth R. Harker Jr.  
William S. Hawgood II  
E. Franklin Hill Jr.  
William K. Hoffman  
Robert E. Hollweg  
Jay S. Hooker  
Raymond E. Hopkins  
John C. Hutchinson  
Duane H. Ilvedson  
Gilbert V. Indeglia  
Jon C. Jacobson  
David Ralph Johnson  
Stephen W. Jones  
Thomas L. Jones  
Dennis S. Kayes  
Steven M. Kin  
Richard J. King  
Victor E. D. King  
Frederick W. Krieg  
Bailey H. Kuklin  
R. Bruce Laidlaw

Kenneth J. LaMotte  
James T. Leavitt Jr.  
Edward P. Levy  
Stanley Lubin  
Robert F. Ludgin  
Dianne M. Magee  
William F. Marx  
Robert P. McBain  
F. William McCarty  
William S. McDowell Jr.  
Michael J. Mehr  
David B. Mueller  
George B. Mullison  
Kenneth R. Oosterhouse  
Ronald S. Pretekin  
Gary L. Price  
John C. Provine\*  
Thomas R. Reinsma  
Jerrell P. Rosenbluth  
Jeffrey C. Rubenstein  
Robert G. Schuchardt  
Lawrence J. Sherman  
Morris N. Simkin  
William J. Skow  
Gary N. Sundick  
Charles D. Todd III  
Robert O. Tyler  
Stuart C. Unger Jr.  
Thilo Von Bodungen  
John B. Whinrey  
William C. Whitbeck  
Samuel W. Witwer Jr.

## **CLASS of 1971** **35th Reunion**

**Co-Chairs:** Paul Alexander;  
Howard L. Boigon

**Committee:** Richard R. Burns;  
Frederick L. Feldkamp; Dawn  
Scrivnor Hertz; John E. Jacobs;  
Muriel Irwin Nichols; William J.  
Rainey; Julia Rankin Richardson;  
Sterling L. (Terry) Ross; Jeffrey  
H. Smith; David M. Spector;  
David M. Stahl; Donald F. Tucker;  
Georgetta Ann Wolff

**LSF Gifts and Pledges..\$511,745**  
**Total Class Giving.....\$684,757**

### **\$100,000 and above**

Richard R. Burns

### **\$50,000 to \$99,999**

Henry E. Fuldner  
Sterling L. (Terry) Ross  
Jeffrey H. Smith

### **\$25,000 to \$49,999**

Howard L. Boigon  
Paul F. Sefcovic  
David M. Stahl

### **\$10,000 to \$24,999**

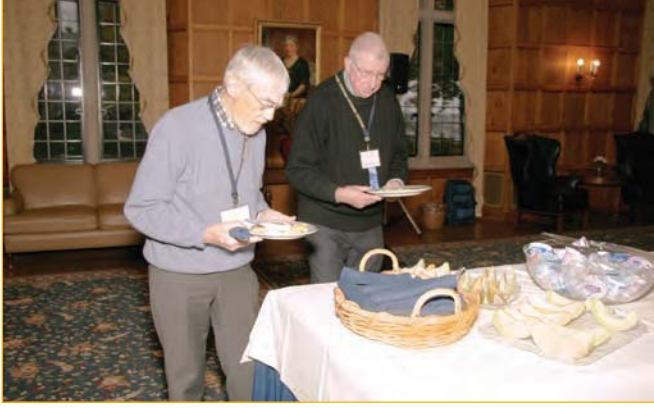
Paul Alexander  
Alan L. Axelrod  
Denis B. Binder  
Dickson G. Brown  
Frederick L. Feldkamp  
Carter E. Keithley  
Alan R. Lepene  
Muriel Irwin Nichols  
Cecil M. Phillips  
William J. Rainey  
David M. Spector

### **\$5,000 to \$9,999**

Wayne C. Dabb Jr.  
James N. Doan  
Jeffry N. Gabel  
Barry D. Hovis  
Wayne C. Inman  
Mary Kay Kane  
Alan M. Loeb  
Julia Rankin Richardson  
Alan H. Richardson  
Edward D. Sybesma Jr.  
Georgetta Ann Wolff  
Joseph J. Ziino Jr.

### **\$2,500 to \$4,999**

Robert M. Gault  
Michael J. Gentry  
Dawn Hertz  
John E. Jacobs  
David E. LeFevre  
Karen K. MacKay  
Jeffrey L. Schmier  
Abraham Singer  
Roger B. Tilles  
Donald F. Tucker



*Ted Shank, '56, and Bill Cassebaum, '56, agree that Sunday brunch in the Lawyers Club is the perfect end to a weekend of old and new memories.*



*Anita Robb, '82, and Gary Robb '81, rev up for the big game.*

**\$1,000 to \$2,499**

Karl Adkins  
Robert W. Edwards Jr.  
David E. Everson Jr.  
James P. Feeney  
Lawrence D. Fruchtman  
Gene N. Fuller  
Donald S. Gardner  
Thomas R. Johnson  
Frank Kaplan  
Robert D. Kaplow  
Stephen P. Kilgriff  
Wolfgang Knapp  
Charles M. Lax  
Howard A. Serlin  
Ronald P. Soltman  
Gerald V. Weigle Jr.

**\$1 to \$999**

Lawrence M. Abramson  
Leslie W. Abramson  
John L. Barkai  
Richard Morley Barron  
Robert M. Becker  
A. John Beke  
Alan C. Bennett  
Bruce D. Black  
Robert I. Blevens  
Peter W. Booth  
John Blair Bowers  
Robert J. Bremer  
Thomas W. Brookover  
Darrel G. Brown  
Aaron H. Bulloff  
C. Erik Chickedantz  
Arthur Read Cone III  
Jules I. Crystal  
Dean E. Daggett  
Anthony S. DeFrank  
Thomas B. Dorris  
Robert J. Dugan  
Frank D. Eaman  
George W. Edwards  
Meredith N. Endsley  
Michael B. Evanoff  
Donald C. Exelby  
Louis G. Ferrand Jr.  
David M. Fitzgerald  
Timothy A. Fusco  
Connie R. Gale

Gerald Garfield  
Stuart E. Grass  
Peter T. Hoffman  
Peter Johan Hustinx  
Stuart M. Israel  
W. Thomas Jennings  
David C. Jensen  
Garrett B. Johnson  
Robert T. Joseph  
Peter A. Kelly  
R. Joseph Kimble  
John E. Klein  
James M. Kraft  
Noel Anketell Kramer  
Karl E. Kraus  
Edward M. Kronk  
Brian J. Lake  
Bruce J. Lazar  
Stephen R. Leeds  
Bruce R. LeMar  
Steven H. Levinson  
Pamela J. Liggett  
J. Terence Lyons  
David M. Mattingly  
Robert E. McFarland  
David W. McKeague  
Gale T. Miller  
Richard L. Mintz  
Kenneth M. Mogill  
Melvin J. Muskovitz  
William R. Nuernberg  
James A. O'Brien Jr.  
Corey Y. S. Park  
Sally Ganong Pope  
Herbert J. Ranta  
Wanda J. Reif  
Michael F. Reuling  
William H. Scharf  
Don A. Schiemann  
John R. Schoonmaker  
Ronald B. Schram  
Kurt G. Schreiber  
Peter Mag Schwolsky  
Lowell M. Seyburn  
Dale L. Sielaff  
Donald H. Silverman  
Joseph T. Sinclair III  
Dustan T. Smith  
William H. Starkweather  
Robert A. Stein

Charles M. Stewart  
Ronald J. Styka  
Gordon E. Swartz  
Deanell R. Tacha  
Lawrence C. Tondel  
James E. Vande Bunte  
Gary L. Walker  
Paul D. Weaver  
Larry C. Willey  
Steven H. Winkler  
Steven M. Woghin  
Howard B. Young  
Robert J. Zitta

Bertie N. Butts III  
Corinne A. Goldstein  
Dennis M. Haffey  
Michael S. Olin  
Richard Postma  
David M. Rubin  
Nancy R. Schauer  
Gillian Steinhauer  
David L. Wolfe

**\$2,500 to \$4,999**

Robert D. Aicher  
Christine L. Albright  
Ellen Borgersen  
Philip J. Collora  
Richard L. Epling  
Richard Laurence Frank  
Valorie A. Gilfeather  
Joyce Trimble Gwadz  
David F. Heroy  
Freda J. Levenson  
Nancy Meier Lipper  
Andrew Harold Marks  
Michael S. Pabian  
Robert E. Sheeder  
Patrick E. Shipstead  
Valdemar L. Washington  
Christine Weiner  
Michael H. Woolever

**\$1,000 to \$2,499**

Kenneth A. Alperin  
Robin E. Neuman Caton  
Karen H. Clark  
Charles M. Cobbe  
Michael R. Flaherty  
Stephen E. Godsall-Myers  
Daniel J. Goldberg  
Henry L. Gompf  
Gordon W. Johnston  
Thomas D. Johnston  
Joseph Samuel Kanfer  
Joseph J. Kochanek  
Jonathan D. Lowe  
John C. Rothhaar  
Renee M. Schoenberg  
Thomas John Sharbaugh  
William Stewart Waldo  
Jerome R. Watson

\* Deceased

**CLASS of 1976  
30th Reunion**

**Co-Chairs:** Bertie N. Butts III;  
William P. O'Neill

**Fundraising Committee:** Karen  
H. Clark; William A. Kindorf III;  
Nancy Meier Lipper; Robert E.  
Sheeder; David L. Wolfe

**Participation Committee:**  
Robert D. Aicher; Valorie  
Gilfeather; Corinne A. Goldstein;  
Will E. McLeod; Nancy R.  
Schauer; Renee M. Schoenberg;  
William S. Waldo; Jerome R.  
Watson

**LSF Gifts and Pledges ..\$369,378  
Total Class Giving.....\$421,628**

**\$100,000 and above**  
Yvonne S. Quinn

**\$50,000 to \$99,999**  
William P. O'Neill

**\$10,000 to \$24,999**  
David M. Armitage  
P.E. Bennett  
Maryjo Rose Cohen  
John L. Gierak  
William A. Kindorf III  
William George Snead  
Dona A. Tracey

**\$5,000 to \$9,999**  
Gary E. Baker

## Reunion Giving

### \$1 to \$999

Charles Francis Adams  
 Susan Anne Bandes  
 Howard M. Bernstein  
 William K. Black  
 J. Rion Bourgeois  
 Joel G. Bouwens  
 James C. Bruinsma  
 Denis P. Burke  
 Thomas A. Busch  
 Lynn P. Chard  
 Barbara N. Coen  
 Gary E. Davis  
 David L. Dawson  
 Lynne E. Deitch  
 Gregory P. Dunsky  
 Mary U. Eberle  
 H. Richard Elmquist  
 Douglas W. Emerich  
 Morgan L. Fitch IV  
 Harvey Freedenberg  
 John B. Gaguine  
 Robert Mark Gesalman  
 James Thomas Graham  
 Nancy N. Grekin  
 Paul R. Griffin  
 Constance D. Groh  
 Wayne M. Grzecki  
 Gary L. Hahn  
 Lawrence N. Halperin  
 William C. Hanson  
 Carolyn D. Harbin  
 Warren Harrison  
 Jon Eric Hayden  
 Stephanie Heim  
 Anne H. Hiemstra  
 Marilyn L. Huff  
 Douglas W. Huffman  
 Pamela S. Hyde  
 Andrew C. Jacobs  
 William R. Jansen  
 Gregg H. Jones  
 Richard A. Kaminsky  
 Robert I. Kligman  
 Richard A. Kopek  
 George A. Kresovich  
 Barry S. Landau  
 Nelson S. Leavitt  
 Christoph Hans Leuenberger  
 Donald B. Lewis

Thomas Woodrow Linn  
 Dennis K. Loy  
 Mark Alan Luscombe  
 Christopher J. McElroy  
 John C. Oldenburg  
 Jill Feldman Olswanger  
 Stephen G. Palms  
 Michael L. Peroz  
 Todd David Peterson  
 Dwight Wilburn Phillips  
 Diana Volkmann Pratt  
 Arthur R. Przybylowicz  
 Joseph Marion Rimac  
 Carol V. Rogoff  
 Judith Rosenbaum  
 Ellen Beth Rosenthal  
 Carol Sanger  
 Thomas Patrick Sarb  
 Lynn A. Schefsky  
 Charles M. Schiedel  
 C.F. Scott Schofield  
 Warren M. Schur  
 Jeffrey Clark Smith  
 John G. Sobetzer  
 Lyman Franklin Spitzer  
 Sharon Raykovitz Stack  
 Robert B. Stevenson  
 Thomas D. Terpstra  
 Timothy J. Tornga  
 Howard C. Ulan  
 John Harrison Vestal  
 Deborah J. Hammerlind Weber  
 Michael A. Weinberg  
 Robert J. Whitley  
 Joel C. Winston  
 Andrew M. Zack

### CLASS of 1981 25th Reunion

**Fundraising Chair:** Kent D. Syverud  
**Participation Chair:** Jonathan T. Walton Jr.  
**Fundraising Committee:** Richard Michael Cieri; Karl R. Fink; Gary C. Robb; Glenn A. Shannon; Gregg F. Vignos



Former Psurfs Hal Leeds, '56, John McDermott, '56, and Van Hatch, '56, treat classmates to a concert during the class of 1956 dinner.

### Participation Committee:

Steven G. Adams; Natalia Delgado; Steven S. Diamond; David D. Gregg; Jason S. Johnston; Jeffrey S. Lehman; William C. Marcoux; Barbara Ruth Mendelson; Kenneth C. Mennemeier; Marissa W. Pollick; Janet Susan VanAlsten; Linda S. Walton

**LSF Gifts and Pledges..\$468,782**  
**Total Class Giving.....\$572,360**

**\$100,000 and above**  
 Anonymous

**\$50,000 to \$99,999**  
 Gary C. Robb

**\$25,000 to \$49,999**  
 Richard Michael Cieri  
 Jeffrey S. Lehman  
 Diana M. Lopo  
 Kent D. Syverud  
 Gregg F. Vignos

**\$10,000 to \$24,999**  
 Karen Sani Ali  
 Steven S. Diamond  
 Mitchell Dunitz  
 Deborah E. Greenspan  
 Robin L. Harrison  
 Randall R. Kaplan  
 Carmen Judith Lawrence  
 Russell E. Makowsky  
 Kathy Manning  
 William C. Marcoux  
 Deryck A. Palmer  
 Glenn Andrew Shannon  
 John M. Sloss

**\$5,000 to \$9,999**  
 Natalia Delgado  
 John Wilson Finger  
 James S. Hilboldt Jr.  
 Richard Seth Kolodny  
 Hal Andrew Levinson  
 Barbara Ruth Mendelson  
 Robert R. Wisner

**\$2,500 to \$4,999**  
 Steven G. Adams  
 Andrew Varnum Beaman

John D. Croll  
 Stuart L. Gasner  
 David D. Gregg  
 Douglas B. Levene  
 Mark R. Lezotte  
 Stewart L. Mandell  
 Kenneth C. Mennemeier  
 Michael Ostroff

**\$1,000 to \$2,499**  
 Bruce G. Arnold  
 Andrea Beggs  
 Steven D. Brown  
 Benjamin Calkins  
 Rudolph B. Chavez  
 Robert R. Cowell  
 Ronald William Crouch  
 Charles Murray Denton  
 Marianne Gaertner Dorado  
 John M. Dorsey III  
 Karl R. Fink  
 Kathryn Hamilton Fink  
 Jack L. Fortner  
 John C. Grabow  
 Richard S. Hoffman  
 Jason S. Johnston  
 Patricia A. Kenney  
 Deborah M. Levy  
 Daniel Joseph McCarthy  
 Barbara Ruth Mendelson  
 J. Gregory Richards  
 Ann O. Rosenblum  
 Karen K. Shinevar  
 Alisa Sparkia Moore  
 Stefan Darrell Stein  
 Mark E. Taylor  
 Bruce A. Templeton  
 Janet Susan VanAlsten  
 Jonathan T. Walton Jr.  
 Linda S. Walton  
 Elizabeth Warner  
 Nancy Williams

**\$1 to \$999**  
 Lawrence W. Abel  
 Arthur Patrick Alcaez  
 Kevin D. Anderson  
 David George Beauchamp  
 Paul Bradford Burke  
 Karen L. Chadwick  
 Robert Iddings Chaskes  
 Anthony Michael Damiano



Go Blue!



Alumni toast Michigan Law at the Class of 1956 dinner.

Mary Ann Denton  
 Augustin Douoguih  
 William R. Drexel  
 Philip L. Dutt  
 Alexander M. Dye  
 Russell M. Finestein  
 John R. Foote  
 Bruce Allan Fox  
 Robert W. Fulton  
 Signe S. Gates  
 Atsushi Gondo  
 Eric K. Gressman  
 Andrew E. Grigsby Jr.  
 Meg Hackett  
 Bruce W. Haffey  
 R. Lee Hagelshaw  
 Gwen Thayer Handelman  
 Charles E. Harris III  
 Mary M. Hendriksen  
 Howard Neil Henick  
 Wayne D. Hillyard  
 Scott W. Howe  
 Ann K. Irmis  
 Florence R. Keenan  
 F. Scott Kellman  
 Jonathan S. Klein  
 Charles Howland Knauss  
 Richard David Korn  
 Howard L. Kramer  
 Kenneth A. Kroot  
 Michael J. Kump  
 James David Kurek  
 Jon R. Lauer  
 L. David Lawson  
 John M. Liming  
 Eric Arthur Linden  
 Stuart D. Logan  
 Thomas E. Maier  
 David McFarlin  
 Kazuya Murakami  
 Darlene M. Nowak  
 Dustin P. Ordway  
 Susan McKee Pavlica  
 Alan A. Pemberton  
 Vito C. Peraino  
 Steven R. Porter  
 Yves P. Quintin  
 Raimund Theodor Raith  
 Michael D. Remington  
 Daniel Renbarger  
 Ernest M. Robles

Jose M. Sario  
 Suellyn Scarnecchia  
 William Fisher Seabaugh  
 Richard E. Segal  
 Lawrence Alan Serlin  
 Lawrence M. Shapiro  
 Peter R. Silverman  
 Richard V. Singleton  
 Debra Marlene Stasson  
 Anita Louise Wallgren  
 Christopher M. Wells  
 Deborah K. Wood  
 Richard Louis Wood  
 Noah Eliezer Yanich  
 Stephen A. Yokich  
 Elizabeth Anne Zatina

**CLASS of 1986**  
**20th Reunion**

**Fundraising Chair:** W. Todd Miller

**Participation Chair:** Arthur H. Siegal

**Fundraising Committee:**  
 Christopher J. Caywood; Audrey L. Krasnow Gaynor; Michael P. O'Neil

**Participation Committee:**  
 Patrick C. Cauley; Kerry A. Galvin; Amy Lambert; Karen K. Manders; David M. Matuszewski; Lynn M. McGovern; Scott E. Munzel; Megan Pinney Norris; Rebecca L. Rafferty; Milton L. Williams Jr.

**LSF Gifts and Pledges . \$224,355**  
**Total Class Giving ..... \$228,919**

**\$25,000 and above**  
 Kerry A. Galvin

**\$10,000 to \$24,999**  
 Dean N. Menegas  
 W. Todd Miller  
 Mark Astley Moran

**\$5,000 to \$9,999**  
 Christopher J. Caywood  
 Dana D. Deane  
 Peter G. Fitzgerald

Timothy R. Hanigan  
 Karin Day Kingsley  
 Arthur H. Siegal  
 John B. Thomas  
 David J. Zott  
**\$2,500 to \$4,999**  
 Patrick C. Cauley  
 Audrey L. Krasnow Gaynor  
 Lydie A. Hudson  
 Andrew G. Klevorn  
 David M. Matuszewski  
 Paul C. Nightingale  
 Steven A. Roach  
 Margaret K. Seif  
 Robert R. Shuman  
 Michael D. Turner

**\$1,000 to \$2,499**  
 Bruce P. Ashley  
 Robert C. Azarow  
 Ronald S. Betman  
 Steven G. Brody  
 Michael N. Burlant  
 Lee C. Cook  
 Maureen M. Crough  
 Michael T. Edsall  
 Andrew M. Gaudin  
 Gregory M. Gochanour  
 Lynne Oliver Gochanour  
 John G. Hale  
 Robert E. Inveiss  
 Mary E. Itin Kors  
 Harlan D. Kahn  
 Lawrence I. Kiern  
 Steven V. Krauss  
 Holly H. Levinson  
 Carole L. Neuchterlein  
 David B. Sickle  
 Thomas M. Skelly  
 Kevin Tottis  
 Karl T. Williams  
 Bruce A. Wobeck

**\$1 to \$999**  
 Gary M. Arkin  
 Karen L. Baril  
 John P. Barker Jr.  
 Stephen F. Barthelmess  
 Eric D. Brandfonbrener  
 Arthur D. Brannan  
 Susan E. Brock

Alexandra K. Callam  
 Jonathan E. Carey  
 Lettie M. Carr  
 Margaret Chon  
 Timothy J. Chorvat  
 Robert M. Cohen  
 James R. Collett Jr.  
 Susan A. Davis  
 Mary R. DeYoung  
 Richard N. Drake  
 Amy S. Farrior  
 Jeremy Mark Firestone  
 Eric M. Fogel  
 L. Joseph Genereux  
 Geoffrey R. Gist  
 Anne E. Gold  
 Martha J. Gordon  
 Robert B. Gordon  
 Cecelia A. Grace  
 Michael K. Grace  
 Abner S. Greene  
 David M. Greenwald  
 Matthew I. Hafter  
 Eric C. Hard  
 John J. Hern  
 Kimberly K. Hudolin  
 Donald M. Itzkoff  
 Howard B. Iwrey  
 Michael L. Johnson  
 Mark A. Kaprelian  
 Kenwyn A. Kindfuller  
 Amy S. Knopf  
 Lawrence J. Knopf  
 Peter C. Krupp  
 Ramona C. Lackore  
 Warren C. Laski  
 Karen K. Legault  
 Eve C. Lerman  
 Richard A. Levy  
 Michael C. Lieb  
 Veronique M. Liem  
 Lisa S. Mankofsky  
 Linda S. F. Marshall  
 Jacqueline A. May  
 Lori A. McAllister  
 Melody L. McCoy  
 Lynn M. McGovern  
 John R. McLain  
 James R. Modrall  
 William J. Moreland

## Reunion Giving

Thomas R. Morris  
 Scott Edward Munzel  
 Megan Pinney Norris  
 Nat L. Pernick  
 Kiat Poonsombudlert  
 Rebecca L. Raftery  
 Kevin V. Recchia  
 Andrew C. Richner  
 Nancy G. Rubin  
 Devin S. Schindler  
 Jeff E. Scott  
 Robin L. Shaffert  
 Edward H. Shakin  
 Keith A. Shandalow  
 Cynthia J. Sherburn  
 Joseph E. Slater  
 Sheila M. Spalding Blakney  
 Bradley M. Thompson  
 Mark D. Toljanic  
 Mary K. VanderWeele  
 Susan L. Vogel-Vanderson  
 R. Jeffery Ward  
 Jean MacDonald Weipert  
 James J. Williams  
 Milton L. Williams Jr.

### CLASS of 1991 15th Reunion

**Fundraising Co-Chairs:** Robert J. Borthwick; Kevin T. Conroy

**Participation Chair:** Barbara L. McQuade

**Committee:** David K. Callahan; Michael R. Carithers Jr.; Michael F. Colosi; Theodore E. Deutch; Laura J. Hines; Michael J. Lawrence; Martin D. Litt; Christopher D. McCleary; Angel L. Reyes III; Adam C. Sloane; Dehai Tao; Albert L. Vreeland II

**LSF Gifts and Pledges...\$90,027  
 Total Class Giving.....\$91,247**

**\$10,000 and above**  
 James T. Grant

**\$5,000 to \$9,999**  
 David K. Callahan  
 Albert L. Vreeland II

#### **\$2,500 to \$4,999**

Robert J. Borthwick  
 Kevin T. Conroy  
 Sheila M. Conroy  
 Pranathana Jha  
 Angel L. Reyes III  
 Adam C. Sloane

#### **\$1,000 to \$2,499**

Carla Folz Brigham  
 Johan V. Brigham  
 Amy E. Kosnoff  
 Ann I. Mennell  
 Robert R. Ouellette

#### **\$1 to \$999**

M. Suzanne Anderson  
 John L. Aris  
 Charles P. Bacall  
 Pamela Lee Barkin  
 William B. Batzer  
 Jean T. Brennan  
 Anne T. Breuch  
 Joan Kooistra Brush  
 William R. Burford  
 Troy M. Calkins  
 Clinton E. Cameron  
 Michael G. Canaras  
 James M. Carlson  
 Catherine Coffey  
 Andrew M. Cohen  
 Elizabeth Schuler Cohen  
 Sergio D. Costa  
 Lisa A. Crooms  
 Lynn Williams Davenport  
 Edward T. DeLaLoza  
 Kathryn Dessayer Whittaker  
 Kathryn T. Ditmars  
 Diane Lamont Dorsey  
 Anthony J. Feldstein  
 Ora T. Fisher  
 James A. Flaggert  
 Steven C. Florsheim  
 Eran N. Gasko  
 Robert J. Gilbertson  
 Steven F. Ginsberg  
 Bridget T. Gonder  
 Mark A. Gottlieb  
 Elizabeth A. Grossman  
 Scott M. Hare  
 Kenneth A. Hill Jr.



*Reunion attendees enjoy tailgating Michigan-style, complete with winter hats and coats.*

Laura J. Hines  
 Kevin Michael Hinman  
 Kathleen E. Horohoe  
 Kim Ruedi Howlett  
 Steven H. Huff  
 Michael K. Isenman  
 Mark G. Johnston  
 Michael T. Kay  
 John M. Kennedy  
 Robert J. Kilgore  
 Margo S. Kirchner  
 Joseph Z. Kowalsky  
 Mi Young Lee  
 Scott C. Lewis  
 Martin D. Litt  
 Bernard T. Lourim  
 Paul R. Maguffee  
 Sarah R. Maguffee  
 Philip S. McCune  
 Barbara L. McQuade  
 David A. Moran  
 Edurne Navarro-Varona  
 Jill D. Neiman  
 Charles V. O'Boyle  
 Haruko Ozeki  
 Eunice Park  
 Carl R. Pebworth  
 Michael T. Pfau  
 Jeffery J. Qualkinbush  
 Molly Reilly  
 Craig E. Samuels  
 Laralyn M. Sasaki  
 Stephen L. Scharf  
 Craig T. Smith  
 Vanessa L. Smith  
 Sarah J. Somers  
 Craig S. St. Pierre  
 Jennifer Lee Taylor  
 David M. Thimmig  
 William G. Tishkoff  
 Sadhna G. True  
 Matthew T. VandenBosch  
 Kristopher L. Wahlers  
 Christopher A. White  
 Samuel C. Wisotzkey  
 Emily J. Wolfe  
 Frank H. Wu

### CLASS of 1996 10th Reunion

**Co-Chairs:** David B. Cade; Carol E. Dixon; Jesse S. Reyes

#### **Fundraising Committee:**

Louise S. Brock; Marisa Toso Brown; Richard Earle Charlton III; Drew N. Gabel; Ross Romero; Jeffrey C. Torres; Adriana V. Vlasic

#### **Participation Committee:**

Carrie J. Fletcher; Christine Gregory; Richard J. Mrizek; Maureen E. Sweeney; Jessica Toll

**LSF Gifts and Pledges...\$86,721  
 Total Class Giving \$87,691**

#### **\$10,000 and above**

David B. Cade  
 Adriana V. Vlasic

#### **\$5,000 to \$9,999**

David Arroyo  
 Laurice Z. B. Arroyo  
 Drew N. Gabel  
 Jesse S. Reyes  
 Maureen Sweeney

#### **\$2,500 to \$4,999**

Heidi Betz  
 Travis Richardson  
 Ross Romero

#### **\$1,000 to \$2,499**

Louise S. Brock  
 Marisa Toso Brown  
 Richard Earle Charlton III  
 Carol E. Dixon  
 Daniel P. Ginsberg  
 Bryan Hales  
 Catherine E. Maxson  
 Eric M. Sherman  
 Erik S. Stamell  
 Jeffrey C. Torres  
 Thomas P. Ward

#### **\$500 to \$999**

Susan Mosser Caperton  
 Jason A. Crotty





Reunion attendees enjoy a moment together before the featured speaker's Saturday morning talk.



A quiet moment revisiting the halls of Hutchins.

Michael DuBay  
Timothy M. Devlin  
Deborah L. Hamilton  
Berlin Madison  
Jong-Koo Park  
Heather J. Stewart

**\$1 to \$499**

Kristy L. Allen  
Carol J. Banta  
Benjamin H. Barton  
Jennifer Z. Belveal  
Kincaid C. Brown  
Jeff E. Butler  
Nathaniel Cade Jr.  
Amy O'Meara Chambers  
Thomas B. Cochrane  
Maria Comninou  
Daniel P. Dain  
Lisa R. D'Avolio  
Kate DeVries Smith  
Chuck E. Duross  
Anna L. Francis  
Beth Fulkerson  
Matthew B. Gatrell  
Stephanie J. Gold  
Eric P. Gotting  
Katherine H. Han  
Kristin Ann Hermann  
Paul J. Huff  
John C. Hutt  
Matthew B. Kall  
Naomi F. Katz  
Margery Siegel Klausner  
Tamas I. Kovacs  
Peter J. Krumholz  
Stephen M. Kuperberg  
Ariana R. Levinson  
Anne R.K. MacIver  
Nathaniel M. Marrs  
Yoko Masuzawa  
Brad Miller  
Richard J. Mrizek  
Francis X. Neuner  
Paul J. Niewiadomski  
Richard A. Norwitt  
Eric R. Phillips  
Andrew P. Pillsbury  
Suzanne J. Prysak  
Lauren B. Raphael

Jeffrey A. Rossman  
Allison M. Ryan  
Stephanie Schmelz  
Daniel Shenkman  
Randall L. Shoemaker  
Aubrey D. Smith  
Grant S. Sovern  
Trent J. Taylor  
Michael J. Thomas  
Jessica Toll  
David L. Trygstad  
Joseph P. Wallace  
John E. Wise  
Jared M. Wolff  
Kathryn S. Wood

**CLASS of 2001  
5th Reunion**

**Co-Chairs:** Howard W. Burdett Jr.; Elizabeth H. Goldman; Sarah M. Riley; Marcela D. Sanchez

**Fundraising Committee:** Thomas N. Blanchard; Kevin M. Costantino; Joseph E. Giles; Daniel J. Kelly; Kelly O'Donnell; SallyJean Tews

**Participation Committee:** George A. Avila; Eve L. Brensike; Catherine T. Dobrowitsky; Jami A. Gekas; Laura E. Kacenjar; Robert A. Mikos; Angelica M. Ochoa; Bryce C. Pilz; Amy L. Harwell Sankaran; Margaret J. Schneider; Joshua M. Smith

**LSF Gifts and Pledges...\$56,210  
Total Class Giving.....\$56,785**

**\$10,000 and above**  
Deborah A. Haase

**\$5,000 to \$9,999**  
Howard W. Burdett Jr.

**\$2,500 to \$4,999**  
Joseph E. Giles  
Tirrell J. Paxton  
Marcela D. Sanchez

**\$1,000 to \$2,499**  
John A. Amash

George A. Avila  
Ryan F. Bloom  
Shayna S. Cook  
Kevin M. Costantino  
Elizabeth H. Goldman  
Daniel J. Kelly  
Robert A. Mikos  
Kelly O'Donnell  
Mark W. Pletcher  
F. Matt Ralph  
Michael J. Riela  
Amy L. Harwell Sankaran  
Vivek S. Sankaran  
SallyJean Tews

**\$500 to \$999**

Thomas N. Blanchard  
Jason H. Casell  
William P. Johnson  
Angelica M. Ochoa  
Sarah M. Riley  
Linda Maria V. Wayner

**\$1 to \$499**

Guido G. Aidenbaum  
Michael J. Alef  
Monica Beck  
Kristen M. Beutler  
Miriam Bitton  
Eve L. Brensike  
Steve Bressler  
Nakisha N. Chaney  
Susy Chen  
Jean-Marc Corredor  
Sarah A. Deyoung  
Paul A. Diller  
Catherine T. Dobrowitsky  
Danielle M. Donaldson  
Paul J. Dutton  
Aaron A. Fate  
Allison A. Fink  
Cristen S. Frankel  
Todd A. Frankel  
David P. Giles  
Brian C. Gruber  
Scott W. Hairston  
Julianne M. Hartzell  
Sungjin Kang  
Sarah P. Kelly  
Kristopher Kiel  
Peter Kleinhans

Chad O. Langley  
Richard LeBrun  
Nicole M. Lucier  
Scott A. Martin  
Kelly M. Mathews  
Frederick L. McDonald II  
Bonnie Schroeder McGuire  
Joshua A. McGuire  
Rebecca Min  
Yung Joo Oh  
Gerald S. Ohn  
Jasmine C. Patel  
Julia H. Powell  
Caroline A. Reckler  
Eric E. Reed  
Cristina W. Ritchie  
Jessica Gibson Rosen  
Jacob Russin  
Felix Saratovsky  
Jennifer L. Saulino  
Neal E. Sawatzke  
Shannon N. Scheloske  
Charu J. Shah  
Wei Shen  
Rebecca L. Sipowicz  
Jo Ann K. Slater  
Joshua M. Smith  
Judd Spray  
Caroline L. Stevens  
Theodore H. Swanson  
Scott D. Thompson  
Bonnie H. Walker  
Seth F. Wilkinson  
Zahraa V. Wilkinson  
Jonathan Witmer-Rich

Correction to the most recently published *Report of Giving (July 1, 2005-June 30, 2006)*: We regret that we omitted Jeffrey\*, '75, and Susan Liss from the \$25,000 to \$49,999 category in Leadership Giving (page 7). We apologize for the error.

\* Deceased

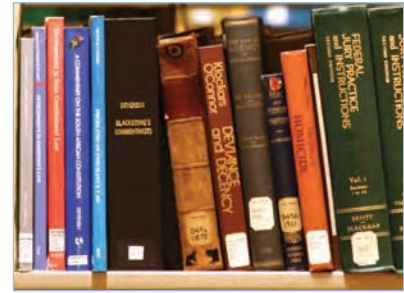
## IN DETAIL

- 48 Michele Coleman Mayes, '74: 'You have to be agile...'
- 48 Michigan Law alumni directory work approaches completion
- 49 Brian O'Neill, '74: The wheels of justice are stuck
- 50 New Dean's Advisory Council
- 52 Randall Mehrberg, '80: 'We like to be involved in our community'
- 53 AALS honors Karima Bennoune, '94
- 54 Hartmann, '75, becomes CEO of Miller Canfield
- 54 Chan, '98, named Hawaii's commissioner of securities
- 55 Kozolchyk, LL.M. '60, S.J.D. '66, honored in Mexico, U.S.
- 56 Law School grads help ease Pfizer departure impact
- 57 CLASSNOTES
- 67 In Memoriam



**General Counsel**—"You have to be agile in your career. Sometimes opportunities will look for you. Sometimes you need to create them," Michele Coleman Mayes, '74, senior vice president and general counsel of Pitney Bowes, explains as she traces the career path that has made her one of the small number of African Americans who have become general counsels of major American corporations. A veteran of the litigation that followed the merger of Burroughs and Sperry corporations into UNISYS, she also served more than five years as an assistant U.S. attorney in Detroit and Brooklyn, and as a lawyer and eventually vice president, deputy general counsel, and assistant secretary with Colgate-Palmolive Company.

## Michigan Law alumni directory work approaches completion



Compilation of the information that graduates have provided for the new Michigan Law alumni directory has been completed.

Harris Connect Inc., which is producing the directory for the Law School, will be distributing purchased copies of the directory by mid-summer.

The new directory, the Law School's 11th, contains a wealth of information about Michigan Law's 20,000 graduates, including name, graduation year, work affiliation, legal practice area, and e-mail addresses where made available. In addition to letting you search for an individual graduate, the directory will group classmates and other graduates by class year, geographic area, and/or professional practice specialty.

Accurate compilation of such a massive amount of data is a huge and rigorous undertaking that takes many months to complete. Work on the directory began last summer when a letter from Dean Evan H. Caminker went out to all graduates explaining the project. In October, reminders were mailed to those who had not yet updated their information and alumni were given the opportunity to order a directory. Throughout the process the goal has been to make the directory "as comprehensive as possible," notes Caminker.

"The directory will become an invaluable resource for your professional life as well as for maintaining and renewing Michigan Law School friendships from your class year and in your part of the world," Caminker says. It is very important to note that all Law School alumni will appear in the directory, and online through our password protected "Alum Network," unless exclusion has been specifically requested. The online directory information will be available at the end of the summer and will ONLY be accessible to Law School alumni, faculty, staff, and students. Please watch your mail for information on logging onto the system.

**NOTE:** Alumni biographic information that appears in the Law School directory may also appear in other forms made available to Law School alumni, faculty and staff, and students only, including printed subsets by class, region, etc., in addition to on the internet in the password protected "Alum Network," accessible only to Law School alumni, faculty and staff, and students.

## Brian O'Neill, '74: The wheels of justice are stuck



**B**rian O'Neill, '74, never expected justice's wheels to spin freely. But he cannot abide the disillusioning tease of starts and fits that has moved his most celebrated case at barely glacial speed since it was filed in 1989.

His case is on behalf of more than 32,000 people harmed by the grounding of the *Exxon Valdez* in Alaska's Prince William Sound in March 1989, a misnavigation that split the 987-foot hull and spilled 11 million gallons of crude oil into the frigid, pristine waters of the sound, O'Neill told an audience of Michigan Law graduates at their reunion late last fall. Within half a day the oil had spread 600-700 miles, he said, a distance equal to that from San Francisco Bay to the northern end of Puget Sound, and within two months fisheries in the area were forced to shut down.

A total of more than 32,000 people were harmed by the spill, according to O'Neill, former defense specialist with Faegre & Benson in Minneapolis who Exxon-Valdez took onto the offensive (he now heads his firm's litigation group). That was spring 1989, the year that the Berlin Wall came down.

By 1991, the year the Soviet Union dissolved, the hundreds of lawsuits from the accident were consolidated. Discovery proceeded until 1993, with attorneys collecting more than 14 million documents and more than 1,000 depositions. By May 1994, however, the Ninth Circuit had not yet ruled if the case should go to federal or state court, so attorneys took it into U.S. District Court in Alaska. There, O'Neill said, U.S. District Judge H. Ross Holland, '61, and attorney Ron Olson, '66, of Munger, Tolles & Olson in Los Angeles, representing a number of oil companies other than Exxon, moved the trial along

at a reasonable pace. The verdict: \$286 million in compensatory damages and \$5 billion in punitive damages against Exxon.

After that the case bogged down at the U.S. Court of Appeals for the Ninth Circuit, while history moved along elsewhere: The United States invaded Iraq in Operation Desert Storm; Bill Clinton survived impeachment and finished his eight years in the White House; the U.S. Supreme Court decided the 2000 presidential election; and the U.S. invaded Iraq a second time, deposed leader Saddam Hussein, and found itself three years later hoping that a surge in U.S. troop numbers could calm Iraq's sectarian warfare and give the fledgling government there the opportunity to establish order.

Citing U.S. Supreme Court decisions in 1996, 2001, and 2003 affecting the ratio of punitive to compensatory damages, the Appeals Court three times has remanded the Exxon-Valdez damages case back to the trial court, which substantially has affirmed its original ruling, plus interest. Most recently, the case returned to the Appeals Court on January 27, 2006; no decision had been announced yet when O'Neill addressed Michigan Law graduates at their reunion last November, 10 months later.

By then, O'Neill reported, some 3,000 of his clients had died, divorced, or tried to move elsewhere and/or establish new livelihoods. Many were fishermen, and they simply could not withstand the kinds of payment delays that the repeated appeals and remandings have caused, he said.

For O'Neill and others involved in the case, pressing for damages for their clients has been a labor of professional and personal dedication over the past 18



years. His involvement, he reported, has led him to a number of conclusions:

- On the environment: "Once oil is spilled it can't be cleaned up. Cleanup money should be spent on prevention."
- The long-term impact of oil is unknown and surprising: "Apparently it doesn't hurt salmon but it devastates herring"
- On lawyers: "I am amazed that a small group of lawyers could put in more than \$200 million on behalf of clients. How many people would invest that much time and money?"
- On clients: "Clients deserve settlements within their lifetime. I've got more than 3,000 clients now who are dead."
- On disasters: "People react differently to manmade disasters than to natural disasters. Judicial settlement of manmade disasters is necessary. In this case the system has failed to do any of the things it is supposed to do."

*Continued on page 54, see "O'Neill".*



## New Dean's Advisory Council links Michigan Law, legal profession

The Law School last year formed its new Dean's Advisory Council, a group of distinguished alumni volunteers who provide counsel to the dean from



*Richard W. Pogue, '53,  
Chair*

perspectives largely outside academia. With their knowledge of how legal education translates into practice, and of ongoing changes in the profession, council members are well qualified to offer insights on some of Michigan Law's most pressing challenges.

In its inaugural meeting on campus October 6-7, 2006, the 17-member group addressed several issues of immediate concern, including how to position the School for the future in a highly competitive environment for faculty and students, the American Bar Association accreditation process, and the impact of Proposal 2 (the Michigan Civil Rights Initiative)—all of which are likely to be ongoing topics.

"I thought it was a terrific meeting," said Dean Evan Caminker. "We tackled a number of issues that are very important to the Law School at this moment."

The council replaces the Committee of Visitors, the alumni body formed in 1962 that previously served the Law School in an advisory capacity.

"The Committee of Visitors was wonderful for the Law School for many years in many ways," said Caminker. "Each advisor was useful, but as the committee's numbers grew over time, the body itself became too unwieldy. It became imperative to find a way to form a smaller and much more stable group."

At the time the Committee was dissolved last year, its membership had swelled to more than 240 members and emeritus members—"too large a group," explained Caminker, "to constitute a functional advisory committee that could actually deliberate and discuss issues of concern."



*Robert E. Hirshon, '73*

By design, the new council is diverse with respect to professional background, experience, and geography, and includes firm practitioners, corporate counsel, non-lawyer business persons, public servants and government officials, as well as academic leaders.

"I think it's an excellent group, with great dedication to the task," says the council's chair, **Richard W. Pogue, '53**, of Shaker Heights, Ohio, currently advisor/consultant to Jones Day and former managing partner of the firm.

Caminker and Pogue expect the council to be engaged with issues related

to curriculum, communications, student recruitment, legal training, finances, faculty recruitment and retention, and best practices, among other concerns.



*Elizabeth M. Barry, '88*

Council members will serve three-year terms, renewable at the dean's discretion. It is expected that up to six new members will be added each year, with members rotating off the board as their terms end.

In addition to meeting annually in the fall and being available for consultation throughout the year, members will also serve as ambassadors for the Law School in legal, corporate, and academic communities; cultivate relationships between these communities and the Law School; and endorse Law School proposals when called upon.



*Yoichiro Yamakawa,  
MCL '69*

Pogue is adamant that the council's central purpose is "strictly to be of advice and counsel to the dean" and that his role as chair is largely that of facilitator.



*A study in concentration as they listen intently: Dean's Advisory Council members at their first meeting last fall at the Law School. Dean Evan Caminker and Assistant Dean for Admissions Sarah Zearfoss, '92, addressed the council.*

"I don't have a major role," he says. "This is the dean's show, and I'm here to be sure that the meetings flow smoothly and that everyone who wants to be recognized is heard."

In addition to Pogue, council members for 2006-2007 are:

- **Elizabeth M. Barry, '88**, of Ann Arbor, managing director of the Life Sciences Institute at the University of Michigan.
- **Bruce P. Bickner, '68**, of Sycamore, Illinois, retired chief executive officer of Dekalb Genetics Corporation and chair of "Building On: The Campaign for the University of Michigan Law School."

*Debra F. Minott, '79*



- **John A. Denniston, '83**, of Menlo Park, California, a partner with Kleiner Perkins Caufield & Byers.
- **Sally Katzen Dyk, '67**, of Washington, D.C., currently a public interest/public service faculty fellow at Michigan Law and a visiting professor at several institutions.
- **Robert B. Fiske Jr. '55, HLLD '97**, of Darien, Connecticut, a partner with Davis Polk & Wardwell.

- **Robert E. Hirshon, '73**, of Portland, Oregon, chief executive officer of Tonkon Torp and a former president of the American Bar Association.
- **Barrie Lawson Loeks, '79**, of Grand Haven, Michigan, president and co-owner of Loeks & Loeks Entertainment.
- **Randall E. Mehrberg, '80**, of Chicago, executive vice president, chief administrative officer, and chief legal and ethics officer of Exelon Corporation. (See story on page 52.)
- **Debra F. Minott, '79**, of Carmel, Indiana, director of the Indiana State Personnel Department and a member of Governor Mitch Daniels' cabinet.
- **Alberto A. Muñoz II, '74**, of Edinburg, Texas, president of Alberto A. Muñoz II.
- **Brian B. O'Neill, '74**, of Minnetonka, Minnesota, a partner with and head of the litigation group of Faegre & Benson. (See story on page 49.)
- **Richard E. Rassel, '66**, of Birmingham, Michigan, a partner with and head of global client relations for Butzel Long in Detroit.

- **Barbara Rom, '72**, of Bloomfield Hills, Michigan, a partner with Pepper Hamilton and the partner in charge of the firm's Detroit office.



*Barbara Rom, '72*

- **Mary E. Snapp, '84**, of Seattle, vice president for law and corporate affairs for Microsoft, where she is also deputy general counsel for product development and marketing.
- **A. Paul Victor, '63**, of New York City, a partner with Dewey Ballantine.
- **Yoichiro Yamakawa, MCL '69**, of Tokyo, a partner with Koga & Partners.

## Randy Mehrberg, '80: 'We like to be involved in the life of the community'

When you visit Millennium Park in Chicago—the 24.5-acre park and adjacent lakefront public spaces are magnets for Chicagoans and visitors alike—thank Randall E. Mehrberg, '80. With its Jay Pritzker Pavilion, Lurie Garden, Cloud Gate, Crown Fountain, solar-powered Exelon Pavilions, and other features, the area is a far cry from the railroad yards it had been for more than a century.

It was Mehrberg's curiosity—he wondered why railroad employees parked for free in the area adjacent to Michigan Avenue, but the Illinois Central did not build on the site or sell it—that led him to dig into land titles and bring to light that the railroad did not own this prime downtown land. It only had an easement to use the space for railroad purposes.

No rail use, no easement, and the land goes back to the city.

That was the mid-1990s, and Mehrberg was on leave from Jenner & Block to serve as lakefront director and general counsel for the Chicago Park District. In spite of his discovery, however, Illinois Central was unwilling to give up the land. As a result, the city sued the railroad.

But when the Canadian National Railway made known its desire to buy the Illinois Central, Mehrberg used the Canadian line's move to convince Illinois Central that donating the land to the city earned it a welcome tax deduction and simultaneously improved the selling price. Eventually, he influenced Illinois Central to hand over all of its land from the proposed Millennium Park south to McCormick Place.

This “single, little-known event,” Timothy J. Gilfoyle recounted in *Creating a Chicago Landmark: Millennium Park*, “thrust into motion the forces leading to

the creation of Millennium Park.”

“In a matter of months” Gilfoyle explained, “Randy Mehrberg had accomplished a feat that had stymied generations of city officials for more than a century: He enabled the city to regain control of the prime downtown, lakefront land that was ostensibly owned by the Illinois Central Railroad.”

Such effort on behalf of the public and his community is standard operating procedure for Mehrberg, currently executive vice president, chief administrative officer, and chief legal officer for Exelon Corporation, whose 5.5 million gas and electricity customers in Illinois and Pennsylvania and \$52 billion market cap make it the largest electric utility in the United States.

As Exelon's general counsel, Mehrberg developed the firm's pro bono program, an effort the Pro Bono Institute reports is unique in the country. “Over half of our lawyers did pro bono work in 2006,” according to Mehrberg. “Our lawyers and staff have engaged in a wide range of activities, from helping homeless people get birth certificates in Philadelphia, to helping a seriously ill woman get a life-saving organ transplant, to assisting immigrant survivors of domestic violence and sexual assault in obtaining legal immigrant status.” Last year Exelon and its employees gave away more than \$37 million to nonprofits, he reported.

Last fall the Chicago chapter of the American Jewish Committee (AJC) honored Mehrberg for such work with its Judge Learned Hand Human Relations Award. More than 450 people attended the presentation banquet, whose honorary chairmen were Gov. Rod Blagojevich and Chicago Mayor Richard M. Daley.

“Randy Mehrberg represents the best



Randall Mehrberg '80, with the Judge Learned Hand Human Relations Award.

of the legal profession,” Ron Gidwitz, AJC's Chicago campaign chairman, said in presenting the award. The award is named after the legendary senior judge of the U.S. Court of Appeals for the Second Circuit from 1924-51.

“It humbles me and reinforces my commitment to the legal profession,” Mehrberg said of the award. “It's nice to step back once in a while and take stock.”

“Without electricity, nothing in modern society works,” Mehrberg explained. “As a company we like to be involved in the life of the community. We get involved in so many different things . . . We are very actively involved in primary schools and secondary schools, and have adopted a number of schools in Philadelphia and Chicago.”

On a personal level, Mehrberg has actively tutored and mentored inner city Chicago children since 1988.

“We also focus as a company on the environmental side,” he continued. “We buy as much energy as possible from landfills. The Exelon Pavilions (Welcome Center) in Millennium Park are solar panel clad, and have interactive displays. We gave about \$5-\$6 million out of the solar fund. I wanted to do something that ties in with what we do [as a utility company] and also be environmentally

friendly.” Mayor Richard Daley’s City Hall rooftop garden is funded by Exelon.

Mehrberg also is deeply involved in Law School activities. A member of the former Committee of Visitors, he sits on the newly-created Dean’s Advisory Council, which serves as a sounding board from the legal profession and counsel to Dean Evan Caminker. (See story on page 50.) Mehrberg led efforts to bring together some 65 major corporations as signatories to a U.S. Supreme Court brief he and his Jenner & Block colleagues authored in favor of the Law School’s and University’s admissions policies when they were challenged for using race as one of many factors in making admissions decisions.

In 2005, he and his wife, Michele M. Schara, with matching funds from his employer, established the Randall E. Mehrberg and Michele M. Schara Fund for Public Service in Honor of Susan M. Eklund, ’73, to guarantee continued funding for the public service component of Michigan Law’s orientation programs for new students. Eklund served for 20 years as the Law School’s dean of students before assuming her current post as dean of students for the University.

“I love the Law School,” Mehrberg explained. “I’m very grateful to the Law School for so many reasons. I don’t like the phrase ‘giving back.’ It’s presumptuous. The Law School has provided so much opportunity to so many in a collegial environment. It gave me the foundation and the education for my career, and people who continue to be my best friends. First among them is my wife, who I met at Michigan. A large part of my life is there.”

## AALS honors Karima Bennoune, ’94

Michigan Law graduate Karima Bennoune, ’94, associate professor of law at Rutgers School of Law-Newark and one of a small number of scholars of Arab and American descent in the American legal academy, has received the Derrick A. Bell Jr. Award for 2006 from the Association of American Law Schools’ (AALS) Section on Minority Groups.

The annual award is named for New York University Law School Professor Derrick Bell, the first tenured African American on the Harvard Law School faculty. It is given to a junior faculty member who, through activism, mentoring, collegiality, teaching, and scholarship, has made “an extraordinary contribution to legal education.”

Bennoune, who earned her J.D. *cum laude* and her M.A. in Middle Eastern and North African studies in a dual degree program, received the award in January at the AALS Annual Meeting in Washington, D.C.

“To be an Arab-American law professor in 2007 is to be watched, or to have the sense of being watched, all the time,” Bennoune noted in her acceptance remarks. “To be an anti-racist, anti-fundamentalist, feminist, secularist Arab-American law professor, and a half-breed to boot, is to be watched from all sides at once. One’s greatest fear is always of being misunderstood. This is why the Minority Groups Section bestowing this award on me is not only an honor, but also for me serves, as Derrick Bell once described the essence of critical race theory writing, ‘to communicate understanding and reassurance to [a] needy soul . . . trapped in a hostile world.’”

A frequent participant in programs at Michigan Law, Bennoune has been in residence here both as a visiting scholar and a visiting professor. At Rutgers, she



Karima Bennoune, ’94, and AALS Minority Groups Section Executive Committee Chair David Brennen at the presentation of the Derrick A. Bell Jr. Award. (Photo courtesy of Association of American Law Schools)

teaches International Law and a Just World Order, International Human Rights, International Law & Terrorism, and International Women’s Human Rights. Her writing has appeared in the *American* and *European Journal of International Law*, the *Michigan Journal of International Law*, the *U.C. Davis Journal of International Law & Policy*, and elsewhere, and she maintains an active international schedule of lectures on human rights, women’s rights, international law, and terrorism.

Bennoune is a member of the boards of Amnesty International—USA and the Center for Constitutional Rights, and has been a human rights consultant to the Soros Foundation and UNESCO.

“Through her teaching, scholarship, and advocacy, Karima Bennoune has advanced understanding of issues of concern to Arabs and Muslims and furthered the inclusion of more diverse voices in international justice forums,” said Rutgers School of Law Dean Stuart L. Deutsch.

"O'Neill", continued from page 51.

- On faith in the system: "[We have] 32,000 customers of the Court of Appeals. Most of them think the Ninth Circuit Court of Appeals is either inept or crooked. They're angry."
- On judges: "Making these observations makes me uncomfortable. For 32 years I have been an officer of the court, and I never have criticized the judiciary. In this case they haven't done their job. Open and direct criticism may be the only control we have over the judiciary."

The case, he said of his clients, should be decided on the law as it was at the time the case was brought. The courts should not be using 1996, 2001, and 2003 cases to decide a 1980s case. "It's little wonder that they are angry," he said of his clients, "and I think we all should be angry about it."



## Michael W. Hartmann, '75, becomes CEO at Miller Canfield

Michael W. Hartmann, '75, a partner and commercial litigation specialist with Miller, Canfield, Paddock and Stone PLC, has been named the 155-year-old firm's chief executive officer. Hartmann joined the firm in 1975 and has been



chair of its management board for the past three years.

"Globalization is changing the practice of law and creating new opportunities and challenges for our clients," explained Hartmann. "Our

success depends on our ability to promptly solve our clients' legal problems in a cost-effective manner in this ever-changing world. I am excited and honored to take on this important role."

Hartmann has been listed in the commercial litigation section of the last seven editions of *The Best Lawyers in America*, and last year he also was listed in the litigation section of *Michigan Super Lawyers*.

Hartmann succeeds Thomas W. Lin, who served eight years as CEO and 12 years as a managing director. Established in 1852 in Detroit, Miller Canfield today has more than 350 attorneys and maintains offices in Detroit and elsewhere in Michigan, Florida, New York, Canada, and Poland.

## Tung Chan, '98, named Hawaii's commissioner of securities

Tung Chan, '98, has become commissioner of securities for the State of Hawaii. She previously had been assistant general counsel with New York-based New York Life Insurance Company, where she had been employed since 2004.

As securities commissioner, Chan heads the business registration division within Hawaii's Department of Commerce and Consumer Affairs (DCCA). She is responsible for securities compliance and enforcement and also oversees corporate filings, including the registration of new businesses.

DCCA Director Mark Recktenwald cited her "extensive experience in securities and corporate law" as "a great asset to the department and to Hawaii's consumers."



"Promoting sound securities practices, making business registration more efficient, and expanding investor education are all critical to sustaining a healthy

business environment in Hawaii," noted Chan, who also has practiced with Cleary, Gottlieb, Steen & Hamilton, where she specialized in securities offerings and financing transactions.

In addition to her work with New York Life and Cleary Gottlieb, Chan has worked as a law clerk with the U.S. 10th Circuit Court of Appeals and the Constitutional Court of South Africa. She also served as a summer law clerk for U.S. Federal District Court Judge David A. Ezra in 1996 in Honolulu.



## Boris Kozolchyk, LL.M. '60, S.J.D. '66, honored in Mexico, U.S.

**B**oris Kozolchyk, LL.M. '60, S.J.D. '66, the founding director of the National Law Center for Inter-American Free Trade (NLCIFT) and a renowned expert on banking law, has been doubly recognized for his decades-long work on behalf of free trade.

Last fall the Legal Research Institute at the Guadalajara, Mexico, campus of Instituto Tecnológico Estudiantes Superiores Monterrey (ITESM), was named for Kozolchyk, as was the campus' chapter of the Mexico/U.S. Student Bar Association. And at its annual meeting last December, NLCIFT's own building on the campus of the University of Arizona also was named the Boris Kozolchyk Building.

Founded in 1992, NLCIFT is located at Arizona's James E. Rogers College of Law, where the Cuban-born Kozolchyk is the Evo DeConcini Professor of Law. "Today is a very special day—we honor our founder, leader, and inspiration by naming this building the Boris Kozolchyk Building, a very fitting tribute," NLCIFT board chairman Philip A. Robbins said at the December 8 dedication ceremonies. Fronted by a circle of the flags of Western hemisphere countries, the 11,000-square-foot building received a 2005 Design Award from the Southern Arizona Chapter of the American Institute of Architects.

Attended by representatives of state and congressional officials, the dedication drew a host of congratulatory messages. Among them:

- From Raul Anibal Etcheverry of the Etcheverry Foundation for International Research and Studies, NLCIFT's sister center in Argentina: "The National

Law Center . . . is performing an act of justice in placing his name on the Center's building. . . . Some day the complete story will be written about this jurist and exceptional human being who has done so much in the field of law for the progress of the region, the development of neighboring countries and others that are distant, and the study of the best solution for the inhabitants under civil and common law in our America."

- From Tucson Mayor Bob Walkup: "Boris Kozolchyk has played a critical role in improving economic, legal, and cultural exchange between Tucson and our international neighbors."
- From Assistant Legal Adviser David P. Stewart, who directs the U.S. State Department's Office of Private International Law: "Here in Washington, we place particular value on the unique relationship which has been forged between the Center and the Office of Private International Law—it is no exaggeration to describe it as the best kind of public-private partnership one can imagine in the pursuit of shared goals."

In addition, Kozolchyk's new book, *Contratacion Comercial en el Derecho Comparado (Commercial Contracting in Comparative Law)*, is drawing favorable comment in Spain and Latin America for its innovative linking of commercial contracts and economic development.

Last fall, Kozolchyk delivered the keynote address at the debate/forum "Latin America Looks East—Issues, Trends, and Progress in the Global Economy" in Miami, sponsored by the Federal Reserve Bank of Atlanta, the University of Miami, and Florida

International University to examine the growing trade relationship between Latin America and Asia. Also, this year's *Annual Survey of Letters of Credit Law & Practice* is being dedicated to Kozolchyk and was presented to him at the annual meeting of the Institute of International Banking Law & Practice in early March in Miami.



*NLCIFT founder and director Boris Kozolchyk, LL.M. '60, S.J.D. '66, at the dedication of the center's Boris Kozolchyk Building. "In expressing my gratitude to the NLCIFT's board for the naming of this building, I humbly pray for preservation of the mission that it so handsomely and lovingly houses," Kozolchyk said. (Photo courtesy of NLCIFT.)*

## Law School grads help ease Pfizer departure impact

Two Michigan Law graduates quickly came to the front line when Miller, Canfield, Paddock, and Stone, PLC announced that it would offer free legal assistance to help Ann Arbor and southeast Michigan recover from the imminent departure of the pharmaceutical giant Pfizer.



Paul Dimond, '69

huge losses in profits and market share by Ford and General Motors.

Miller Canfield announced that it would offer free legal services to incorporate and organize qualified start-up ventures, and that in some cases it also will offer discounted or flat-rate packages for intellectual property work.

Paul Dimond, '69, senior counsel in Miller Canfield's Ann Arbor office, said there is a need in the area to "welcome and to support entrepreneurship." For that effort, the firm added highly regarded corporate and finance partner Michael VanHemert, '83, to its Ann Arbor office in the reorganization of its venture and technology practice.

The firm also transferred two veterans of its similar, earlier program at Kalamazoo to its Ann Arbor office. In that effort, Miller Canfield had made pro bono services available in 2003 in southwestern Michigan when Pharmacia closed its facilities and area jurisdictions responded by launching the "Stick Around" campaign to help ex-Pharmacia workers remain in the Kalamazoo area. At least partly as a result of that

campaign, Southwest Michigan First estimates that more than 200 scientists stayed in Kalamazoo, nearly 75 are running their own business or working for start-ups, and more than two dozen new businesses have been launched.

"A strong legal foundation is very important to a new business' success in accessing growth capital," explained VanHemert, who has more than 20 years experience in corporate financings, governance and securities issuances, and mergers and acquisitions. "Our goal is to help emerging technology companies establish that foundation while controlling their organizational stage legal costs—all in anticipation of meeting the expectations of subsequent investors, lenders, and other constituencies."

Dimond, a former special assistant to President Clinton for economic policy and former director of the National Economic Council, called the Pfizer departure a wake-up call and cited the great benefit provided by the U-M's location at Ann Arbor.

"With the University of Michigan, one of the top 10 research universities in the world, as our anchor, Ann Arbor is uniquely positioned to generate, attract, and retain talent and new inventions. These are the two ingredients essential to thriving in the increasingly global knowledge economy. Pfizer's pull-out is a wake-up call to all of us that we need to welcome and to support entrepreneurship, starting with ex-Warner-Lambert, Parke-Davis, and now Pfizer researchers who want to stay in Ann Arbor and see their inventions come to fruition right here."



Michael VanHemert, '83



## CLASSNOTES

From top: Webb A. Smith, '63; William B. Dunn, '64; Ronald J. Santo, '65

### 1958

**Wilbur McCoy Otto**, of Dickie, McCamey & Chilcot PC, was recognized by his peers for inclusion in the 13th edition of *The Best Lawyers in America 2007*. He practices insurance law, medical malpractice law, and personal injury litigation.

### 1963

After being a lone passenger on a 720-foot long Italian cargo ship, **Gary R. Frink** has published more than 50 essays about his recent voyage from northern Europe to Luanda, Angola ([www.cruisin-thru-100.com](http://www.cruisin-thru-100.com)). Frink's journey, on the *Republica di Genova*, which discharged cargo in the African ports of Dakar, Senegal, and Cameroon, qualified him for membership in the Travelers Century Club, which is open to persons who have visited at least 100 countries.

**Webb A. Smith**, a named shareholder of the Michigan law firm of Foster, Swift, Collins & Smith P.C., has become a Fellow of the American College of Trial Lawyers. He has been practicing law in Michigan for more than 40 years.

### 1964

**William B. Dunn**, of Clark Hill in Detroit, has been selected as one of Michigan's Top 10 "Super Lawyers" by *Law & Politics* magazine. He practices real estate law and related business matters.

**Fred J. Fehheimer**, of Dykema in Bloomfield Hills, has been named in the Real Estate Law category in *The Best Lawyers in America 2007*.

In Detroit, **Lloyd A. Semple** has been included in the Corporate Law category in *The Best Lawyers in America 2007*. A retired member and chairman emeritus of Dykema, he remains active with the firm and is serving as a visiting professor at the University of Detroit Mercy School of Law, where he teaches Corporate Governance and Corporate Transactions.

### 1965

**James R. Brown**, of Mika Meyers Beckett & Jones PLC in Grand Rapids, was selected to be listed in the inaugural publication of *Michigan Super Lawyers Magazine*. He concentrates his practice in municipal law and real property law.

**Douglas J. Rasmussen** is among the attorneys located at Clark Hill PLC's new offices at 200 Ottawa Avenue NW in Grand Rapids.

Executive board member and former leader of Dykema's employment practice group, **Ronald J. Santo** of Ann Arbor has been selected in the Labor and Employment Law category for inclusion in *The Best Lawyers in America 2007*.

### 1966

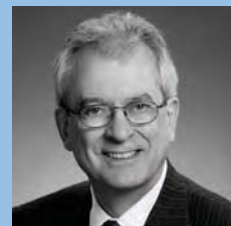
**E. Edward Hood**, member of the litigation practice group at Dykema in Ann Arbor, has been named in the Commercial Litigation category in *The Best Lawyers in America 2007*. He focuses on commercial law, libel and slander law, and complex civil litigation.

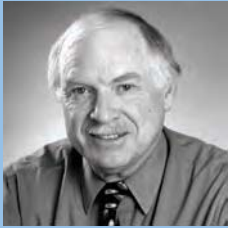
### 1967

In Detroit, Dykema's first woman member and leader of the health care practice group, **J. Kay Felt** has been recognized by her peers for inclusion in *The Best Lawyers in America 2007*. She has been selected in the Health Care Law category.

**Ronald L. Rose**, co-leader of the bankruptcy practice group at Dykema in Bloomfield Hills, Michigan, has been listed in the Bankruptcy and Creditor-Debtor Rights Law category in *The Best Lawyers in America 2007*.

**John Sebert** has been appointed executive director of the National Conference of Commissioners on Uniform State Laws (NCCUSL). A national law group based in Chicago, NCCUSL uses more than 350 legal experts appointed by every state, the District of Columbia, Puerto Rico, and the U.S. Virgin Islands, to draft and promote enactment of uniform laws designed to solve problems common to all the jurisdictions.





From top: Michael B. Bixby, '68; Robert D. Kaplow, '71; H. Patrick Callahan, '72; James H. Geary, '72



**Steven H. Thai** joined the corporate law department of New York law firm Phillips Nizer as international counsel. He concentrates his practice in international corporate and commercial transactions, advising German, Swiss, Austrian, and other European multi-national corporations on U.S.-European cross-border corporate and litigation issues.



Selected to be in *Best Lawyers in America 2007* is **Jane Forbes** of Dykema in Detroit. She is named in the Non-Profit/Charities Law category and is a member of her firm's health care practice group.



## 1968

**Michael B. Bixby**, professor in the College of Business and Economics at Boise State University, has been selected as the winner of the BSU Foundation Scholar Award for Teaching for 2006. He has taught courses dealing with legal and ethical issues in business at BSU since 1981, and has authored the textbook *The Legal Environment of Business*.

## 1971

**James P. Feeney**, director of Dykema's national litigation practice in Bloomfield Hills, Michigan, has been named in several categories in *The Best Lawyers in America 2007*: Alternative Dispute Resolution, Bet-the-Company Litigation, Commercial Litigation, and Product Liability Litigation.

## 1969

Parker Poe Adams & Bernstein LLP attorney **Donald P. Ubell**, of Charlotte, North Carolina, has been selected in the Public Finance Law category in *The Best Lawyers in America 2007*.

**Robert D. Kaplow**, a shareholder in Southfield, Michigan-based Maddin, Hauser, Wartell, Roth & Heller P.C., has been named in the 2006 issue of *Law & Politics Michigan Super Lawyers* as a top practitioner in estate planning and probate.

## 1970

**Richard J. Erickson** has been elected First Vice President, Montgomery (Alabama) Area Chapter, Military Officers Association of America.

**Robert A. Stein**, of Robert Stein & Associates in Concord, New Hampshire, has been selected again for *The Best Lawyers in America 2007*. Listed in the areas of family law, non-white collar criminal defense, and white collar criminal defense, he has appeared in the publication for more than 10 years.

## 1972

Mayor Bart Peterson has appointed Baker & Daniels LLP partner **H. Patrick Callahan** to a third four-year term on the Indianapolis Airport Authority. Callahan was first appointed to the airport's board of directors in 1999 and has served as vice president since 2000.

**John M. DeVries**, of Mika Meyers Beckett & Jones PLC in Grand Rapids, was selected to be listed in the inaugural publication of *Michigan Super Lawyers Magazine*. He concentrates his practice in civil trial law, eminent domain, natural resources law, and zoning law.

Howard & Howard Attorneys PC announces that **James H. Geary** of Kalamazoo was named to *Michigan Super Lawyers* by a survey of *Law & Politics Media*. He has been named in the practice area of civil litigation defense.

**Seth M. Lloyd**, of Dykema in Detroit, has been named in the Health Care Law and Labor and Employment Law categories in *The Best Lawyers in America 2007*. He is a member of Dykema's health care and employment practice groups and is the member in charge of professional personnel for the firm.

**Michael D. Mulcahy**, of Dawda, Mann, Mulcahy & Sadler in Bloomfield Hills, Michigan, has been recognized in the area of real estate in the 2006 edition of *Chambers USA, America's Leading Lawyers for Business*. Mulcahy represents developers and buyers in the development,



purchase, and financing of retail centers, office buildings, and multi-use projects.

### 1973

Selected to be in *Best Lawyers in America 2007* is **Kathleen McCree Lewis** of Dykema in Detroit. She is named in the Appellate Law category and is Dykema's appellate litigation specialist.

### 1974

Real estate specialist **James C. Adams** has joined Butzel Long as a shareholder in the Bloomfield Hills, Michigan, office. He previously practiced with Dykema.

**Michael C. Haines**, of Mika Meyers Beckett & Jones PLC in Grand Rapids, has been selected to be listed in the 2007 edition of *The Best Lawyers in America*. His practice includes the general representation of established and emerging energy companies in Michigan.

**Forrest A. Hainline III**, a litigator with Goodwin Proctor LLP in San Francisco, recently was featured in *San Francisco Attorney* in an article headlined "The Power of the Poet," which dealt with his poetry writing and his use of poetry and literature in courtroom work; he also was featured in the *Los Angeles Daily Journal*, where his victory in defending canned tuna compa-

nies against required labeling under California's Proposition 65 was cited as one of the top defense verdicts of 2006.

**Cameron H. Piggott**, of Dykema in Detroit, has been named in the Real Estate Law category in *The Best Lawyers in America 2007*. He practices general real estate law.

In 2006, *Law & Politics* magazine named **Craig A. Wolson** a "New York Super Lawyer." He has also become special counsel to Cadwalader, Wickersham & Taft and is the chairman of the Structured Finance Committee of the New York City Bar Association.

### 1975

**Timothy O'Neill** has been named by *Chicago Lawyer* magazine to its list of "Ten of the Best Law Professors in Illinois." He recently began his 25th year at The John Marshall Law School in Chicago.

**Brent D. Rector**, a member of Miller Johnson in Grand Rapids, has been named vice chair of his firm's employment and labor section for a one-year term. Rector practices in labor and employment law and also has a specialized occupational safety and health practice.

**Joseph A. Ritok Jr.**, of Dykema in Detroit, has been named in the Labor and Employment Law category in *The Best Lawyers in America 2007*. His practice focuses on the

defense of employment matters before federal and state agencies and courts.

### 1976

Selected to be in *Best Lawyers in America 2007* is **Dennis M. Haffey** of Dykema in Bloomfield Hills. He is named in the Commercial Litigation category and is the director of Dykema's litigation department.

Miller Johnson of Grand Rapids has named **Thomas P. Sarb** chair of its business section for a one-year term. Sarb, who represents financial institutions, creditors, debtors, creditors' committees and assets purchasers in insolvency matters, previously served as vice chair of the section.

**Jerome R. Watson** has been elected to a two-year term as a managing director for Miller, Canfield, Paddock, and Stone, PLC as part of a five-person administration that works with the CEO and deputy CEO to oversee all of the firm's 16 offices. Watson is a principal in Miller Canfield's Detroit office and a member of the firm's labor and employment law group.

### 1977

**James M. Elsworth**, of Dykema in Detroit, has been named in the Trusts and Estates category in *The Best Lawyers in America 2007*. He is a member of the taxation and estates practice group.



From top: Jeffrey A. Sadowski, '77; Frederic N. Goldberg, '78; John J. McCullough III, '79; Betty Olivera, '80; Janet E. Lanyon, '82



**Mark A. Kehoe**, of Mika Meyers Beckett & Jones PLC in Grand Rapids, was selected to be listed in the inaugural publication of *Michigan Super Lawyers Magazine*. He specializes in creditor's rights, bankruptcy, and commercial litigation.



**Donald W. Keim**, of the Detroit office of Miller, Canfield, Paddock, and Stone, PLC, was elected a Fellow of the American College of Bond Counsel. His practice encompasses water, sewer, highway, and similar public financings, tax increment financings, and public law matters.



Howard & Howard Attorneys, PC announces that **Jeffrey A. Sadowski**, of Bloomfield Hills, was named to *Michigan Super Lawyers* by a survey of *Law & Politics Media*. He has been named in the practice area of intellectual property litigation.



**1978**  
Mika Meyers Beckett & Jones PLC of Grand Rapids has named **Fredric N. Goldberg** chair of its management committee for 2007.

**1979**  
**Maria B. Abrahamsen**, of Dykema in Bloomfield Hills, has been named in the Health Care Law category in *The Best Lawyers in America 2007*. She is a member of the health care practice group.

**Michael G. Campbell**, of Grand Rapids, has joined Barnes & Thornburg LLP's office as a partner in the business, tax, and real estate department and the financial institutions practice group. He is also recognized in *The Best Lawyers in America 2007* and *The 2007 Michigan Super Lawyers*.

**John J. McCullough III** is a co-author of *Law and Mental Health Professionals: Vermont*, part of a series published by the American Psychological Association to provide a resource for mental health professionals and attorneys on mental health law in each state. McCullough has practiced with Vermont Legal Aid since 1983 and directed its Mental Health Law Project since 1995.

On December 4, 2006, **Ford H. Wheatley** was appointed the Presiding Municipal Judge for the City of Centennial, Colorado, by the City Council. Centennial is a Denver suburb which was founded in 2001.

**1980**  
**Jonathan D. Elliot**, of Monroe, Connecticut, has joined Zeldes, Needle & Cooper as counsel. He practices commercial litigation and domestic relations law.

The Jonathon Goers Award from the DuPage Railroad Safety Council was presented to **Betty Olivera** of Chicago. She is an

attorney with Harris Kessler & Goldstein LLC and the president of Victor's Crossing, a not-for-profit organization founded to promote railroad safety.

**1982**  
**Jeffrey A. DeVree**, of Mika Meyers Beckett & Jones PLC in Grand Rapids, was selected to be listed in the inaugural publication of *Michigan Super Lawyers Magazine*. He concentrates his practice in tax and employee benefits matters.

A partner at Goulston & Storrs, PC in Boston, **Matt Kiefer** is co-leading his firm's representation of Harvard University in pursuing the master-planned redevelopment of a new campus in Allston. His practice focuses on urban real estate development and land use law.

**Janet E. Lanyon** has been named chair of the Oakland County Bar Association's Employee Benefits Committee. She is a shareholder in Dean & Fulkerson's labor practice group and primarily focuses her practice on labor and employee benefits law and litigation.

**Scott Mackin** has become CEO of Waypoint Energy, a new energy company formed to acquire, develop, restructure, and manage power generation assets and companies. He formerly was CEO of Covanta Energy Corporation and managing partner of The Chatham Group.

From top: John McDermott, '82; Carolyn H. Rosenberg, '82; Sandra Sorini Elser, '83; Katherine A. Erwin, '83; Mark L. Kowalsky, '83; Marie R. Deveney, '84

**John McDermott** was named chair of the litigation department at Holme Roberts & Owen LLP in Denver. He is in the complex commercial litigation group as well as the securities litigation and regulatory practice group.

**Carolyn H. Rosenberg** has been elected to the executive committee of newly merged Reed Smith Sachnoff & Weaver of Chicago. She also heads the Chicago office's insurance coverage group.

**Lawrence Savell**, counsel at Chadbourne & Parke LLP's New York office, marked the 2006 Christmas season with release of his third humorous CD, *Merry Lexmas from the Lawtunes*. Composer, producer, and performer on the album, Savell previously released *The Lawyer's Holiday Humor Album* (1998) and *Legal Holiday* (2004). Among the tracks on his latest CD are "Another Billable Christmas," "I Got a Footnote in My Stocking," and "Hey, Santa, I Appeal." Further information, images, and sound clips are available at [www.LawTunes.com](http://www.LawTunes.com).

**Rebecca K. Troth** has joined Sidley Austin LLP as pro bono counsel in the firm's Washington, D.C., office. She coordinates and participates in the firm's pro bono activities and trains and supervises new associates involved in the office's wide-ranging pro bono program.

**Avery Williams** is co-founder of the minority-owned Detroit business law firm Williams Acosta PLLC, which celebrated its fifth anniversary in January of 2007. He concentrates his practice in environmental law and litigation, commercial and general business litigation, and eminent domain law.

## 1983

**Sandra Sorini Elser**, of the Ann Arbor office of Bodman LLP, has been elected to a two-year term on the board of directors of the Detroit chapter of Commercial Real Estate Women (CREW-Detroit) and will also serve as CREW-Detroit's membership and member services liaison. Sorini Elser specializes in real estate and municipal law and also is township attorney for Ann Arbor Charter Township.

**Katherine A. Erwin** has become managing director of the new Chicago office of Counsel On Call, the Nashville, Tennessee-based firm that provides attorneys on an as-needed basis. Erwin previously was vice president and assistant general counsel with Nuveen Investments.

**Mark L. Kowalsky**, a partner at the Bloomfield Hills, Michigan-based Hertz, Schram and Saretzky PC, has been named one of Michigan's "Super Lawyers" in the business litigation category by Law & Politics in its 2006 issue of *Michigan Super Lawyers*.

**Michael D. VanHemert** has joined Miller, Canfield, Paddock and Stone, PLC as a principal. His practice area is corporate and securities law. (See story on page 56.)

**John Vryhof**, of Snell & Wilmer in Phoenix, is listed in the top 100 attorneys in the U.S. in *Worth* magazine. His practice concentrates in estate planning, international estate planning, charitable planning, and estate and trust administration.

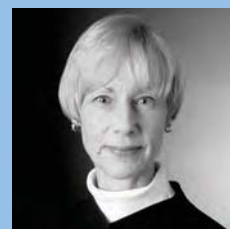
## 1984

**Marie R. Deveney**, of Dykema in Ann Arbor, has been named in the Trusts and Estates category in *The Best Lawyers in America 2007*. She is a member of her firm's taxation and estates practice group.

Selected to be in *Best Lawyers in America 2007* is **D. Richard McDonald** of Dykema in Bloomfield Hills. He is named in the Securities Law category and is the assistant practice group leader of the corporate finance practice group.

## 1986

**Bruce Ashley**, a construction litigation specialist with the Greensboro, North Carolina, office of Smith Moore LLP, has been named among North Carolina "Super Lawyers," a listing of the top five percent of the state's lawyers as recognized by fellow attorneys and professional success. The listing appears in





From top: Michael A. Weil, '88; Lee Hornberger, '89; Stephen J. Knoop, '89



*Super Lawyers* magazine and the February 2007 issue of *Charlotte* magazine.

Senior Attorney **William J. Kohler** has joined Butzel Long in the Detroit office. He has significant leadership roles in the firm's transaction and finance practice, global automotive industry practice, and global trade and transactions practice groups.

**Lori McAllister**, of Dykema in Lansing, has been named in the Commercial Litigation and Insurance Law categories in *The Best Lawyers in America 2007*. She is general counsel of the firm and a member of the litigation practice group.

### 1987

**Eric L. Garner** has been named managing partner of the 190-attorney, eight-office firm Best, Best & Krieger LLP in Riverside, California. Garner also was named a California Lawyer of the Year for 2006 in the Environmental Law category by *California Lawyer* magazine.

### 1988

**Martin R. Castro** has joined Aetna Inc. in Chicago as the vice president of external affairs. His portfolio includes diverse markets, government affairs, corporate and community relations, and working closely with the Aetna Foundation.

**Michael A. Weil** has joined Jaffe Raitt Heuer & Weiss, PC in Southfield, Michigan. He is in the firm's tax practice group.

### 1989

Clark Hill attorney **Elizabeth (Jolliffe) Barton** has been elected to the Detroit Metropolitan Bar Association's board of directors. She concentrates her practice on civil litigation, with an emphasis on complex commercial litigation.

**Ann D. Fillingham**, of Dykema in Lansing, has been named in the Public Finance Law category in *The Best Lawyers in America 2007*. She is a member of Dykema's corporate finance practice group.

Arbitrator-mediator **Lee Hornberger**, of Traverse City, recently published his article "Reflections on Mediation" in *The ADR Newsletter*. He has also completed Federal Mediation and Conciliation Service Labor Arbitrator Training and New York Stock Exchange Securities Arbitrator Training.

**Stephen J. Knoop**, of Shaker Heights, Ohio, was elected senior vice president—corporate development of RPM International Inc., a NYSE-listed \$3 billion holding company that owns subsidiaries in specialty coatings and sealants.

**Kenneth J. Seavoy**, a shareholder in the firm of Kendricks, Bordeau, Adamini, Chilman & Greenlee PC, has been selected by his peers to be included in the 2007 edition of *The Best Lawyers in America* in the specialty of trusts and estates. He has maintained an estate planning and general business practice in Marquette for 17 years.

**Samuel L. Silver**, of Schnader Harrison Segal & Lewis LLP in Philadelphia, is a co-recipient of the Philadelphia Bar Association's Wachovia Fidelity Award for 2006. He is chair of the litigation department, and his practice focuses primarily on commercial litigation.

In New York, **Robert S. Whitman** has joined Seyfarth Shaw LLP as a labor and employment partner. He specializes in wage-hour matters, discrimination litigation, ERISA litigation, and restrictive covenant disputes.

### 1990

**Ron Wheeler** currently serves as chair of the American Association of Law Libraries' (AALL) Social Responsibilities-Special Interest Sections (SR-SIS). He served as both a contributor and an associate editor for the bibliography *Sexual Orientation and the Law: A Research Bibliography*, which was released by the SR-SIS's Standing Committee on Lesbian and Gay Issues.



## 1991

**Nadine Lacombe** has joined Lord, Bissell & Brook LLP in Chicago as the firm's new director of diversity. She will lead diversity efforts throughout all the firm's offices.

Morristown, New Jersey-based Riker Danzig Scherer Hyland & Perretti LLP has announced election of **Ronald D. Puhala** to partnership. A member of the firm's insurance group, Puhala specializes in insurance coverage defense and insurance-related bad faith issues.

CNBC has announced the appointment of **Alan Seiffert** as senior vice president for business development partnerships with its Asia Pacific team. Based in Singapore, Seiffert spearheads the network's business development and partnership unit in the region.

## 1992

New York City-based Kirkland & Ellis partner **Gregory Arovos** is spotlighted in *IP Law & Business* (February 2007) for his role as chief outside strategist for Korea-based Samsung in its legal battle with AB Ericsson of Sweden over patents underlying the new generation of turbo-charged cell phones. Arovos reports that two suits the firms have filed against each other in Texas involve 59 separate patents, and the companies also are involved in parallel fights in Germany, the United Kingdom,

and The Netherlands, as well as at the International Trade Commission.

**Peter F. Donati**, head of Levenfeld Pearlstein LLC's employment service group in Chicago, has been appointed to the board of directors of the Human Resource Association of Greater Oak Brook. He represents clients in discrimination claims, employment contract disputes, and claims involving restrictive covenants.

**Thomas L. Shaevsky** has joined Butzel Long in Bloomfield Hills, Michigan, as a senior attorney specializing in employee benefits. He previously was in-house counsel to Comerica Bank's institutional trust department.

**D. Peters Wilborn Jr.**, a partner with Derfner, Altman & Wilborn in Charleston, South Carolina, has been awarded the South Carolina Bar's 2006 pro bono award in recognition of his representation of African American communities against suburban sprawl, real estate scams, and discrimination, as well as for his work as a bicycle and pedestrian activist.

## 1993

**Emily J. Auckland** has been elected to the membership of Gust Rosenfeld PLC of Phoenix, Arizona. She practices in the area of real estate law.

*From top: Emily J. Auckland, '93;  
Monica P. Navarro, '93;*



**Monica P. Navarro**, a principal at Frank, Haron, Weiner and Navarro in Troy, Michigan, has been selected as one of *Crain's Detroit Business's* 40 Under 40 honorees for 2006. Her practice focuses on health care litigation and transactions, including governance, regulatory compliance, privacy, reimbursement, licensing, credentialing and medical staffing, and fraud and abuse matters. (See story on page 82.)

**Bradley L. Smith** has joined the intellectual property law firm Brinks Hofer Gilson & Lione as counsel in the firm's Ann Arbor office.

In Chicago, legalQuest LLC has opened the city's first and only minority- and women-owned full service legal staffing firm. Founder and managing principal **Ginger Wilson** has nine years' experience placing highly-skilled attorneys and paralegals in temporary and direct-hire positions.

## 1994

**Thomas J. Seigel** has been named chief of the Organized Crime and Racketeering Section of the U.S. Attorney's office for the Eastern District of New York. He oversees the Justice Department's prosecutions of traditional and emerging criminal enterprises in Brooklyn, Queens, Staten Island, and Long Island.



*From top: Freeman L. Farrow, '97; Mathew B. Beredo, '98; Ethan Dettmer, '98; Jason Mendelson, '98; Michael T. Lindeman, '99; Saura J. Sahu, '99*

## 1995

**Michael Carrier** has received tenure and been promoted to professor of law at Rutgers Law School in Camden, New Jersey. He specializes in antitrust, intellectual property, and property law.

**Matthew N. Latimer** has been named special assistant to the President for speechwriting. Latimer previously served as chief speechwriter to the Secretary of Defense, and recently received the Department of Defense Distinguished Service Medal, the highest award offered to civilians by the Pentagon.

## 1996

**Homer Sun** has been named a managing director of Morgan Stanley in the private equity group. He is based in Hong Kong and is responsible for the company's private equity investing in China.

## 1997

**Freeman L. Farrow**, a principal in Miller Canfield's Detroit office, has become a member of the Minorities in Franchising Committee of the International Franchise Association. He is a member of the litigation and dispute resolution practice group and the franchise law team.

**Amy B. Kelley** has been elected to partnership at the Chicago-based law firm Butler Ruben Saltarelli & Boyd LLP. She practices commercial litigation and reinsurance.

**Jeffrey M. King**, who focuses his practice on white collar criminal defense and related civil litigation, has been named a partner with Akin Gump Strauss Hauer & Feld LLP in Washington, D.C.

**Andrew Wise** was elected to the membership of Miller & Chevalier in Washington, D.C. He practices litigation with an emphasis on white collar defense in civil and criminal matters.

## 1998

**Mathew B. Beredo** has been elected to partnership at Baker & Hostetler LLP in the Cleveland office. He is a member of the litigation group and concentrates his practice in commercial litigation and class action defense matters.

**Ethan Dettmer** has been named partner at Gibson, Dunn & Crutcher LLP in San Francisco. He practices complex commercial litigation, with an emphasis on securities, professional liability, and appellate matters.

**Jason Mendelson**, a managing director at Mobius Venture Capital, is one of the five founding partners of Foundry Group, a Boulder, Colorado-based early-stage technology venture capital firm. The firm is currently raising its first fund of \$175 million to \$200 million.

**Ann (McGuire) Parker-Way** has joined Insightful Corporation, a publicly traded software company, as vice president and general counsel.

In Washington, D.C., **Andrew J. Vance** has been elected to partnership at Finnegan, Henderson, Farabow, Garrett & Dunner LLP. He specializes in patent litigation, patent prosecution, and client counseling.

## 1999

**James Carlson** has been elected to partnership at Ungaretti & Harris in Chicago. His practice involves complex commercial matters in state and federal courts, including multi-district litigation as well as mediation and arbitration proceedings.

**Michael T. Lindeman** is a shareholder and a member of Minneapolis-St. Paul-based Briggs and Morgan's business law section. He practices in the areas of general corporate and commercial law, mergers and acquisitions, enterprise formation and emerging companies, e-commerce and software licensing, and commercial contracts.

In Detroit, **Saura J. Sahu** has joined Miller Canfield as an associate. He focuses his practice on complex class action, multi-party, and single-party litigation in matters ranging

*From top: Sally K. Sears Coder, '99; Trevor Belden, '00; Daniel J. Canine, '00; Seth A. Drucker, '04; Gary J. Mouw, '04; Jean Soh, '05*

from employee benefits law to employment discrimination to wage and hour issues.

**Sally K. Sears Coder** has been elected to partnership in Jenner & Block's Chicago office in the litigation department and arbitration as well as domestic and international and products liability and mass tort defense practices.

**A. Colin Wexler**, of Goldberg Kohn in Chicago, has been promoted from associate to principal in the firm's litigation group.

## 2000

Young Professionals of Central Indiana recently presented **Trevor Belden** of Baker & Daniels LLP in Indianapolis with the Young Professional of the Year award. He concentrates his practice in counseling clients through a variety of corporate and commercial transactions.

A specialist in U.S. antitrust and European competition law, **Peter E. Boivin** has become a partner in the antitrust and trade regulation department of Honigman Miller Schwartz and Cohn LLP. He resides in Royal Oak, Michigan.

**Daniel J. Canine** has been named a partner in the Troy, Michigan, office of Bodman LLP, where he specializes in real estate and banking law.

**C. Ferdinando Emanuele** became a partner at Cleary Gottlieb Steen & Hamilton LLP in Rome. His practice focuses on litigation and international arbitration, concentrating on disputes having cross-border dimensions.

Bodman LLP has named **Matthew T. Jane** a partner in its Ann Arbor office. Jane specializes in commercial and construction litigation.

**Clay B. Thomas**, of Southfield, Michigan, has joined Jaffe Raitt Heyer & Weiss PC as a member of the firm's real estate practice group.

**Katherine Varholak** has been elected to membership in Sherman & Howard LLC in Denver, where she focuses her practice on appellate work and commercial, construction, and insurance litigation. She joined the firm in 2003.

## 2001

**Guido G. Aidenbaum** has become a partner in the real estate department of Honigman Miller Schwartz and Cohn LLP. He counsels clients on real estate and financing transaction, with an emphasis on commercial leasing issues. He resides in West Bloomfield, Michigan.

Ann Arbor resident **Bradley H. Darling** has become a partner in Honigman Miller Schwartz and Cohn LLP, where he specializes in the practice of commercial law.

## 2002

**Denis Ticak** has joined Benesch, Friedlander, Coplan & Aronoff LLP's Cleveland office as an associate in the intellectual property practice group. His practice focuses on intellectual property litigation and patent prosecution in the areas of physics and the mechanical arts.

## 2004

**Seth A. Drucker** has joined Detroit-based Honigman Miller Schwartz and Cohn LLP as an associate with the Bankruptcy, Reorganization, and Commercial Department. He previously practiced with Clark Hill PLC in the areas of bankruptcy and corporate restructuring.

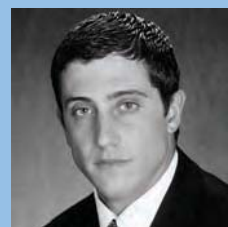
**Gary J. Mouw** has joined Varnum, Riddering, Schmidt & Howlett LLP in Grand Rapids in the firm's litigation and trial practice group as an associate.

## 2005

**Jean Soh** has joined Dykema's Chicago office as an associate in the bankruptcy and restructuring practice group. She focuses her practice on bankruptcy, creditors' rights, and commercial litigation.

## 2006

**Jeffrey S. Billings** has joined Godfrey & Kahn in Milwaukee as an associate in its estate planning practice group.





*From top: Jane Montas, '06; Laura D. Yockey, '06*

**Melissa A. DeGaetano** joined the Cleveland office of Baker & Hostetler LLP as an associate.

**Stephanie A. Douglas** has joined the Detroit office of Honigman Miller Schwartz and Cohn LLP as an associate in the real estate department.

**Gregory R. Flax** joined the Columbus office of Baker & Hostetler LLP as an associate. He has a special interest in environmental and agricultural law issues.

**Bryan H. Helfer** has joined the Chicago office of real estate law firm Pircher, Nichols & Meeks as an associate.

**Rebecca C. Levin** has become an associate with the litigation department of Honigman Miller Schwartz and Cohn LLP in Detroit.

A specialist in general litigation, premises liability, and municipal law, **Donelle R. Mayberry** recently joined Plunkett & Cooney's Bloomfield Hills office in the litigation practice group.

**Matthew Mitchell** has joined Dykema's Bloomfield Hills, Michigan, office as an associate. His practice focuses on general litigation matters.

**Jane Montas**, of Ann Arbor, has joined Jaffe Raitt Heuer & Weiss, PC as an associate in the firm's real estate practice group.

**Sarah Slosberg Tayter** has become an associate with Honigman Miller Schwartz and Cohn LLP's health care department in Detroit.

**Laura D. Yockey** has joined Baker & Daniels LLP's Indianapolis office. She practices in the life sciences group and counsels clients in corporate and commercial transactions.



## In Memoriam

### **Charles Blakey Blackmar, '48**

Former Missouri Supreme Court Chief Justice Charles Blakey Blackmar, '48, died January 20 in Clearwater, Florida.

Born in 1922 in Kansas City, Missouri, he won a Silver Star, Purple Heart, and Bronze Star for his 1942-46 service with the U.S. Army in Europe during World War II. He entered Michigan Law after his wartime service, and after graduation practiced for 18 years with the Kansas City firm now known as Swanson Midgley. He was a professor of law at St. Louis University from 1966-82, and served from 1969-77 as special assistant attorney general of Missouri.

Blackmar was appointed to the Supreme Court of Missouri in 1982, served as chief justice from 1990-92, and continued as senior judge upon his retirement.

He also was a legal scholar and writer, co-authoring West's *Federal Practice Guide Manual* and several editions of West's *Federal Jury Practice and Instructions*. He also was a passionate opponent of the death penalty and a supporter of judicial independence and the nonpartisan selection of judges. During the 1960s he campaigned for fair housing legislation, was instrumental in adoption of Kansas City's Fair Public Accommodations Commission, and served as the commission's first chairman.

### **Douglas W. Hillman, '48**

Retired U.S. District Court Judge Douglas W. Hillman, '48, died February 1 in Muskegon, Michigan. He was 84.

Appointed to the federal bench in 1979, Hillman served until his retirement in 2002. He had practiced law for 30 years before being named to the federal bench for the Western District of Michigan.

Hillman was known for his even-handed courtroom manner. A colleague, U.S. Magistrate Judge Joseph Scoville, told *The Grand Rapids Press* that Hillman kept a note in his courtroom that said: "The lawyers and parties have as much a right to be in this courtroom as I do."

"That was a little reminder of his humility," Scoville told the paper. "That really epitomizes his attitude."

Hillman, who created the Hillman Advocacy Program 26 years ago to teach trial skills to young lawyers, was known for often calling attorneys into his chambers to acquaint them with courtroom civility, professionalism, and ethics, according to *The Grand Rapids Press*. The year after his graduation from Michigan Law, he helped found the World Affairs Council of Western Michigan to "combat the isolationism in this area following World War II."

Hillman, who served as a fighter pilot during World War II, was a lifelong community health care advocate. Named in his honor, the Alliance for Health's annual Hillman Award recognizes a West Michigan community member who exhibits dedication and commitment to continually improving the area's health care system.

In 1996 Hillman received the Professional and Community Service Award from the Young Lawyers Section of the State Bar of Michigan, and in 1990 the State Bar honored him with a Champion of Justice Award.

### **John W. Lederle, '36**

John W. Lederle, '36, who in 10 years as president of the University of Massachusetts at Amherst guided the university's growth from a rural 6,000-student school into a major research university, died February 13 at Naples, Florida. He was 94.

Lederle was president of UMass Amherst from 1960-70, a decade in which student enrollment tripled, the size of the faculty grew from 366 to 1,157, nearly 50 major buildings were begun or completed, and the operating budget and library holdings both quadrupled. During this time the UMass system also established a medical school in Worcester and a campus in Boston.

Current UMass President Jack M. Wilson praised Lederle's leadership and noted that the university's current high standing "is a tribute to his commitment to the University of Massachusetts decades ago."

In 1983, the university named its Lederle Graduate Research Center after the former president.

In addition to his law degree, Lederle also earned his bachelor's, master's, and doctoral degrees from the University of Michigan. He practiced law in Detroit from 1936-40, was admitted to practice before the U.S. Supreme Court, and later served as a staff attorney and then general counsel to the Michigan Municipal League. During the 1950s, he organized and was the first director of the Institute of Public Administration at the University of the Philippines, was Michigan state controller and chairman of the Michigan Commission on Interstate Cooperation, and served as secretary of the Michigan Governor's Committee on Intergovernmental Relations. He also served as a consultant to a number of U.S. House and Senate committees.

Lederle served at Brown University from 1941-44 as a political science professor and assistant dean and returned to the University of Michigan, where he remained until

UMass elected him president in 1960. Upon retiring from UMass in 1970, he was appointed to the university's Joseph B. Ely Chair in Government, which he held until 1982.

#### **Jeffrey F. Liss, '75**

Jeffrey F. Liss, '75, who helped forge Piper & Marbury into the international megafirm DLA Piper, advised Vice President Al Gore and Democratic presidential candidate John Kerry, and served as an unpaid aide who helped vet cabinet-level candidates during the Clinton administration, died March 17 of pancreatic cancer at Johns Hopkins Hospital. He was 55 and lived in Chevy Chase, Maryland.

Liss taught as an adjunct professor at Michigan Law, served on the School's former advisory group known as the Committee of Visitors, and was an active supporter of the Law School and the University of Michigan. An authority on environmental and insurance coverage law, he also taught at Georgetown University Law Center.

A champion of DLA Piper's worldwide pro bono practice, Liss was devoted to the idea that lawyers have an obligation to do public service work. The Maryland

State Bar Association awarded him its Pro Bono Service award after his successful argument in 1999 before the Maryland Court of Appeals in the high profile Pixley custody case; Liss convinced the Court of Appeals that the lower court had erred when it granted custody of a two-year-old boy to his birth mother, who six years earlier had killed her infant daughter.

In 2003, the American Jewish Committee presented Liss with its Judge Learned Hand Award, named for the renowned judge of the U.S. Court of Appeals for the Second Circuit.

Liss "was one of the unsung heroes who make American politics work," Kerry told the *Washington Post*. Said DLA Piper Joint Chief Executive Francis B. Burch: "Jeff was one of those rare people who accomplished much, whose life had real meaning, and who never lost his sense of humanity."

Liss clerked for U.S. District Judge Charles R. Richey before becoming an associate and then partner with Wald, Harkrader & Ross. He joined Piper & Marbury in 1985, helped lead the 10-year series of mergers and acquisitions that grew into DLA Piper, with 3,200 attorneys in 24 countries, and became the co-managing partner for the firm's U.S. division.

#### **Milton J. Miller, '35**

Milton J. (Jack) Miller, '35, a founding partner in 1948 of Detroit-based Honigman Miller Schwartz and Cohn LLP, died March 6 at age 94.

"He was the very heart and soul of the firm and we will miss him deeply," said Honigman CEO Alan S. Schwartz. "He was one of those amazing and fortunate men who remained mentally and physically vital throughout his lifetime, and he was an inspiration to us all."

During his long career with the firm, Miller served as a business lawyer, advising clients in corporate transactions, combinations, and acquisitions, and represented their interests in both negotiations and trial. He also maintained an active matrimonial practice that included representation of many members of Detroit's social elite, including Henry Ford II in his last divorce in the early 1980s.

Miller was a life-long member of the State Bar of Michigan and the International Society of Barristers, and also was deeply involved in his community. Among his civic activities, he was a tireless supporter of the Detroit Symphony Orchestra and the Jewish Federation of Metropolitan Detroit.



*Milton J. (Jack) Miller, '35*

## In Memoriam

- |     |  |            |     |                              |            |
|-----|--|------------|-----|------------------------------|------------|
| '35 | C. Homer Miel .....                        | 11/3/2006  | '52 | Walter Hulon Clements .....  | 12/1/2006  |
|     | Milton J. Miller .....                     | 2/13/2007  | '53 | J. Douglas Cook .....        | 11/22/2006 |
| '36 | Donald E. Adams .....                      | 1/30/2007  |     | George D. Miller Jr. ....    | 10/18/2006 |
|     | Lawson E. Becker .....                     | 1/24/2007  |     | James J. Nopper .....        | 9/22/2006  |
|     | Robert M. Helton .....                     | 10/24/2006 |     | Robert Seal Rizley .....     | 10/31/2006 |
|     | John W. Lederle .....                      | 2/13/2007  |     | Herbert I. Sherman .....     | 9/22/2006  |
|     | Leonard Meldman .....                      | 12/30/2006 | '54 | Richard S. Baker .....       | 11/7/2006  |
|     | Jacob Weissman .....                       | 7/11/2006  | '55 | Harvey M. Silets .....       | 1/23/2007  |
| '37 | Joseph L. Bauer .....                      | 2/7/2007   | '56 | Donald M. Baker .....        | 11/23/2006 |
| '38 | Wayne E. Babler .....                      | 12/15/2006 |     | William L. Cahalan Jr. ....  | 1/31/2007  |
| '39 | Bernard Weissman .....                     | 7/7/2006   |     | Robert Louis Shankland ..... | 12/1/2006  |
| '41 | Olin L. Browder Jr., (S.J.D. '41) .....    | 4/11/2007  | '57 | John Robert Dethmers .....   | 11/10/2006 |
|     | William F. Hood .....                      | 10/2/2006  | '59 | Joseph P. Spellman .....     | 10/16/2006 |
|     | Chester E. Kasiborski .....                | 1/29/2007  | '61 | Bruce J. Daniels .....       | 8/2/2006   |
| '42 | David N. Mills .....                       | 1/17/2006  | '65 | Richard L. Blatt .....       | 7/25/2006  |
| '43 | John E. Howe, LL.M. ....                   | 2/4/2007   |     | John H. Blish .....          | 2/11/2007  |
| '47 | Caleb F. Enix .....                        | 9/18/2006  |     | David John Garrett .....     | 10/17/2006 |
|     | Hird Stryker Jr. ....                      | 1/30/2007  | '66 | Robert M. Newton .....       | 9/11/2006  |
| '48 | Charles B. Blackmar .....                  | 1/20/2007  | '68 | Thomas K. Butterfield .....  | 12/16/2006 |
|     | Douglas W. Hillman .....                   | 2/1/2007   | '69 | Rexford T. Brown .....       | 10/16/2006 |
| '49 | Stratton S. Brown .....                    | 11/7/2006  | '70 | John R. McCarthy .....       | 1/20/2007  |
|     | B. Hayden Crawford .....                   | 12/18/2006 |     | Norris J. Thomas Jr. ....    | 1/12/2007  |
|     | William A. Lucking Jr. ....                | 2/5/2007   | '73 | Donald Hubert .....          | 11/28/2006 |
|     | Palmer C. Singleton Jr. ....               | 1/28/2007  | '75 | Jeffrey F. Liss .....        | 3/17/2007  |
|     | Floyd E. Wetmore .....                     | 10/23/2006 | '90 | Henry G. Binder .....        | 12/15/2006 |
| '50 | Chester J. Antieau, LL.M. (S.J.D. '51) ... | 12/18/2006 | '94 | D. Duane Hurtt .....         | 1/20/2007  |
|     | Robert F. Bowers .....                     | 1/7/2007   |     |                              |            |
|     | Donald D. Davis .....                      | 8/26/2006  |     |                              |            |
|     | Guy H. Hill .....                          | 10/17/2006 |     |                              |            |
|     | Paul J. Weiss Jr. ....                     | 11/15/2006 |     |                              |            |
| '51 | William L. Bush .....                      | 10/6/2006  |     |                              |            |
|     | Leighton S.C. Louis .....                  | 9/27/2006  |     |                              |            |
|     | Marlin F. Scholl .....                     | 10/1/2006  |     |                              |            |
|     | Stanley N. Silverman .....                 | 11/16/2006 |     |                              |            |
|     | Jean F. Wagner .....                       | 10/16/2006 |     |                              |            |

## IN DETAIL

- 70** Law faculty adopts new admissions policy
- 71** Reimann, co-editor, assays the ‘state of the art’ of comparative law
- 72** Santacroce co-authors handbook for local government officials
- 72** Hathaway’s *Rights of Refugees* wins ASIL’s Certificate of Merit
- 73** West’s research leads to casebook and comparative ‘scandalogy’
- 74** Activities
- 76** In Memoriam

*To conform with changes required by passage last fall of a voter-enacted state constitutional amendment (“Proposal 2”) that forbids higher education institutions from using race as a factor in admissions decisions, the University of Michigan Law School faculty adopted the following admissions policy on March 23, 2007:*

## Law School faculty adopts new admissions policy

**The** University of Michigan Law School’s admissions process is designed to assemble an exceptional community of talented and interesting students who will flourish in and out of the classroom and go on to accomplished careers. Two crucial points follow from this goal. One: our assessment is forward-looking, not backward-looking. Two: our evaluation criteria are holistic, in two senses. First, each application features a wide range of relevant considerations that can’t be reduced to any mechanical formula. Second, we are always thinking about the mix of people we are assembling, not merely making a series of discrete decisions on individual applicants. Here we expand on each point.

**One:** We are not rewarding past performance, but assessing the likelihood of outstanding engagement with the School and with whatever career follows. Past performance is of course the basis of our assessment and we look for a record of impressive accomplishments. But strictly speaking no one deserves or is entitled to admission on the basis of that performance, however impressive. Quantitative measures of academic performance—LSAT and GPA—neither preclude nor guarantee admission. We look for highly intelligent people who welcome challenging experiences, who have demonstrated leadership and community service, who have shown determination and discipline, who are eager to outdo themselves, and who are creative and resilient in dealing with adversity. We pay attention to evidence of academic progress. So, too, we pay attention to considerations—working many hours, coming from an educationally deprived background, having primary care responsibilities for family members, and so on—that may provide a context for the formal record of academic achievement.

**Two:** The Law School is warmly cooperative and intellectually invigorating. We seek students who relish both working together and engaging in constructive and challenging debate. Our graduates go on to succeed in every imaginable domain of the law and beyond: public interest law, private firms, government service, the bench, solo practice, academia, corporate counsel and leadership, business, politics, and more. We seek students who will continue this tradition of excellence in varied careers. Our commitments to collegiality, to bracing debate, and to enabling our students to pursue a wide range of options explain why the School has long been committed to diversity along many dimensions. In assembling an entering class, then, we look for individuals with intriguingly different backgrounds, experiences, goals, and perspectives. Academic majors, work experience, extracurricular activities, distinctive moral and political outlooks, socioeconomic background, time living or working abroad, and more inform our admissions decisions. We urge applicants to supply whatever information they think will most fully present their qualifications and attributes.

The dean of admissions regularly consults with the Law School’s dean and the faculty admissions committee on questions arising in implementing this policy.



## Reimann, co-editor, assay the 'state of the art' of comparative law

**M**athias W. Reimann, LL.M. '83, and co-editor Reinhard Zimmermann have brought more than 40 scholars from around the world into the 1,430 pages of their new *Oxford Handbook of Comparative Law* to depict the "state of the art" of the field of comparative law in the 21st century.

Divided into three major parts, the *Handbook* (Oxford University Press, 2006) assesses the development of modern comparative law, examines comparative law as an intellectual enterprise, and, finally, focuses on individual branches where comparative studies have borne fruit.

Over the past decade or two, the discipline of comparative law "has faced new tasks and challenges, arising mainly from the Europeanization of law, and more broadly, the globalizing trends in contemporary life," write Reimann, Michigan Law's Hessel E. Yntema Professor of Law, and Zimmermann, director of the Max Planck Institute for Comparative and International Private Law in Hamburg, Germany, and professor of private law, Roman law, and comparative legal history at the University of Regensburg.

The field of comparative law has come in for close scrutiny, especially in Europe and the United States, Reimann and Zimmermann write. "It has lost its methodological innocence as scholars began to ask hard questions about traditional approaches, such as the functional method. It has engaged in interdisciplinary discourse with history, sociology, economics, anthropology, and other fields.

"As a result, comparative law has become a vibrant and intellectually stimulating field of study and research and it has advanced our knowledge in a variety of areas and contexts.

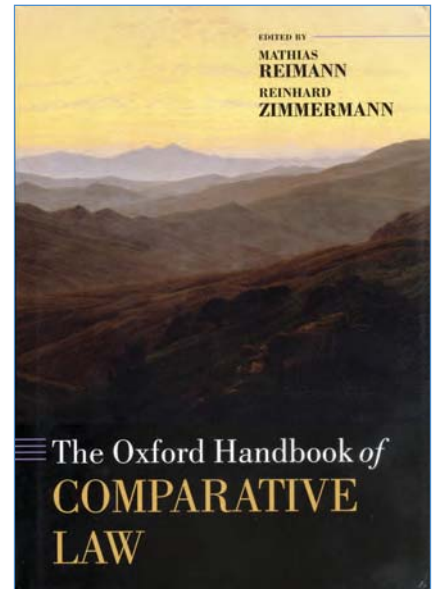
"At the same time, it has often been noted that there is no comprehensive account of the 'state of the art' of the discipline. This book undertakes to provide such an account."



*Mathias W. Reimann, LL.M. '83*

After the introductory "Comparative Law before the Code Napoléon," by Charles Donahue, the Paul A. Freund Professor of Law at Harvard, the *Handbook* sets to its task with a will:

- **Part I – The Development of Comparative Law in the World**, with its eight chapters detailing the development of comparative law in France, Germany, Switzerland, and Austria, Italy, Great Britain, the United States, central and eastern Europe, east Asia, and Latin America.
- **Part II – Approaches to Comparative Law**, 18 chapters devoted to subjects like "Comparative Law and Comparative Knowledge," "Comparative Law as the Study



of Transplants and Receptions," "Comparative Law and the Islamic (Middle Eastern) Legal Culture," "Comparative Law and African Customary Law," and "Comparative Law and Socio-legal Studies"; and

- **Part III – Subject Areas**, with 16 chapters focusing on topics like "Unjustified Enrichment in Comparative Perspective," and comparative law in contracts, sales, torts, property, succession, family, labor, antitrust, civil procedure, and other fields. Reimann's own chapter in this section is "Comparative Law and Private International Law."

"We hope that the book will give a vivid impression of a legal discipline which is both intellectually exciting and perhaps more practically relevant than ever before," say Reimann and Zimmermann. "At the same time, it is hoped that this volume will bring home to its readers how much interesting work remains to be done."

## Santacroce co-authors handbook for local government officials

Clinical Assistant Professor David Santacroce has co-authored a new handbook to help officials of local governments write contracts that improve the odds that companies receiving economic development incentives keep their promises to create jobs and other community benefits—or pay taxpayers back.

The handbook, *The Ideal Deal: How Local Governments Can Get More for Their Economic Development Dollar*, has been released by Good Jobs First, a Washington, D.C.-based nonprofit organization that promotes good state and local economic development practices, and the Center for Urban Economic Development at the University of Illinois at Chicago. Santacroce's co-author is Rachel Weber, an associate professor in the Urban Planning and Policy Program at the University of Illinois-Chicago.

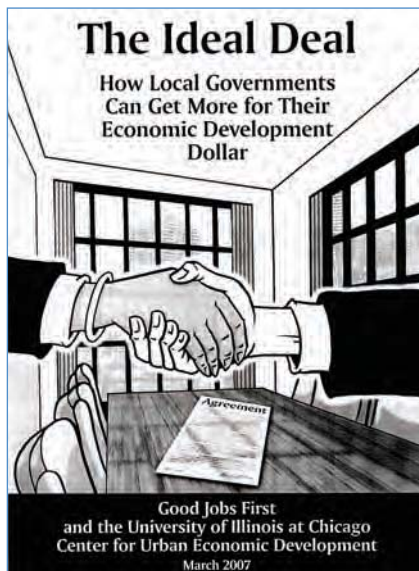
Weber has done extensive surveying of localities and written about best incentive-deal practices;

Santacroce has litigated and written about legal remedies for failed incentive deals. Their handbook provides step-by-step guidance through the elements of contracts that treat a public incentive package as a quid pro quo for public benefits.

“No one likes to spend too much on a deal, and no one

wants to sue if a deal doesn't pan out,” Santacroce explained. “Deliberate procedures and thorough contracts minimize the odds that problems will develop.”

The handbook is available in PDF form via the Good Jobs First Web site: [www.goodjobsfirst.org](http://www.goodjobsfirst.org).



## Hathaway's *Rights of Refugees* wins ASIL's Certificate of Merit

James C. Hathaway's pioneering look at the rights and plight of refugees, *The Rights of Refugees under International Law* (Cambridge University Press, 2005), has been awarded the Certificate of Merit from the American Society of International Law. The award, first given in 1952, recognizes "the most distinguished work in the field of international law in the current year or in the immediately preceding year."

Hathaway, the James E. and Sarah A. Degan Professor of Law, is director of the Law School's Refugee and Asylum Law Program. Other Michigan Law scholars who have won the award include Harold Jacobson (2004), Christine Chinkin (2001), Steven Ratner (1998), Bruno Simma (1996) and Alex Aleinikoff (1986).

Combining legal and theoretical scholarship with real-world case histories, *The Rights of Refugees* provides the first comprehensive analysis of refugees' human rights under the UN's Refugee Convention. Ten years in the writing, the book appears as many governments around the world are wrestling with the traditional idea of assimilating refugees into their countries' populations, granting refugees freedom of movement, social welfare benefits or other similar rights, or, indeed, whether to take in refugees at all.

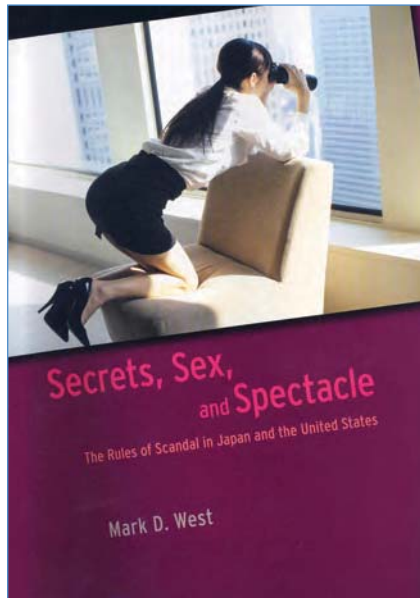
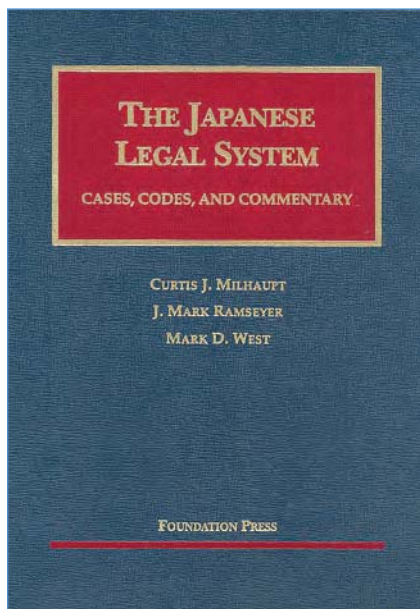
Coupling such questions with the norms of basic international human rights, Hathaway uses the result to examine some of the world's most challenging refugee protection questions.

An excerpt from *The Rights of Refugees* appeared in the Fall/Winter 2007 issue of *Law Quadrangle Notes* as "Refugees' human rights and the challenge of political will," pages 71-72).



James C. Hathaway

## West's research leads to casebook and comparative 'scandalogy'



Mark D. West's two most recent books look at two sides of the Japanese legal system. His new casebook, *The Japanese Legal System: Cases, Codes, and Commentary*, co-authored with Curtis Milhaupt and Mark Ramseyer, provides a broad overview and includes several new translations of cases. "Previous textbooks on Japanese law tended to focus mostly on theory, without a lot of attention to the law," says West. "That approach made it seem like the law didn't matter very much in Japan, which couldn't be further from the truth. In this book, we wanted to concentrate more on the cases so that students could get a better understanding of how Japanese judges present facts, apply law, and reason."

West's other book, *Secrets, Sex, and Spectacle: The Rules of Scandal in Japan and the United States*, takes a comparative look at scandal and its connection to the law. "People often ask me to recommend books that discuss how law functions in Japan," West explained. "They don't want to know specific provisions of tort law; they want something they can actually read. I tried to write the book for those readers. I focused on fun, scandalous stories, and tried to create a feel for how things work in Japan."

West, the Nippon Life Professor of Law, faculty director of Michigan Law's Center for International and Comparative Law, and director of the University of Michigan's Center for Japanese Studies, has presented this kind of double-barreled scholarship before: in *Economic Organizations and Corporate Governance in Japan: The Impact of Formal and Informal Rules* (2004), he focused



Mark D. West

on formal legal structures, and in *Law in Everyday Japan: Sex, Sumo, Suicide, and Statues* (2005), he looked at how those structures affect people.

The latter idea motivates *Secrets, Sex, and Spectacle: The Rules of Scandal in Japan and the United States*. His publisher issues this tease: "A leader of a global superpower is betrayed by his mistress, who makes public the sordid details of their secret affair. His wife stands by as he denies the charges. Debates over definitions of moral leadership ensue. Sound familiar? If you guess Clinton and Lewinsky, try again. This incident involved former Japanese Prime Minister Sosuke Uno and a geisha. . . ."

"When Japanese and American scandal stories differ, those rules—rules that define what's public and what's private, rules that protect injuries to dignity and honor, and rules about sex, to name a few—often help explain the differences. In the case of Clinton and Uno, the rules help explain why the media didn't cover Uno's affair, why Uno's wife apologized on her husband's behalf, and why Uno—and not Clinton—resigned."

West hopes that the comparative aspect of his work can bring insights beyond Japan.

An excerpt from *Secrets, Sex and Spectacle* begins on page 89.

## Activities

Irwin I. Cohn Professor of Law **Reuven Avi-Yonah** delivered the keynote address, “The Commerce Clause and Federalism: A Comparative Perspective,” at Georgetown University’s state and local tax institute in May; presented the paper “Corporate Social Responsibility” in April at a conference on critical tax at UCLA; made four presentations in March on U.S. international tax at Sao Paulo, Belo Horizonte, and Curitiba, Brazil; and in February presented his paper “Formulary” at the Hamilton Project Author’s Conference in Washington, D.C., and at the University of Pennsylvania Law School. At the ABA tax meeting in Florida in January, he chaired the VAT panel and made presentations at the panels on teaching tax law and international tax law. Late last year, he chaired the panel on international law at a conference in Haifa honoring Israeli Supreme Court Chief Justice Aharon Barak, taught U.S. International Tax at Hebrew University in Jerusalem, presented the paper “Corporate Social Responsibility” at a conference on tax and corporate governance at the Max Planck Institute in Munich; spoke on “A Proposal to Adopt Formulary Apportionment for Corporate Income Tax” at the Hamilton Project Retreat in New York; presented his paper “Corporate Social Responsibility and Strategic Tax Behavior” at Georgetown University Law School; and taught a comparative Controlled Foreign Corporations course at Vienna Economic University.

Professor **Michael S. Barr** served as an advisor on a European Commission project on “Financial Services Provision and Prevention of Financial Exclusion,” and received a Ford Foundation grant to organize a conference (together with Dean Rebecca M. Blank of U-M’s Gerald R. Ford School of Public Policy) on “Access, Assets & Poverty,” to be held in Washington, D.C., in October 2007. Barr’s paper, “Tax Preparation

Services for Low- and Moderate-Income Households: Evidence from a New Survey,” was presented at the annual meeting of the American Law & Economics Association, Harvard Law School, May 2007. During the winter, Barr helped to launch the inaugural issue of the *Harvard Law and Policy Review* with his invited essay, “An Inclusive, Progressive National Savings & Financial Services Policy.”

**Omri Ben-Shahar**, the Kirkland & Ellis Professor of Law and Economics, was a visiting professor at the University of Chicago Law School late last year and early this year. He also has been elected chair of the Association of American Law School’s section on contracts; is editor of *Boilerplate: Foundations of Market Contracts*, being published this year by Cambridge University Press, and is serving as area organizer for the panel on torts for this year’s annual meeting of the American Law and Economics Association at Harvard. He also lectured recently on “How to Repair Unconscionable Contracts” at Kirkland & Ellis in Chicago as well as law schools at the University of Chicago and Duke University.

Professor **Sherman Clark**, who also is an adjunct professor of kinesiology at the U-M, in March discussed the question of what, if any, special obligations athletes have because of their status as public role models in a forum sponsored by Students for Ethics, part of U-M President Mary Sue Coleman’s Ethics in Public Life Initiative.

**James C. Hathaway**, the James E. and Sarah A. Degan Professor of Law and director of Michigan Law’s Refugee and Asylum Law Program, delivered the 25th annual Allan Hope Southey Memorial Lecture at the University of Melbourne Law School on the subject “Why Refugee Law Still Matters.” While at Melbourne, he also co-taught a graduate seminar on international refugee law with Melbourne faculty member Michelle Foster, S.J.D. ’06, and gave the opening plenary address to

the Conference on International Law and the Offshore Processing of Refugees. While in Australia, he also led a one-day seminar on refugee research at Australian National University in Canberra and was hosted by High Court of Australia judges in the capital; spoke on “Refugee Solutions, or Solutions to Refugeehood?” and co-led a workshop on human trafficking at Sydney Law School; provided advanced training to members of Australia’s Refugee Review Tribunal; and met with judges of the Federal Court of Australia in Melbourne and Sydney.

Associate Professor of Law **Nicholas Howson** gave a wide-ranging lecture at Northwestern’s Kellogg School of Management entitled “Foreign Capital in China 1979-2006—From FDI to Equity Participation in Corporatized Chinese Enterprises” in February. In March, his article on the post-WTO foreign participation in China’s capital markets and financial services—“China and WTO Liberalization of the Securities Industry: *Le Choc des mondes or l’Empire immobile?*”—was published in *Asia Policy*. The financial services industry in China—and specifically the investment banking and fund management sectors—was also the subject of a presentation he gave at the Johns Hopkins University-SAIS conference “China’s Financial Sector Reforms and Governance” in Washington, D.C., in mid-April. In late April, he gave a paper at Mark Ramseyer’s Asian Law Workshop at Harvard Law School on the recognition and implementation of corporate fiduciary duties by China’s basic level courts prior to 2005, and formal articulation of the concept in China’s new corporate statute.

Professor of Law **Ellen Katz** presented her paper “Reviving the Right to Vote” at the Workshop on Advanced Topics in Election Law at Yale Law School in April and in March presented “Judicial Review and the Voting Rights Act” at the Participatory Democracy Workshop Series at the USC-Caltech Center for the Study of Law and Politics and the University of Southern California Law School in Los Angeles.

Professor Emeritus **Yale Kamisar** and co-authors Jesse Choper, Richard Fallon Jr., and Steve Shiffrin have published the 10th edition of their 1,500-page constitutional law casebook. During the summer this year they are to publish a shorter paperback constitutional law casebook, *Leading Cases in Constitutional Law*. On March 13, Kamisar spoke on Clarence Darrow as “a role model for 21st century lawyers” as a panelist for Santa Clara University School of Law’s commemoration of the 60th anniversary of Darrow’s death.

**Richard O. Lempert, ’68**, the Eric Stein Distinguished University Professor of Law and Sociology, continues to serve as secretary of the political science, sociology, and economics section of the American Association for the Advancement of Science. Last summer, he participated in the first month-long SHARP summer workshop sponsored by the Office of the Director of National Intelligence, which brought together scholars and people from the intelligence community to examine how to improve intelligence assessments. Last summer, he was guest blogger on the Empirical Legal Studies Website to discuss issues relating to empirical work, and he also testified before the U.S. Commission on Civil Rights regarding affirmative action.

Associate Dean for Clinical Affairs **Bridget M. McCormack** delivered the Windsor Yearbook Access to Justice annual distinguished lecture at the University of Windsor (Ontario) Law School in February. In March, she argued a habeas corpus claim in a murder case before the Sixth Circuit Court of Appeals in Cincinnati and a second murder case before the same court in April.

Clinical Assistant Professor of Law **Mark K. Osbeck** in March successfully presented oral argument to the Colorado Court of Appeals as part of his representation of a company that wishes to develop a private ski development on 6,000 acres near Vail. The issue centered on ownership of the parcel, and involved the applicability

of the Full Faith and Credit clause of the Constitution where the judgments of sister states conflict. The court ruled—only 10 days after oral argument—in favor of Osbeck’s client.

Assistant Professor of Law **John A.E. Pottow** delivered his paper “The Myth (and Realities) of Forum Shopping in Transnational Insolvency” at the symposium Bankruptcy in the Global Village: The Second Decade at Brooklyn Law School last fall. The symposium updated and commemorated the influential conference that brought discussion of cross-border insolvency into academic circles; it also served as a reunion for many of the participants in the original symposium a decade ago.

In early May, Assistant Professor of Law **J. J. Prescott** presented his paper “Empirical Research on the Post-Booker Federal Sentencing System” at the 16th annual Federal Sentencing Guidelines National Seminar in Salt Lake City and also presented his paper “The Effects of Sex Offender Notification Laws” at the meeting of the American Law and Economics Association at Harvard Law School. Last fall, he presented his paper “Empirical Evidence of Prosecutorial Charging Manipulation” at the Conference on Empirical Legal Studies at the University of Texas Law School and at the Junior Empirical Legal Scholars Conference at Cornell University Law School.

In March, Hessel E. Yntema Professor of Law **Mathias W. Reimann, LL.M., ’83**, was a panelist to discuss “The Future of International Litigation” at the annual meeting of the American Society of International Law in Washington, D.C.; in February, he co-organized the second Comparative Law Work in Progress Workshop, which was held at the University of Illinois College of Law this year after the inaugural program at the University of Michigan Law School last year. He also: spoke on “Rules, Regulations, and Individual Liberty: The

United States as the Land of the Free?” at the conference on Legal Cultures and the Atlantic Divide at the Bucerus Law School in Hamburg, Germany, in February; spoke on “The Heritage of the Émigré Jurists for American Legal Education” in January at the Globalization and the U.S. Law School conference at Suffolk University Law School in Boston; and spoke at a workshop on Internationalizing the Curriculum organized by Georgetown Law Center and McGeorge School of Law in January.

Clinical Assistant Professor of Law **Vivek S. Sankaran, ’01**, this spring spoke on “GALs [Guardian ad Litem]: Straws that Stir the Drink” at the Child Welfare League of America National Conference in Washington, D.C., and on “Current Issues in Neglect Law” for Washtenaw County Juvenile Court Training.

Clinical Assistant Professor of Law **David A. Santacroce** has become chair of the Association of American Law Schools’ Section on Clinical Legal Education.

Affiliated Overseas Faculty member **Bruno Simma**, a judge on the International Court of Justice at The Hague, has been awarded an honorary doctorate from the University of Macerata in Italy. In addition, he has acted as president of the arbitral tribunal established within the Lausanne, Switzerland-based Court of Arbitration for Sports in a series of cases which the Gibraltar Football Association has brought against the Union of European Football Associations (UEFA). He also has presented a number of guest lectures at a variety of locations.

**James Boyd White**, the L. Hart Wright Collegiate Professor of Law, spent 17 days earlier this year at Charles University in Prague on a Fulbright grant teaching American Contract Law to 72 “eager Czech students” who, he says, “quickly adapted to conventional American Socratic teaching.”

## In Memoriam

### Francis A. Allen

Pioneer criminal procedure scholar Francis A. Allen, dean of the Law School from 1966-71 and an active faculty member until taking emeritus status in 1986, died April 6 in Gainesville, Florida. Born in 1919 in Kansas City, Kansas, Allen graduated from Cornell College, Mount Vernon, Iowa, and Northwestern University Law School, and taught at Northwestern, Harvard, and the University of Chicago before coming to Michigan as dean. After retiring from Michigan Law he joined the University of Florida law faculty, taking emeritus status there in 1994.

Allen clerked for U.S. Supreme Court Chief Justice Fred Vinson; served as president of the Association of American Law Schools; was scholar in residence at the Rockefeller Foundation in Bellagio, Italy; twice was in residence at the Salzburg Seminar of American Studies; was a visiting expert at UNAFEI, the Japan-based UN agency that deals with problems of criminal corrections; and was a Guggenheim Fellow in 1971 and 1973. He was elected to the American Academy of Arts and Sciences in 1975.

Allen was known for his scholarship, eloquent speaking and writing, and open-mindedness as well as his humaneness and collegiality. "He is widely regarded as the nation's leading spokesman for a humanistic conception of legal education," the University of Michigan Board of Regents said in the resolution it passed in 1986 when Allen took emeritus status.

Professor Emeritus Yale Kamisar, himself a pioneer in criminal procedure scholarship, said Allen "did more than anyone in legal scholarship in modern criminal procedure. Wherever I went, he'd been there first. . . . Everybody who wrote about criminal procedure in the

early 1960s and thereafter used Frank a great deal. He was there from the very beginning."

Allen was a prolific author of journal articles and books, added Kamisar, but "what many regard as Allen's very best writing is . . . the 'Allen Report' (as it has come to be called), the 1963 report of the Attorney General's Committee on Poverty and the Administration of Federal Criminal Justice, a committee selected by Attorney General Robert Kennedy and chaired by Allen. No work has more forcefully or more eloquently articulated the need to eliminate, or at least minimize, the influence of poverty in the administration of criminal justice than the Allen Report. . . . [I]t significantly affected our way of thinking about the obligations of 'equal justice' and the problems faced by criminal defendants of limited means."

The report led to passage of the Criminal Justice Act of 1964 and the Bail Reform Act of 1966. Allen also helped write the American Law Institute's Model Penal Code and was instrumental in forging the Illinois Criminal Code of 1961, whose provisions included decriminalizing sexual acts between consenting adults of the same sex.

Former colleagues and students spoke glowingly of Allen as colleague, friend, and teacher. "Frank was undoubtedly one of the foremost scholars of his generation, but he was much more—a wonderful colleague and a wise and generous mentor to many, including myself," said Professor Emeritus Jerold Israel, who also joined the Florida faculty after retiring from Michigan Law.

Michigan Law Professor Douglas Kahn recalled a colleague's comment that Allen "was the only person he knew who spoke in paragraphs." Said Kahn: "Frank never said or wrote anything



foolish or awkward. Every sentence was carefully created, and every thought was the product of a keen mind having given consideration to the issues. He was truly a wise man and a gentleman in the best meaning of that term."

"Frank had a rare combination of intellectual rigor, profound humaneness, and stylistic elegance that made his deanship a golden age for the Michigan Law School," said Professor Emeritus Theodore J. St. Antoine, '54, who also served as Michigan Law's dean. "Under him our instruction became richer and broader through expanded interdisciplinary offerings and more practical through new clinical programs. And he presided over a major outreach to minorities and women."

"Frank was a nonpareil occasional speaker—both witty and meaty," St. Antoine added. "His range of allusions, always apt for his subject matter, would run from the 'Song of Roland' to T.S. Eliot, with generous helpings of 'Peanuts' along the way. He even made faculty meetings something to look forward to!"

Carl E. Schneider, '79, the Chauncey Stillman Professor of Ethics, Morality, and the Practice of Law and currently a visiting professor at the U.S. Air Force Academy in Colorado, described Allen as a teacher whose influence reached far beyond the immediate subject and classroom. "I am one of the thousands of students whose legal education truly

began when Frank Allen asked of the famous necessity killing case, ‘What are the facts of *Regina v. Dudley & Stephens*?’ Frank liked to call himself a son of the manse, and he supposed that teaching and learning were serious things. He would acerbically say that learning was hard work and often little fun. But Frank knew with Holmes that one can live greatly in the law, and he brought everything he had to showing students how to read like a lawyer, think like a lawyer, speak like a lawyer.

“Later, I acquired an office facing his across the courtyard. However early I came in, I would see Frank pacing his long office, class notes in hand, preparing. Today, when I read a case, I enjoy the craft pleasure in lawyer’s work that I began to acquire from Frank. Holmes wished for the ‘subtle rapture of a postponed power’. By his teaching, Frank surely earned it.”

“I knew Frank for more than 50 years, first as my teacher, then as the dean responsible for my decision to join the Michigan faculty, and finally as a colleague and friend,” recalled Professor Emeritus and former dean Terrance Sandalow. “More than anyone I have known during that time, he embodied the intellectual virtues at which a liberal education aims. A consummate teacher and scholar, his efforts in both areas were marked by deep learning, keen insight, and a quality much rarer even among the ablest teachers and scholars—wisdom.

“Although a very private man, Frank was a warm and generous friend—at times, perhaps, generous to a fault, as in his seeming inability to see the failings of his friends. But that is, surely, the most forgivable of faults, one that those of us who were his friends have good reason to prize.”

## Olin L. Browder Jr., S.J.D. '41

Olin L. Browder Jr., S.J.D. '41, the James V. Campbell Professor Emeritus of Law, died April 11. Born in 1913, he earned his A.B. and LL.B. at the University of Illinois, and taught at Michigan Law from 1953-84 before taking emeritus status.

Browder practiced law for a time in Chicago, and served as an attorney with the Tennessee Valley Authority in 1942-43 and as a special agent with the F.B.I. from 1943-46. Prior to coming to Michigan, he also had taught at the University of Tennessee and the University of Oklahoma.

A member of Phi Beta Kappa, Phi Kappa Phi, and Order of the COIF, Browder chaired the ABA’s Committee on Rules Against Perpetuities from 1966-71.

Browder wrote or co-authored a number of books, among them *American Law of Property* (1952), *Family Property Transactions* (1965, 3rd edition 1980), *Basic Property Law* (1966, 5th edition 1989), and *Palmer’s Cases on Trusts and Succession* (4th edition 1983).

Lawrence W. Waggoner, '63, Michigan Law’s James M. Simes Professor of Law, described Browder as a students’ favorite among teachers and a highly regarded scholar. “Olin was my teacher, colleague, co-author, and friend,” said Waggoner, with whom Browder co-wrote *Family Property Transactions* and *Palmer’s Cases on Trusts and Succession*. “As a teacher, he was very popular. In and out of the classroom, he was quiet, yet had a lot to say and said it efficiently.”

“He also had a devilishly subtle sense of humor,” Waggoner added. “He made you chuckle, not laugh out loud. As a

scholar, he was very perceptive. His law review articles are still cited today as authoritative, and he is thought of as one of the giants of his generation.

“Above all else, he was a gentleman and a gentle man. He loved Ann Arbor and the Law School. And he loved to have a beer at lunch!”



## IN DETAIL

- 78 Campbell Moot Court final decision
- 79 MLK Day speaker: Injustice must be confronted
- 80 Microsoft VP: Courts lead international decisionmaking
- 81 *New York Times* Editor: Press cannot be government's mouthpiece
- 81 S.J.D. candidate headed for International Court of Justice traineeship
- 82 Honoring Juan Luis Tienda: Gone 30 years—and still remembered
- 83 Speaker: Political will, public pressure make or break court decisions
- 84 Carpenter Banquet speaker: 'Tomorrow isn't promised to any of us'
- 85 Court is in session
- 85 First-hand experience leads to Refugee and Asylum Law Fellowship
- 86 2007 Fiske Fellows
- 86 Michigan Law launches new clinic for low-income taxpayers
- 87 Commencing the journey

## Campbell Moot Court final decision

**A**fter a grueling competition that covered much of the academic year and included 82 competitors, 30 faculty judges, and more than 200 Michigan Law graduates who adjudicated preliminary rounds, the team of Jeremy M. Suhr (standing center below) and Robert P. Stockman (seated center below) emerged as victors in the finals of this year's Campbell Moot Court competition. The team also won for best brief, and Stockman was named best oralist. They faced the team of co-finalists Caitlin M. Bair and Jessica Berry (left to right at lower right) in a hypothetical case focusing on two main issues:

- Can a pretrial detainee in the custody of a private corporation state a claim against individual employees of the corporation under *Bivens v. Six Unknown Federal Narcotics Officers*, 403 U.S. 388 (1971); and
- To what extent, if any, do pretrial detainees enjoy a Fifth Amendment right to privacy in their HIV-status?

Both teams faced constant questioning from judges for the final competition (left): the Hon. Gerald Tjoflat of the U.S. Court of Appeals for the Eleventh Circuit (leading the way into the competition site); the Hon. Deane R. Tacha, '71, chief judge of the U.S. Court of Appeals for the Tenth Circuit, who acted as chief justice for the competition; and the Hon. Steven M. Colloton of the U.S. Court of Appeals for the Eighth Circuit.





## MLK Day speaker: Injustice must be confronted

Speak up when you see injustice, and believe in the power of your words to produce justice, capital defense specialist and law professor Bryan Stevenson told a Law School audience on Martin Luther King Day in January.

Stevenson, executive director of the Montgomery, Alabama-based Equal Justice Initiative and a professor at New York University School of Law, visited Michigan Law in January as the Law School's speaker for the University-wide Martin Luther King Symposium, which celebrates the federal holiday and



commemorates the assassinated civil rights leader. Stevenson, who has argued before the U.S. Supreme Court and is nationally known

for his work in death penalty cases and on behalf of low-income people, taught at Michigan Law about 10 years ago.

Speaking without notes on the subject "Confronting Injustice," Stevenson ranged widely over topics from the injustice of sentencing young teenagers to life without parole to the modern-day withholding of voting rights from convicted felons.

"In the criminal justice system where I work, your entire fate is controlled by wealth," Stevenson asserted, citing as evidence the disproportionate number of black and poor people sentenced to execution or life imprisonment and the fact that some 38 million Americans currently live below the poverty line. "Our system treats you much better if you're guilty and wealthy than if you're innocent and poor."

In the case of capital punishment, he reported, modern DNA and other evidentiary methods have corrected many

wrongful convictions. "For every eight who are executed, we have identified one who was exonerated."

Today, one of every three African American men between the ages of 18 and 30 is in jail or prison or on parole, and within the last decade the number of women of color in prison has increased 600 percent, he said. U.S. prisons hold some 2.3 million inmates, and across the country some 4.1 million people have lost the right to vote because of their criminal convictions. In Alabama, Stevenson reported, state laws that deny voting rights to convicted felons mean that "in the next 10 years you will have a higher rate of disenfranchisement than when the Voting Rights Act was passed."

By way of example, he told the story of the elderly African American woman who was among those her neighbors had picked to represent them by occupying one of the few seats available at a trial to get a man off death row. Frozen with fear by a large dog authorities used to guard the courthouse—a tactic she said reminded her of authorities' use of dogs to quell the civil rights demonstration in Selma, Alabama, in 1965—the woman determinedly returned the next day, faced down the dog, and took her place in the courtroom. "I am here," she defiantly told the courtroom.

"The power of being a witness, of saying something, is the most powerful thing we can do," Stevenson emphasized. "A country that is comfortable with 38 million people in poverty must be challenged," he continued. "A country that tries 13- and 14-year-old children as adults must be confronted."

So must U.S. Supreme Court decisions



*Words have power and can create justice, Martin Luther King Day speaker Bryan Stevenson tells his Michigan Law audience.*

like that in *McLeskey v. Kemp*, the 1987 case in which the Court acknowledged that some racial bias in handing down death sentences is inevitable, he continued. Thirty-three years earlier, in *Brown v. Board of Education*, the Court could have accepted some bias in school attendance patterns, but it didn't, Stevenson pointed out. "I continue to believe that *McLeskey* is the *Dred Scott* of your generation," he said, referring to the 1857 U.S. Supreme Court case that overturned the Missouri Compromise and declared that African Americans could never be U.S. citizens.

Speaking out isn't always easy, he warned his listeners. "I caution you that being hopeful, being a visionary, will sometimes cost you."

But "I came here," he continued, drawing on King's words, "to tell you to 'Keep your eye on the prize' and hold on."

## Microsoft VP: Governments lead international decisionmaking

National governments remain the primary decision makers in the international arena, despite the growth in number and influence of multi-national organizations like the World Trade Organization and the World Intellectual Property Organization, according to a top official at Microsoft who has worked extensively in the firm's international activities.

In the end, "ninety-nine percent of the decisions are by governments," Brad Smith, Microsoft's senior vice president and general counsel told Michigan Law's International Law Workshop in March.

Smith used his talk, "The Role of Global Corporations in the Making and Implementation of International Law,"



to illustrate the variety of influence points and approaches that come to bear when law and technology interact in the international arena. In addition, Smith predicted, technological advances will continue to change the information industry, geological and life sciences, and other fields for the remainder of this century. Globalization also will be more of a factor in these fields, he said.

Recognized law often cannot keep up with rapid technological change, and in the global arena a company like Microsoft may face the same issue in many countries at the same time, according to Smith. And it can be very time-consuming to reach a "globally singular result" because consensus usually begins at the national level and only then slowly gains multi-national or global acceptance.

But global agreement is possible, he noted. In the 1980s, he reported, only four European countries recognized copyright protection for software. But since then nations around the world have recognized the value of such protection and have implemented it nearly worldwide.

*Microsoft Senior Vice President and General Counsel Brad Smith meets with law students in an informal session shortly before his lecture to Michigan Law's International Law Workshop on "The Role of Global Corporations in the Making and Implementation of International Law."*

## Student Funded Fellowships Auction Night

The auction for Student Funded Fellowships is a rite of spring at Michigan Law, a rite in which students, faculty, and staff all participate to raise funds for fellowships for law students who wish to spend the summer working in public service positions. This year's auction, with additional support from graduates and firms helping to sponsor the event, raised more than \$62,000. Below, Professor Sherman L. Clark takes his turn as auctioneer and an audience member makes a bid.



## New York Times editor: Press cannot be government mouthpiece

*New York Times* Executive Editor Bill Keller acknowledged that the American press stumbled in its coverage of the events leading to the U.S. invasion of Iraq in 2003, but overall he staunchly defended the significance of the press' role as questioning observer of government action during a lecture at the Law School last fall.

The *Times* won a Pulitzer Prize for its disclosure of the federal government's warrantless surveillance program, but the paper also was the target of White House, executive branch, and congressional vilification for disclosing the highly secret activity, according to Keller. He himself paid his only visit to the Oval Office to discuss the story with President Bush, who, Keller reported, told him The *Times* would be responsible for the next terrorist action in the United States if it printed the story.



The *New York Times* did not print the story for a year after reporters first discovered it, Keller said. Instead, editors demanded further fact gathering by the reporters, but finally decided that public knowledge of the program was more important than keeping it secret. "Government officials want it both ways," he said. "They want to protect the secrets and trumpet the successes."

Keller discussed this and other aspects of modern journalism as he delivered the 16th annual University of Michigan Senate's Davis, Markert, Nickerson Lecture on Academic and Intellectual Freedom. The annual lecture commemorates three U-M faculty members who lost their jobs during the 1950s for refusing to cooperate with investigations by the House Un-American Activities Committee. Keller called his talk "Editors in Chains: Secrets, Security, and the Press."

"How do we reconcile our obligation to inform with the responsibility to protect?" he asked. In the case of Iraq, he answered, "Reporters don't disclose intelligence." In the case of the story on the National Security Agency's eavesdropping program, "We took more than a year for additional reporting."

To fulfill its role of informing citizens, journalism must verify its information, believe in transparency, and be "agnostic as to where a story may lead," according to Keller. "Impartial journalism," he said, "like child rearing, an unachievable goal, but a worthwhile one."

During his visit Keller also met with a select group of Law School faculty and students.

*Bill Keller, executive editor of The New York Times at the Law School*

## S.J.D. candidate headed for International Court of Justice traineeship

S.J.D. candidate Noam Wiener, LL.M. '06, has been chosen to participate in the nine-month university traineeship program at the International Court of Justice in The Hague beginning in September. This is the fourth year that Michigan Law has participated in the program and Wiener is the Law School's fifth nominee to receive a traineeship at the court. The highly competitive traineeships are awarded to nominees from a group of nine law schools, including Columbia, Yale, Georgetown, Virginia, New York University, McGill, Strasbourg, and Geneva.

Wiener earned his bachelor's degree in political science at Tel-Aviv University. At Michigan Law, he has received the Grotius Scholarship and has served as an article editor on the *Journal of International Law*. His S.J.D. doctoral work is under the supervision of Assistant Professor of Law Steven Ratner.

During 2001-02 Wiener worked with a law firm in Tel-Aviv, where he assisted in litigating human rights cases growing from the Israeli occupation of southern Lebanon, the West Bank, and the Gaza Strip. From 2002-05, he worked as a teaching assistant at Tel-Aviv University and was a research fellow at the Concord Research Center for the Interplay between International Norms and Israeli Law. His current research concentrates on international criminal tribunals, how they justify the punishments they decide, and how these actions affect judicial and prosecutorial policy.





## Honoring Juan Luis Tienda: Gone 30 years—and still remembered

By the time of his fatal auto accident 30 years ago, Juan Luis Tienda already had made a profound impact on his classmates and teachers. An impact that continues to this day in the form of the annual Juan Luis Tienda Scholarship Banquet, which drew more than 250 participants last February and featured the awarding of three scholarships to law students, an additional special award from the Hispanic National Bar



*J.T. Canales Distinguished Alumni Award winner Monica P. Navarro, '93, reminds listeners that despite advances in number, U.S. Hispanics still lag behind the overall population in earnings, education, and other factors.*

Association Foundation, and presentation of the J.T. Canales Distinguished Alumni Award.

This year's 22nd annual banquet—there was a break during the 1970s—was a time for remembrances: Tienda's four sisters attended, as did members of his extended family, and instead of featuring a single keynote speaker, banquet co-chairs Luis A. Barrerra and Andrew Knepley invited four classmates of Tienda to share their memories of the young future lawyer whose life was cut so tragically short in 1976.

Miguel Rodriguez, '78, was a second-year law student when Tienda died in an auto accident, and "I felt we just had to find a way to do something," he recalled.

Today, he said, to look out and see how that first Sunday dinner of rice, beans, tortillas, and tamales in the Lawyers Club has "grown and grown into what there is here tonight, makes it very special."

Tienda's short life was not an easy one, but he lived it fully and quickly inspired those who knew him. He lost his mother when he was five and grew up in a poor family in Detroit. He entered the U.S. Army after high school because the G.I. Bill offered him the chance to attend college, and earned his bachelor's degree from Michigan State University in three years so he could apply his remaining year of G.I. benefits to law school tuition. At the Law School, he headed La Raza, the predecessor to today's Latino Law Students Association (LLSA), formed and worked during the summer on a program to help migrant workers, and proved a constant source of support to his fellow students.

"He was tall, lanky, with long hair," recalled Santiago Pellegrino, '77, of Delta College in Michigan. "He looked like a hippie—and maybe he was, but he had this infectious smile that would light up the room when he entered. He was quite a charismatic person."

"I was a 1L when I got to know Juan," recalled Paul Zavala, '78, now a member of GM's legal staff. "I was scared, and stressed. . . . And Juan said, 'Don't worry, Paul, you'll make it.'"

"He's the model that we all aspire to as we try to make the world a better place."

"There is strength in diversity, but only when we respect each other," Arturo Nelson, '77, District Judge for the 138th District Court in Cameron Country, Texas, told banquet goers. "I



*Let's continue Juan Luis Tienda's tradition of social concern, Miguel Rodriguez, '77, tells listeners. Rodriguez was one of four Tienda classmates and organizers of the original banquet who spoke at this year's program. Behind him from left, are Santiago Pellegrino, '77, Paul Zavala, '78, and Arturo Nelson, '77.*

think Juan did that. Let us continue that tradition."

Tienda's legacy also lives on in the competitive scholarships that LLSA awards each year to selected first-year students who reflect the dedication to public service that marked Tienda's life. This year's winners were David Pacheco, Shana Ramirez, and Kristen Rodriguez.

This year's banquet also featured the first-time presentation of a special leadership award/scholarship from the Hispanic National Bar Association



*From left, Daniella Polar, recipient of this year's special scholarship from the Hispanic National Bar Association Foundation, and Juan Tienda Scholarship winners Shana Ramirez, David Pacheco, and Kristen Rodriguez.*

Foundation to first-year law student Daniella Polar.

The annual J.T. Canales Distinguished Alumnus Award went to Monica P. Navarro, '93, of Detroit-based Frank, Haron, Weiner and Navarro. Despite continuing gains in numbers—Hispanics are now the largest minority in the United States and are expected to account for one-quarter of the U.S. population by 2025—Hispanics lag behind in high school graduation rates (55 percent), Master's level and higher degrees (4 percent and 2 percent respectively), are not well represented at managerial levels in business, and suffer a poverty rate double that of the rest of the population, reported Navarro, who came to the United States from Colombia when she was 17.

"You belong in the boardrooms, in the White House," said Navarro, herself a Tienda Scholarship winner in 1991. "Think what odds you've already beat to be here."

The J.T. Canales Award commemorates the 1899 graduate considered to be the first Hispanic to graduate from Michigan Law. José Tomás "J.T." Canales challenged Texas Rangers' treatment of Mexican Americans, served as an appellate attorney in the first Texas case concerning segregation of Mexican school children, and was involved in *Delgado v. Bastrop ISD*, the case to eliminate Texas' separate public education for Latinos.

After he retired, Canales remained active in the Mexican American civil rights movement, served on the first board of directors of the League of United Latin American Citizens (LULAC), and served as LULAC's president in 1932-33.

## Speaker: Political will, public pressure make or break court decisions

Judicial decisions need to be backed by political will and public support to work significant change, a veteran of civil rights disputes told a standing-room-only crowd at the Law School earlier this year. And those decisions can interpret the same laws and same words differently at different times, in large part because of the political and social currents that can upend or buoy up a court's ruling.

That's how Jack Greenberg, who was assistant counsel with the NAACP Legal Defense and Educational Fund from 1949-61 and then succeeded Thurgood Marshall as director counsel from 1961-84, described the shifting currents of jurisprudence that flow from the country's courts, especially the U.S. Supreme Court.

In the 19th century for example, the interpretation of "equal protection" that led to major progress by African Americans after the Civil War led to the "separate but equal" decision of *Plessy v. Ferguson* and then swung back again nearly 60 years later in the "separate is not equal" interpretation at the core of *Brown v. Board of Education* in 1954, according to Greenberg, a faculty member and former dean at Columbia University Law School.

Greenberg, who helped to argue *Brown* before the U.S. Supreme Court and also is a founder of the watchdog organization Human Rights Watch, was the keynote speaker for the initial program in the Uniting Civil and Human Rights Symposia Series, sponsored by the College of Literature, Science and the Arts' Human Rights Through Education organization and co-sponsored by the Law School's Center for International and Comparative Law along with other supporters.



Jack Greenberg

Greenberg illustrated his point with a brief history lesson on racial integration: A "synergy of law and society" produced considerable racial integration in the South after the Civil War despite significant opposition, Greenberg explained. But the shift stalled with the Compromise of 1877 that decided "a race as close as *Bush v. Gore*" in 2000, Greenberg continued. Rutherford B. Hayes eked out a victory by promising to withdraw U.S. troops from the South if he were elected. Hayes kept his election promise, thereby removing the federal lid from the anti-integration forces, whom Greenberg called "Redeemers."

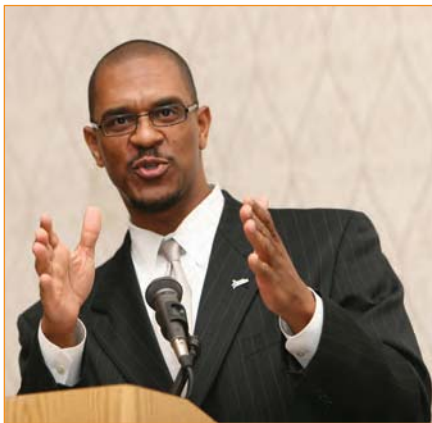
The *Plessy* ruling in 1896 "reflects the reality of the power of the redeemers," Greenberg noted. The shift changed the legal definition of "equal protection" from one that opposed segregation to one that supported it, he continued. It would not shift back until the close of World War II, when black migration from the southern United States to the North, the fact of the Holocaust, passage of the Universal Declaration of Human Rights in 1950, and other factors combined to set the stage for reversing the meaning of "equal protection" again that led to the *Brown* decision in 1954.

Today, once again "desegregation has slowed and is declining," he reported, the victim of Court decisions banning busing across school district lines.

## Carpenter Banquet speaker: 'Tomorrow isn't promised to any of us'

For Daniel S. Varner, '94, the legacy of Alden J. "Butch" Carpenter is so real and personal that he sometimes has difficulty discussing it.

No, he never met Carpenter, the Detroit-born law student who died suddenly in 1978 while playing basketball, whose ideals of community service are commemorated each year at the Alden J. "Butch" Carpenter Scholarship Banquet.



Keynote speaker Daniel S. Varner, '94

Varner enrolled in the Law School more than a decade after Carpenter's tragic death at age 28. But like many law students, he knew of Carpenter. His friend and Law School classmate D. Duane Hurtt, '94, won a Carpenter Scholarship in 1992, and the pair worked closely together after they graduated.

"The legacy of Butch Carpenter is special for me—because of Duane Hurtt," Varner explained in his keynote talk to Carpenter banquet participants at the 29th annual banquet in March. "I feel in many ways like I know him through Duane Hurtt."

Varner in 1997 co-founded (with fellow Law School graduate Michael F. Tenbusch, '96) Think Detroit, a nonprofit organization that uses

organized sports, tutoring, summer camps, and other activities to mentor and develop character in Detroit's youngsters. Think Detroit, which uses some 1,500 volunteers to serve about 13,000 youngsters each year, merged last year with the Detroit Police Athletic League into what now is called Think Detroit PAL.

Hurtt's expert hand guided that merger. Mirroring Carpenter's goals of community service, Hurtt had been a volunteer and board member with Think Detroit for many years, and when Varner asked him to come aboard to shepherd the merger with Detroit PAL he didn't hesitate to leave his much higher paying job to join his friend.

Like Butch Carpenter, Hurtt opted for community improvement over income. And like Carpenter, he was denied the satisfaction of seeing the full benefits of his work. Hurtt died January 20, 2007, at the age of 38. "Tomorrow isn't promised to any of us," Varner

reminded his listeners, "and if you're going to do something, do it now. Do it right away."

This year, three first-year law students received a total of \$35,000 in Carpenter Scholarship aid through a competitive application process that uses past, current, and intended public service as its main measure of evaluation. This year's winners were Aisha Harris, Lisa Helem, and Vernon Thompson.

The Black Law Student Alliance (BLSA), which sponsors the annual Carpenter Scholarship Banquet, also honored former Michigan Law Assistant Dean of Students Charlotte Johnson, '88, for her support of diversity at the Law School and her assistance with BLSA and its programs. Johnson was unable to attend this year's banquet. She left the Law School last summer to become vice president and dean of the college at Colgate University in Hamilton, New York.

Butch Carpenter Scholarship recipients Aisha Harris, Vernon Thompson, and Lisa Helem.





**Court is in session**—Chief Judge Bernard Friedman of the U.S. District Court for the Eastern District of Michigan brought his courtroom to Michigan Law last winter so that students could see and hear real cases being argued and actual decisions being handed down. Here, Friedman listens intently as attorneys argue an insurance coverage case whose history included at least three previous lawsuits and at least one jury verdict. During the Motions Day proceedings, Friedman and attorneys also explained the cases to law students, who had filled the room before court opened. Afterward, below, Friedman and his clerks shared a brown bag luncheon with students to discuss how clerkships operate within the court system and benefit judges, courts, and law school graduates alike. Friedman, center, was accompanied by, from left, career clerk Jennifer McManus and term clerk Jeff Imerman, plus career clerk Steve Thoburn (not shown). The program was sponsored by the Federal Bar Association.



## First-hand experience leads to Refugee and Asylum Law Fellowship

For law student Aref M. Wardak, the life-changing war in Afghanistan was not the current one against terrorists and the Taliban. It came 20 years ago when the Soviets invaded Afghanistan. Wardak's family fled "and found our way to the refugee camp in Pakistan," as he recalled in a recent essay. "However, unlike millions of Afghans, my family was able to escape from the disease and starvation prevalent in the camp for the promise of a better life in America."

The experience branded Wardak's values in a way that he expects to shape his professional career. "I am quite aware of the fact that were it not for mere chance that brought my family, instead of another, to America, I might be scrounging for food instead of attending classes," he explained in his successful application for one of four Michigan Law fellowships in refugee and asylum law. "This humbling understanding motivates me to be involved in issues concerning refugees."

Later this year Wardak, a 3L who will graduate in December, will head for New Zealand to work for at least six weeks with that country's Refugee Status Appeals Authority in Auckland. He'll "have an opportunity to observe the refugee determination process from the inside, including attending appeal hearings and discussing cases with the panel hearing the appeal," says the description of his posting. He'll also have the opportunity to do research on legal matters and conditions in refugees' home countries, as well as visit first-line immigration decision makers and meet with members of the refugee bar.

Much of the time he will be working with RSAA Deputy Chairperson Rodger Haines, who has taught at Michigan Law.

This year's other three fellowship winners and their assignments are:

- **Maleeha Haw**, '07, a native of Pakistan who came with her family to the United States in 1992, who will be working with the refugee policy program of Human Rights Watch in Washington, D.C.;
- **Martina Pomeroy**, who graduates in December, will be working with the Jesuit Refugee Service (JRS) in Lillongwe, Malawi, a new posting for the fellowship program that means she will serve as "the first advocacy-oriented member of the JRS team in Malawi," according to JRS; and
- **Rachel A. Simmons**, who graduates next year, will be an associate with the refugee program of Amnesty International's international secretariat in London, England.

Fellows this year for the first time have the option to extend their usual six-week assignments to a maximum of 10 weeks, reported Professor James C. Hathaway, who directs Michigan Law's Refugee and Asylum Law Program. The innovation offers the opportunity for a deeper, more nuanced and more complete experience, Hathaway explained.

Hathaway and Assistant Dean for International Affairs Virginia Gordan evaluate applicants and determine fellowship winners. Fellowship recipients receive airfare to/from their assignments and a living expenses allotment, and must complete their assignments between May and August.

## 2007 Fiske Fellows

Robert B. Fiske Jr., '55, is shown with 2007 Fiske Fellowship winners Neil J. Beck, '07, Thomas A. Ferrone, '07, and alternate Thomas Dillon, who will graduate from Michigan Law in December, at the dinner for fellowship winners in Ann Arbor in March. Fellowship winner Toni Gantz, '06, and alternate Breanne M. Sheetz, who graduated in May, were unable to attend and are not shown. The fellowships were established by Fiske, a senior partner with Davis Polk & Wardwell in New York City whose public service has included serving as the first independent counsel for the Whitewater Investigation and as chairman of a judicial commission on drugs and the courts appointed by New York State Chief Judge Judith S. Kaye. The fellowships are awarded competitively to law students and recent graduates who will work in national, state, or local government positions. Each fellowship provides debt repayment assistance for the three-year duration of the award plus a \$5,000 first-year cash stipend. Two of this year's winners will work with the federal government, and the third will work in a New York City government post: Beck, who received his J.D. in May and his M.P.A. from Harvard University's Kennedy School in June, will work within the U.S. government; Ferrone, who also received his J.D. in May, will work as a legislative assistant or counsel in the legislative branch of the federal government; and Gantz, '06, currently doing a court clerkship, in August will begin serving as assistant corporation counsel in the general litigation division of the New York City Law Department.



## Michigan Law launches new clinic for low-income taxpayers

Michigan Law has expanded its highly regarded clinical teaching program with the opening of its Low Income Taxpayer Clinic (LITC), the School's eighth publicly-oriented law clinic. As in the School's other clinics, clients in the new LITC will be served by second- and third-year law students working under supervision of a faculty member.

Supervising attorney for the new clinic is Nicole Appleberry, '94, an adjunct clinical faculty member who specializes in tax matters. As a student at Michigan Law, Appleberry participated in the Child Advocacy Law Clinic and the Family Law Project. She served as an assistant prosecuting attorney in Livingston County, Michigan, and since 1999 has practiced with Ferguson & Widmayer PC in Ann Arbor, where she focuses on tax-related matters. Appleberry is a Washtenaw County (Michigan) approved civil mediator and serves as co-chair of the taxation section of the Washtenaw County Bar Association. She earned her LL.M. in taxation in 2000 at Wayne State University Law School.

Being launched with a Tax Advocacy Program grant from the Internal Revenue Service (IRS), the clinic is designed to enroll six law students and is expected mostly to assist clients with issues under a \$50,000 ceiling regarding Internal Revenue Service notices, liens, and levies; tax installment agreements; tax audits; collection hearings and conferences; earned income and child tax credit eligibility and denial; and similar matters.





## Commencing the journey

Three-and-one-half-year-old Ria West tugged at her mother's hand as she crossed the Michigan Theater stage and tried to veer into hand-reaching range of the flowers that decorated the stage for Senior Day in December. Her action brought appreciative smiles and laughter from graduates and onlookers alike—as well as a blossom-denying counter tug from her mother, graduating law student Susan West.

In making her move to snag a memento, Ria simply was acting out what everyone at the ceremonies was doing: Identifying something special from the day to take away and treasure. For graduates, perhaps the excitement of moving on to work and profession, certainly the satisfaction of completing three years of legal studies. For parents, spouses, and other well-wishers, pride in a loved one's significant accomplishment.

To move from the halls of the Law School to the halls of justice is not to make an easy passage, nor does the conversion bring graduates to times of ease. Many have made the transition since Michigan Law began in 1859, but each individual's passage has been just that—individual, and thus new, special, and unique. Law Professor Sherman L. Clark reflected upon this as he began his commencement talk:

“It is perhaps a cliché to invoke, at a graduation, the image of embarkation. But a cliché is just a truth-worn tale.” To illustrate, he reached back more than 3,000 years to the timeless tale of a warrior trying to return home: “So listen [from the Robert Fagles translation] to how it sounded when it was fresh—this from *The Odyssey*—the end of the second book—where young Telemachus, having come of age and been inspired by Athena, sets off in search of news of his father.”

Young Telemachus accepts the aid of another's wisdom and craft, he labors in the company of friends and shipmates, and they honor “that which has given them the reason and the courage to set sail,” Clark noted.

“We cannot know now what each of you will accomplish—or what you will encounter. . . ,” Clark concluded. “But if you can do these things:

- “If you can face with courage your place in the world;
- “If you can respect and be guided by your craft, your wisdom;
- “If you can build community with true friends [and] worthy colleagues;
- “And, if you can keep fresh [and] honor the dreams that have inspired you so far,

“If you can do these things, your journey will be a noble one. And you can make a story worth telling.”

Other speakers included Law School Student Senate President Grace Lee, graduate Matthew Paul Herrick, and Dean Evan H. Caminker, who noted in his welcoming remarks that the graduates are entering the legal profession at a time of momentous questions concerning U.S. presidential powers and other issues. When there is this much at stake, he said, it is “critical” that people trained in the law are involved in the debate.

And, yes, Ria West got her blossom—after the ceremony.



## IN DETAIL

## 89 A measure of honor

**Mark D. West**, Nippon Life Professor of Law Mark D. West is director of both the Law School's Japanese Legal Studies Program and its Center for International and Comparative Law; he also directs the University of Michigan's Center for Japanese Studies. He has studied and taught at the University of Tokyo and Kyoto University, and has been a Fulbright Research Scholar, an Abe Fellow, and a fellow of the Japan Society for the Promotion of Science. Fluent in Japanese, he clerked for the Hon. Eugene H. Nickerson of the U.S. District Court for the Eastern District of New York and practiced with the New York-based international law firm Paul, Weiss, Rifkind, Warton & Garrison LLP. He is the author of *Economic Organizations and Corporate Governance in Japan: The Impact of Formal and Informal Rules* (2004), *Law in Everyday Japan: Sex, Sumo, Suicide, and Statutes* (2005), and *Secrets, Sex, and Spectacle: The Rules of Scandal in Japan and the United States*, from which this excerpt is taken. West also is an editor of *The Japanese Legal System: Cases, Codes, and Commentary* (2006). He earned his B.A., *magna cum laude* and Phi Beta Kappa, from Rhodes College, and his J.D. with multiple honors from Columbia University School of Law, where he was notes and comments editor for the *Columbia Law Review*.

## 91 On amending Executive Order 12866: Good governance or regulatory usurpation?

**Sally Katzen Dyk**, '67, a Public Interest/Public Service Fellow at Michigan Law, served as administrator of the Office of Information and Regulatory Affairs (OIRA) at the Office of Management and Budget (OMB) for the first five years of the Clinton Administration, then as the deputy assistant to the president for economic policy and deputy director of the National Economic Council, and then as the deputy director for management of OMB. She has taught administrative law and related subjects at Michigan Law as well as George Mason University Law School and the University of Pennsylvania Law School. She also has taught undergraduate seminars in American government at Smith College, Johns Hopkins University, and the University of Michigan in Washington Program.

## A measure of honor

by Mark D. West

*The following excerpt from Secrets, Sex, and Spectacles: The Rules of Scandal in Japan and the United States (University of Chicago Press, 2006) appears here with permission of the author and publisher. The selection is from the chapter “Privacy and Honor,” in which the author finds that Japan has more than twice as many defamation cases per capita than America, “despite the fact that America has about 50 times more lawyers.”*

People in Japan sue despite low damages—and win—over some things that sound rather silly. Actress Reiko Ōhara sued a publisher of women’s weekly *Josei Jishin* over an article that claimed she was causing trouble in her neighborhood by yelling “Shut up!” at her dog, not cleaning the leaves out of her drainage ditch, and never apologizing to anyone (she won). Architect Kisho Kurokawa—whose work was the inspiration for Japan’s capsule hotels—took a weekly to court because it said that people in Toyota City did not like the skeletal look or the cost of a “10-billion-yen dinosaur bridge” that he designed (he won, too). Dewi Sukarno, a Japanese-born socialist celebrity and former first lady of Indonesia, sued the publisher of the sport paper *Yūkan Fuji* over claims that her English pronunciation is poor (they settled in Tokyo District Court). The rules increase the chances of winning for such people, but even if they had a 100 percent chance of success, shouldn’t they be able to get over it?

Law doesn’t wholly capture this phenomenon. The plaintiffs do not find their claims silly. Nor are courts rolling their eyes and begrudgingly awarding damages; their opinions often sound as outraged as the plaintiffs’ briefs (though when I discuss the cases privately with Japanese judges, they volunteer the word “silly”). Not all plaintiffs are seeking publicity: how much publicity could be gained by the small-time haiku poets and traditional storytellers who bring suit?

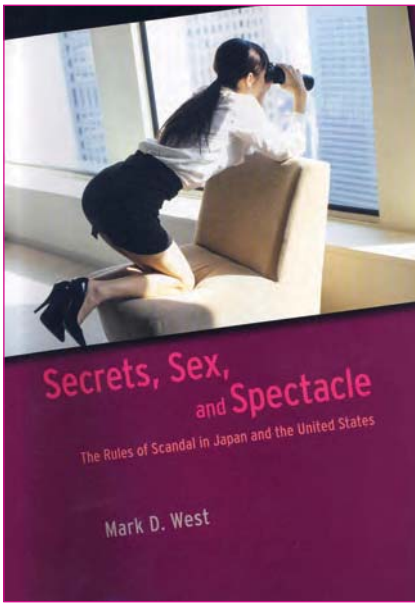
One reason these cases are not publicly treated as silly is that the stories actually *do* damage reputations. In Reiko Ōhara’s case, for instance, the court noted that she would lose considerable income from a resultant inability to appear in television commercials. If a well-known actress can lose significant income because a tabloid says she yells at her dog, Japanese reputation seems awfully fragile. I’ve already suggested one possible reason for the fragility: the defamer, in this case, sensational television shows and tabloids, might be particularly credible. Or maybe some defamed people are simply more susceptible to harm; the organization of the plaintiff’s industry or her social group might make her particularly vulnerable. More broadly, maybe Japan’s



relative homogeneity and social density lead to a stronger consensus on what behavior is acceptable or, as in seventeenth-century American communities, increase a court’s ability to restore a plaintiff’s honor.

Or maybe the difference lies in litigation strategy, since some suits seem to have little to do with defamation. In 2002 a group of 131 Tokyo women sued Tokyo governor Ishihara for defamation because he referred in a *Shūkan Josei* interview to women—not the plaintiffs in particular, just women—as old hags (*babaa*) (they lost). Three years later, the governor had new foes: a group of French and Japanese teachers of French, demanding \$100,000 and an apology for his remark that French is “disqualified as an international language” because it “cannot count numbers.” In 2002 superstar kyogen actor Motoya Izumi claimed that the Japan Noh Association defamed him when it kicked him out for his tardiness, double booking, and unauthorized use of the “headmaster” title (he lost and became a pro wrestler). In a 1998 case, Kabuki actor Ennosuke Ichikawa sued an overexuberant fan who claimed one too many times that she was engaged to marry him (he won). Or how about this one from 1988: a senior citizen sued the chairman of a senior citizens’ club for the damage that he claimed to have incurred when he was kicked out for playing his accordion too long and generally annoying everybody (he lost).

The plaintiffs seem to be using defamation law to get at something else; perhaps it serves as a means of expressing anger, as a means for gaining official approval or public recognition of a position, or as a substitute for other remedies that are difficult to obtain in Japan. The Tokyo women were making a statement about sexism and inappropriate language; one of the lead plaintiffs effectively admitted as much when she said, “I know I’m an old hag, but Mr. Ishihara is not entitled to call me



that.” The *kyōgen* actor seems to have simply tacked on a defamation claim to an invalid vote suit, and the Kabuki actor apparently needed to rid himself of a pseudo-stalker. The senior citizens and the French speakers

probably had hurt feelings, and they were angry.

These cases suggest that defamation cases in Japan and America differ not only quantitatively but qualitatively as well; we don’t see many cases of this sort in the United States. A notable exception is the defamation suit brought by gangsta-rap antagonist Delores Tucker against rapper Tupac Shakur. Shakur called Tucker a “muthafucka” in the lyrics of a popular song. Tucker sued. She lost: the court found the word to be a mere “vigorous epithet” that is “unpleasant at best and vulgar at worst.” Tucker’s injury is somewhat similar to that of the Tokyo “old hag” plaintiffs (except that Tupac’s epithet was explicitly directed at Tucker and not at a large group). Did Tucker, a civil rights activist who marched alongside Martin Luther King Jr., really think that her social standing was lowered when a deceased rapper who called many people muthafuckas labeled her one? I suspect that her injury, though perhaps very real to her, was of a different sort.

Compared with Japanese suits, cases like Delores Tucker’s are rare in America. The difference in frequency lies in differing conceptions of honor. In the United States, some suits are about economic harm, some are about damage to reputation, and a very few are about intrinsic notions of honor. But in Japan, it’s honor that matters: one of the 131 women who objected to the Tokyo Governor’s “old hag” line explained that “the honor of older and childless women was hurt,” but that injury surely was to the pride and personal integrity components of honor, not to external perceptions of any of the women by others.

Note, however, that the popular Japanese concept differs from the official view. The Japanese Supreme Court has made clear that the required injury to “honor” in the Japanese statutes “refers to *social* honor [*shakaiteki meiyō*], which does not include a person’s subjective evaluation of his own self-worth as an

individual, namely, what might be interpreted as pride [*meiyō kanjō*, literally, personal ‘feelings of honor’].” That formulation sounds much closer to the American concept of defamation as reputational harm.

But what ordinary plaintiff in Japan is going to read Supreme Court opinions? People just know that *meiyō kison* (defamation) must be about damage to *meiyō* (honor), for why else would it be called that?

What’s more, even the courts seem confused at times. The Tokyo District Court has found defamation when a person is called “ugly” (*busu*) and a “run” (*chibi*). Those comments are insulting, but it’s hard to see how they would lower a person’s social standing. In a handful of cases, courts have explicitly held defendants liable for insult-like injuries—but those courts don’t call the injury “defamation” (*meiyō kison*); they call it “injury to pride” (*meiyō kanjō no shingai*). When a person is called “frog face,” or when a photograph of a nuclear power plant protestor fishing in a nearby lake is used as public relations material by the power plant, or when a person tries to have his neighbor legally committed to a psychiatric institution with no basis other than hate, there’s no ground for defamation because the plaintiff’s social standing isn’t lowered, but the defendant can still be liable under a “pride” theory. Compare that to U.S. courts, where the leading statement on torts says that “a certain amount of name-calling is frequently resorted to by angry people without any real intent to make a defamatory assertion, and it is properly understood by reasonable listeners to amount to nothing more.” So Delores Tucker loses against Tupac in the United States, but she might win in Japan.

All of which suggests that when we compare the frequency and bases for defamation actions in Japan and America, it’s not at all clear that we’re comparing the same things. Japan seems to place more emphasis on honor, constructing “defamation” as a deeper, broader, or more common injury for which more people might seek redress in a courtroom.

It’s no accident or mere happenstance of interest-group politics that leads to this result. Such a high-profile area of the law as defamation law would not be the way it is if it did not serve social interests. The same activist judges who harmonized criminal and civil defamation in Japan could have revised the system to award higher damages and require actual malice like the American model. Instead, they have stuck to the system that supports norms of honor, deliberately avoiding other paths when the option has been presented. ■

## On amending Executive Order 12866: Good governance or regulatory usurpation?

by Sally Katzen

*The following essay is based on testimony delivered February 13 before the House Judiciary Subcommittee on Commercial and Administrative Law and the House Science and Technology Subcommittee on Investigation and Oversight.*



During the last six years, there has been a slow but steady change in the process by which regulations are developed and issued—specifically, in the balance of authority between the federal regulatory agencies and the Office of Management and Budget. Recently, the Bush Administration has again restricted agency discretion and made it more difficult for the federal agencies to do the job that Congress has delegated to them. The implications of these changes for administrative law and regulatory practice are very significant.

On January 18, 2007, the Bush Administration released two documents. One was expected; the other was not. While I disagree with several of the choices made in the “Final Bulletin for Good Guidance Practices,” I recognize that a case can be made that there is a need for such a bulletin. On the other hand, there is no apparent need for Executive Order 13422, further amending Executive Order 12866. Regrettably, none of the plausible explanations for its issuance is at all convincing. As I discuss below, there are at least three aspects of the new executive order that warrant attention:

- the way it was done—without any consultation or explanation;
- the context in which it was done—coming on the heels of OMB’s imposing [of] multiple mandates/requirements on the agencies when they are developing regulations; and
- the effect it will have and the message it sends to the agencies—it will be even more difficult for agencies to do their jobs because regulations are disfavored in this administration.

To put the most recent executive order in perspective, a little history may be helpful. The first steps towards centralized review of rulemaking were taken in the 1970s by Presidents Nixon, Ford, and Carter, each of whom had an ad hoc process for selectively reviewing agency rulemakings: President Nixon’s was called the Quality of Life Review; President Ford’s was focused on the agency’s Inflationary Impact Analysis that

accompanied the proposed regulation; and President Carter’s was through the Regulatory Analysis Review Group. Those rulemakings that were considered significant were reviewed by an inter-agency group, which then contributed their critiques (often strongly influenced by economists) to the rulemaking record.

In 1981, President Reagan took a significant additional step in issuing Executive Order 12291. That order formalized a process that called for the review of all executive branch agency rulemakings—at the initial and the final stages—under specified standards for approval. The office that President Reagan chose to conduct the review was the Office of Information and Regulatory Affairs (OIRA), established by the Congress for other purposes under the Paperwork Reduction Act of 1980. Unless OIRA approved the draft notice of proposed rulemaking and the draft final rule, the agency could not issue its regulation.

Executive Order 12291 was highly controversial, provoking three principal complaints. One was that the executive order was unabashedly intended to bring about regulatory *relief*—not reform—relief for the business community from the burdens of regulation. Second, the order placed enormous reliance on (and reflected unequivocal faith in) cost/benefit analysis, with an emphasis on the cost side of the equation. Third, the process was, by design, not transparent; indeed, the mantra was “leave no fingerprints,” with the result that disfavored regulations were sent to OMB and disappeared into a big black hole. The critics of Executive Order 12291, including the then Democratic majority members of Congress, expressed serious and deep concerns about the executive order, raising separation of powers arguments, the perceived bias against regulations, and the lack of openness and accountability of the process.

When President Clinton took office and I was confirmed by the Senate as the Administrator of OIRA, my first assignment

was to evaluate Executive Order 12291 in light of the 12 years of experience under Presidents Reagan and Bush, and help draft a new executive order that would preserve the strengths of the previous executive order but correct the flaws that had made the process so controversial. President Clinton would retain centralized review of executive branch agency rulemakings, but the *development* and the *tone* of the executive order he would sign (Executive Order 12866) was to be very different.

I was told that Executive Order 12291 was drafted in the White House (Boyden Gray and Jim Miller take credit for the document) and presented, after President Reagan had signed it, as a *fait accompli* to the agencies. The protests from the agencies were declared moot. We took a different route, consulting and sharing drafts with the agencies, public interest groups, industry groups, Congressional staffers, and state and local government representatives. When all their comments were considered and changes made to the working draft, we again consulted and shared our new drafts with all the groups, and again took comments. More changes were made, and where comments were not accepted, we explained the basis for our decisions.

The tenor of Executive Order 12866 was also quite different from Executive Order 12291. As noted above, Executive Order 12866 retained centralized review of rulemakings, but also reaffirmed the primacy of the agencies to which Congress had delegated the authority to regulate (Preamble). Executive Order 12866 also limited OIRA review to “significant regulations”—those with a likely substantial effect on the economy, on the environment, on public health or safety, etc. or those raising novel policy issues (Section 6(b)(1))—leaving to the agencies the responsibility for carrying out the principles of the executive order on the vast majority (roughly 85 percent) of their regulations.

Executive Order 12866 continued to require agencies to assess the consequences of their proposals and to quantify and monetize both the costs and the benefits to the extent feasible. (Section 1(a)) But it explicitly recognized that some costs and some benefits cannot be quantified or monetized but are “nevertheless essential to consider” (Section 1(a)). I believe it was Einstein who had a sign in his office at Princeton to the effect that “not everything that can be counted counts, and not everything that counts can be counted.”

While Executive Order 12291 required agencies to set their regulatory priorities “taking into account the conditions of the particular industries affected by the regulations [and] the condition of the national economy” (Section 2 (e)), Executive

Order 12866 instructed agencies to consider “the degree and nature of the risks posed by various substances and activities within its jurisdiction” (Section 1(b)(4)), and it added to the list of relevant considerations for determining if a proposed regulation qualified as “significant” not only an adverse effect on the economy or a sector of the economy, but also “productivity, competition, jobs, the environment, public health or safety or State, local, or tribal governments or communities” (Section 3(f)).

There were other significant differences between Executive Order 12291 and Executive Order 12866, including those relating to the timeliness of review and the transparency of the process, but for present purposes, the key to the difference was that President Clinton was focused on a process for better decision-making and hence better decisions and not a codification of a regulatory philosophy or ideology. Centralized review was seen as a valid exercise of presidential authority, facilitating political accountability (the president takes the credit and gets the blame for what his agencies decide) and to enhance regulatory efficacy (that is, decisions that take into account the multitude of disciplines and the multitude of perspectives that can and should be brought to bear in solving problems in our complex and interdependent society). But whatever one’s view of centralized review of agency rulemakings, Executive Order 12866 was—on its face and by intent—a charter for good government, without any predetermination of outcomes. The neutrality of the process was essential. President Clinton

*But whatever one’s view of centralized review of agency rulemakings, Executive Order 12866 was—on its face and by intent—a charter for good government . . .*

viewed regulations as perhaps the “single most critical . . . vehicle to achieve his domestic policy goals” (Kagan, 114 *Harvard Law Review* 2245, 2281-82 [2001]), and he spoke often of the salutary effects of regulations on the nation’s quality of life and how regulations were part of the solution to perceived problems. But the executive order was not skewed to achieve a pro-regulatory result. The regulations would be debated on their merits, not preordained by the process through which they were developed and issued.

When George W. Bush became President in January 2001,

his philosophy was decidedly anti-regulatory. I know that his advisors considered whether to change Executive Order 12866 and they concluded that it was not necessary to accomplish their agenda. Indeed, President Bush's OMB director instructed the agencies to scrupulously adhere to the principles and procedures of Executive Order 12866 and its implementing guidelines (OMB M-01-23, June 19, 2001). The only changes to the executive order came two years into President Bush's first term, and the changes were limited to transferring the roles assigned to the Vice President to the chief of staff or the OMB director (Executive Order 13258).

Almost five years later, President Bush signed Executive Order 13422, further amending Executive Order 12866. So far as I am aware, there was no consultation and no explanation of the problems under the existing executive order that prompted these amendments, or whether the amendments would have a salutary effect on whatever problems existed, or whether the amendments would have unintended consequences that should be considered. Press statements issued after the fact do not make for good government.

Second, the new executive order comes in the course of a steady and unwavering effort to consolidate authority in OMB and further restrict agency autonomy and discretion. On

*... there was no consultation and no explanation of the problems under the existing executive order that prompted these amendments . . .*

February 22, 2002, OMB issued its Information Quality Act (IQA) Guidelines (67 *Federal Register* 8452). The IQA itself was three paragraphs attached to a more than 700-page Treasury and General Government Appropriations Act for Fiscal Year 2001, with no hearings, no floor debate, and no committee reports. Its objective was "to ensure the quality, objectivity, utility, and integrity of information disseminated to the public." OMB took up the assignment with a vigor and determination that was remarkable. OMB's government-wide guidelines created a new construct: Now, there would be "information" and "influential information" and different (more stringent standards) would apply to the higher tiers. OMB also required the agencies to issue their own guidelines (subject to OMB approval); establish administrative mechanisms allowing people or entities to seek the correction of information they believe does not comply

with these guidelines; and report periodically to OMB on the number and nature of these complaints. The U.S. Chamber of Commerce thought this "would have a revolutionary impact on the regulatory process"—keeping the agencies from relying on data that industry thought was questionable.

Then came OMB's Proposed Draft Peer Review Standards for Regulatory Science (August 29, 2003), in which OMB attempted to establish uniform government-wide standards for peer review of scientific information used in the regulatory process. Peer review is generally considered the gold standard for scientists. Yet leading scientific organizations were highly critical of what OMB was trying to do and how it was doing it, and they were joined by citizen advocacy groups and former government officials. They argued that the proposed standards were unduly prescriptive, unbalanced (in favor of industry), and introduced a new layer of OMB review of scientific or technical studies used in developing regulations. The reaction was so strong and so adverse that OMB substantially revised its draft Bulletin to make it appreciably less prescriptive and restrictive, and in fact OMB resubmitted it in draft form for further comments before finalizing the revised Bulletin.

On March 2, 2004, OMB replaced a 1996 "best practices" memorandum with Circular A-4, setting forth instructions for the federal agencies to follow in developing the regulatory analyses that accompany significant draft notices of proposed rulemaking and draft final rules. The Circular, almost 50-pages single spaced, includes a detailed discussion of the dos and don'ts of virtually every aspect of the documentation that is needed to justify a regulatory proposal. While the term "guidance" is used, agencies that depart from the terms of the Circular do so at their peril (or more precisely, at the peril of their regulatory proposal).

Then came the OMB Proposed Risk Assessment Bulletin (January 9, 2006), providing technical guidance for risk assessments produced by the federal government. There were six standards specified for all risk assessments and a seventh standard, consisting of five parts, for risk assessments related to regulatory analysis. In addition, using the terminology from the IQA Guidance, OMB laid out special standards for "Influential Risk Assessments" relating to reproducibility, comparisons with other results, presentation of numerical estimates, characterizing uncertainty, characterizing results, characterizing variability, characterizing human health effects, discussing scientific

literature, and addressing significant comments. Agency comments raised a number of very specific problems and such general concerns as that OMB was inappropriately intervening into the scientific underpinnings of regulatory proposals. OMB asked the National Academies of Scientists (NAS) to comment on the draft Bulletin. The NAS panel (on which I served) found the Bulletin “fundamentally flawed” and recommended that it be withdrawn.

Then, on January 18, 2007, OMB issued its final bulletin on “Agency Good Guidance Practices.” Agencies are increasingly using guidance documents to inform the public and to provide direction to their staff regarding agency policy on the interpretation or enforcement of their regulations. While guidance documents—by definition—do *not* have the force and effect of law, this trend has sparked concern by commentators, including scholars and the courts. In response, the bulletin sets forth the policies and procedures agencies must follow for the “development, issuance, and use” of such documents. It calls for internal agency review and increased public participation—all to the good. In addition, however, the bulletin also imposes specified “standard elements” for significant guidance documents; provides instructions as to the organization of agency websites containing significant guidance documents; requires agencies to develop procedures (and designate an agency official/office) so that the public can complain about significant guidance documents and seek their modification or rescission; and extends OIRA review to include significant guidance documents. I do not believe it is an overstatement to say that the effect of the bulletin is to convert significant guidance documents into legislative rules, subject to all the requirements of Section 553 of the Administrative Procedure Act, even though the terms of that section explicitly exempt guidance documents from its scope. To the extent that the bulletin makes the issuance of guidance documents much more burdensome and time consuming for the agencies, it will undoubtedly result in a decrease of their use. That may well have unintended unfortunate consequences, because regulated entities often ask for, and appreciate receiving, clarification of their responsibilities under the law, as well as protection from haphazard enforcement of the law, by agency staff. This is quite a record. While each step can be justified as helping to produce better regulatory decisions, the cumulative effect is overwhelming. Requirements are piled on requirements, which are

piled on requirements that the agencies must satisfy before they can issue regulations (and now, significant guidance documents) that Congress authorized (indeed, often instructed) them to issue. And OMB has not requested, nor has the Congress in recent years appropriated, additional resources for the agencies to carry out OMB’s ever increasing demands. As agencies must do more with less, the result is that fewer regulations can be issued—which is exactly what the business community has been calling on this administration to do.

It is in this context that Executive Order 13422, further amending Executive Order 12866, is released. Until the bulletin on guidance documents, OIRA extended its influence

*. . . may well have unintended unfortunate consequences, because regulated entities often ask for, and appreciate receiving, clarification of their responsibilities under the law, as well as protection from haphazard enforcement of the law, . . .*

throughout the Executive Branch without any amendments to Executive Order 12866. As detailed above, OMB issued circulars and bulletins covering a wide variety of subjects, virtually all of which were quite prescriptive (and often quite burdensome) in nature. OMB circulars and bulletins do not have the same status as an executive order, but they are treated as if they did by the federal agencies. Why then did OMB draft and the President sign Executive Order 13422?

One indication of a possible answer is that while Executive Order 13422 in effect codifies the bulletin on guidance documents, it does not pick up and codify the earlier pronouncements on data quality, peer review, regulatory impact analyses, or even risk assessment principles. It may be that it was thought necessary to amend Executive Order 12866 for guidance documents because Executive Order 12866 was written to apply *only* where the agencies undertook regulatory actions that had the force and effect of law. But it is unlikely that the agencies would balk at submitting significant guidance documents to OIRA if there were an OMB bulletin instructing them to do so, and since neither executive orders nor circulars or bulletins are judicially reviewable, it is also unlikely that anyone could successfully challenge in court an agency’s decision to submit a significant guidance document to OIRA.



Perhaps more revealing of the reason(s) for Executive Order 13422 is that the changes are not limited to guidance documents but go beyond what has been done in the past. First, Executive Order 12866 had established as the first principle of regulation that:

**“Each agency shall identify the problem that it intends to address (including, where applicable, the failure of private markets or public institutions that warrant new agency action) as well as assess the significance of that problem.”**

Executive Order 13422 amends Executive Order 12866 to state instead:

**“Each agency shall identify *in writing the specific market failure (such as externalities, market power, lack of information) or other specific problem that it intends to address (including, where applicable, the failures of public institutions) that warrant new agency action, as well as assess the significance of that problem, to enable assessment of whether any new regulation is warranted.*”**

By giving special emphasis to market failures as the source of a problem warranting a new regulation, the administration is saying that not all problems are equally deserving of attention; those caused by market failures are in a favored class and possibly the only class warranting new regulations. This could be read as a throwback to the “market-can-cure-almost-anything” approach, which is the litany of opponents of regulation; in fact, history has proven them wrong—there are many

*Now, there is an explicit politicalization of the process . . . and most significantly, no accountability.*

areas of our society where there are serious social or economic problems—e.g., civil rights—that are not caused by market failures and that can be ameliorated by regulation. Second, the new executive order amends Section 4 of Executive Order 12866, which relates to the regulatory planning process and specifically references the Unified Regulatory Agenda prepared annually to inform the public about the various proposals under consideration at the agencies. The original executive order instructed each agency to also prepare a regulatory plan that identifies the most important regulatory actions that the agency reasonably expects to issue in proposed or final form in that fiscal year. Section 4, unlike the rest of the executive

order, applies not only to executive branch agencies, but also to independent regulatory commissions, such as the Securities and Exchange Commission, the Federal Communications Commission, the Federal Trade Commission, and the Federal Reserve Board. It is not without significance that the new executive order uses Section 4 to impose an additional restraint on the agencies:

**“Unless specifically authorized by the head of the agency, no rulemaking shall commence nor be included on the plan without the approval of the agency’s regulatory policy officer . . .”**

This language should be read in conjunction with an amendment to Section 6(a)(2) that specifies that the agency’s regulatory policy officer must be “one of the agency’s presidential appointees.” Executive Order 12866 had provided that the agency head was to designate the agency’s regulatory policy officer, with the only condition that the designee was to report to the agency head. The original executive order further provided that the regulatory policy officer was to “be involved at every stage of the regulatory process . . .”—in other words, a hands-on job. Now, there is an explicit politicalization of the process; a “sign-off,” not a hands-on, assignment; and, most significantly, no accountability. The newly appointed officer is not required to be subject to Senate confirmation, nor is the person required to report to a Senate-confirmed appointee.

The other changes to Section 4 are also troubling. As amended, the agencies must now include with the regulatory plan the:

**“agency’s best estimate of the combined aggregate costs and benefits of all its regulations planned for that calendar year . . .”**

Very few would dispute that the regulatory plan has been notoriously unreliable as an indicator of what an agency is likely to accomplish in any given time frame; it is not unusual for regulations that are not included in the plan to be issued should circumstances warrant, nor is it unusual for regulations included in the plan with specific dates for various milestones to languish year after year without getting any closer to final form. In any event, the requirement to aggregate the costs and benefits of all the regulations included in the plan for that year is very curious. We know that costs and benefits can be estimated (at least within a range) at the notice stage because the agency will have settled on one or more options for its proposal. But to try to estimate either costs or benefits before there is any notice, that is, before the agency has made even tentative

decisions, is like trying to price a new house before there is even an option on the land and before there are any architect's plans. The numbers may be interesting, but hardly realistic, and to aggregate such numbers would likely do little to inform the public but could do much to inflame the opponents of regulation. This would not be the first time that large numbers that have virtually no relation to reality have driven the debate on regulation—e.g., the \$1.1 trillion estimate of the annual costs of regulations that is frequently cited by opponents of regulation, even though every objective critique of the study that produced that number concludes that it not only overstates, but in fact grossly distorts, the truth about the costs of regulation. The only other plausible explanation for this amendment to the executive order is that it is the first step toward implementing a regulatory budget. In my view, the concept of a regulatory budget is deeply flawed, but it should be debated on the merits and not come in through the back door of an executive order justified on other grounds.

There is also a gratuitous poke at the agencies in the amendment to Section 4(C). The original executive order instructed the agencies to provide a “summary of the legal basis” for each action in the regulatory plan, “including whether any aspect of the action is required by statute or court order.” The new amendment adds to the previous language the clause, “and specific citation to such statute, order, or other legal authority.” It may appear to be trivial to add this requirement, but by the same token, why is it necessary to impose such a requirement?

As noted above, I am not aware of any consultation about either the merits of any of the amendments or the perception that may attach to the cumulative effect of those amendments. Therefore, I do not know whether the agencies have, for example, been proposing regulations based on problems caused by something other than market failure which OMB does not consider an appropriate basis for a regulation; whether senior civil servants at the agencies have been sending proposed regulations to OMB that run contrary to the wishes of the political appointees at those agencies; or whether agencies have been misrepresenting what applicable statutes or court orders require.

If not, then there is little, if any, need for these amendments, other than to send a signal that the bar is being raised; that OMB is deciding the rules of the road; and that those rules are cast so as to increase the I's that must be dotted and the T's that must be crossed. In other words, the message is that agencies should not be doing the job that Congress has delegated to them. This is not a neutral process. If the Bush Administration does not like some or all agency proposed regulations, they can debate them on the merits. But the executive order should not become a codification of an anti-regulatory manifesto. This is not good government. ■



THE UNIVERSITY OF MICHIGAN  
LAW SCHOOL  
B38 HUTCHINS HALL  
ANN ARBOR, MICHIGAN  
48109-1215

---

NON-PROFIT  
ORGANIZATION  
U.S. POSTAGE PAID  
ANN ARBOR, MI  
PERMIT #144

---

# LAW QUADRANGLE NOTES



L  
O  
N  
  
4  
9  
.  
3